

United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960



February 23, 2006

Colonel Robert M. Carpenter
District Engineer
U.S. Army Corps of Engineers
701 San Marco Boulevard, Room 372
Jacksonville, Florida 32207-8175

Service Log No.: 4-1-01-F-1795 (Central Boca Raton)
4-1-01-F-652 (South Boca Raton)
Dated: November 28, 2005
Project: Central and South Boca Raton
Hurricane Response Beach Restoration
Project
Applicant: City of Boca Raton
County: Palm Beach

Dear Colonel Carpenter:

This document transmits the Fish and Wildlife Service's (Service) Biological Opinion based on our review of the City of Boca Raton's proposed Central and South Beach renourishment projects in response to 2004 Hurricanes Francis and Jeanne located in Palm Beach County, Sections 32, 29, 28, and 21, Township 47 South, Range 43 East, Atlantic Ocean, and its effects on the threatened loggerhead sea turtle (*Caretta caretta*), the endangered green sea turtle (*Chelonia mydas*), the endangered leatherback sea turtle (*Dermochelys coriacea*), the endangered hawksbill sea turtle (*Eretmochelys imbricata*), the endangered Kemp's ridley sea turtle (*Lepidochelys kempii*), and the endangered West Indian manatee (*Trichechus manatus*). This biological opinion is provided in accordance with section 7 of the Endangered Species Act of 1973, as amended (ESA) (87 Stat. 884; 16 U.S.C. 1531 *et seq.*) and the Fish and Wildlife Coordination Act of 1958, as amended (48 Stat. 401; 16 U.S.C. 661 *et seq.*). Your request for reinitiation and formal consultation was received on December 7, 2005.

We concur with your November 28, 2005, determination that the proposed action "may affect, but is not likely adversely affect" the West Indian manatee because the *Standard Manatee Construction Conditions* will be implemented. We understand the project area will be monitored daily for the presence of manatees and every precaution (including shut-down of operations if appropriate) will be taken to avoid any adverse effects on the species.

We concur with your November 28, 2005, determination that the proposed action is "likely to adversely affect" the loggerhead, green, leatherback, and hawksbill sea turtles. Given the



Kemp's ridley sea turtle occurs offshore from the project area, and could potentially nest within the project area, we will also address this species in our biological opinion.

This biological opinion is based on information provided by the U.S. Army Corps of Engineers (Corps); the City of Boca Raton (applicant); the applicant's agent, Coastal Planning & Engineering, Inc. (CPE); the Florida Department of Environmental Protection (DEP), Bureau of Beaches and Coastal Systems; the Florida Fish and Wildlife Conservation Commission (FWC); telephone conversations and email correspondence with the Corps; CPE field investigations; and other sources. A complete administrative record of this consultation is on file at the South Florida Ecological Services Office, Vero Beach, Florida.

CONSULTATION HISTORY

On January 2, 2002, the Service provided a Biological Opinion to the Corps for the South Boca Raton Beach Nourishment project (Service Log No. 4-1-01-F-652).

On November 1, 2002, the Service provided a Biological Opinion to the Corps for the Central Boca Raton project (Service Log No. 4-1-01-F-1795).

On November 27, 2005, the Corps requested formal consultation to place 425,000 cubic yards (cy) of material to rehabilitate 2.4 miles of beach known as the Boca Raton Central and South Beach Renourishment project in response to the effects of 2004 Hurricanes Francis and Jeanne.

On February 15, 2006, via email, the Corps modified the project description per the project applicant's request to place no more than 350,000 cy along the Central Boca Raton beach, and no more than 125,000 cy on the beach at South Boca Raton.

BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTION

Proposed Action

The applicant proposes to excavate 475,000 cubic yards (cy) of material from the ebb tidal shoal fronting the Boca Raton Inlet in accordance with DA permit SAJ-1994-1196, with placement of the material on the beaches north and south of Boca Raton Inlet (Figure 1). Due to impacts of Hurricanes Francis and Jeanne in 2004, sand previously located on the Central and South Boca Raton beaches was transported offshore, and within the ebb tidal shoal immediately east of Boca Raton Inlet. Additionally, sand placed during the 2004 Central Boca Raton Beach Nourishment Project has been depleted.

Approximately 350,000 cy of material would be placed on 6,920 feet (1.3 miles) of shoreline to the north of Boca Raton Inlet, between DEP monuments R-216 to R-222 (Central Boca Raton project area), and 125,000 cy would be placed on 5,060 feet (approximately 1 mile) of shoreline located to the south of the inlet, between DEP monuments R-223.3 and R-227.9 (City of Boca Raton beach monuments BCL-1 through BCL-11) (South Boca Raton project area). All material placed within the action areas will be within the existing and approved templates utilized for

previous projects. This action is proposed to combine the two separate beach nourishment activities into a single hurricane response project designed to address storm effects. Project activities are not likely to occur during sea turtle nesting season but the City of Boca Raton is proposing to place the sand on the beach as soon as possible after the requisite state and Federal approvals are issued. If the project should occur during sea turtle nesting season, the applicant is willing to relocate sea turtle nests starting 65 days prior to the start of sand placement in order to avoid loss to sea turtle nests. The applicant will utilize an already established sea turtle monitoring program to monitor the beach and relocate nests if necessary.

The Central Boca Raton beach design template will include a berm height of +9 feet National Geodetic Vertical Datum (NGVD). The template slopes at 1 foot vertical to 10 feet horizontal from the berm crest to the toe of fill. The average design berm width is approximately 140 feet. The South Boca Raton beach template design will include a berm height of +9 feet NGVD. The template slopes at 1 foot vertical to 10 feet horizontal from the berm crest to the toe of fill. The average berm crest within the South Boca Raton project area is approximately 101 feet.

The beach fill material for the proposed action will be obtained from the ebb tidal shoal located east of Boca Raton Inlet (Figure 1). The ebb tidal shoal has been excavated on three previous occasions (1985, 1996, and 2002) with sand placement on the shoreline of the South Boca Raton project area. There is evidence, based on recent survey data and the survey history of the ebb tidal shoal and adjacent coastline that suggests a significant portion of the sand currently in the ebb tidal shoal came from the Central Boca Raton beach nourishment project as a result of impact from the 2004 hurricanes. Sediment characteristics of the ebb tidal shoal are expected to be very similar, if not identical, to the material on the beach.

The beach will be constructed entirely and uniformly of sand from the Boca Inlet ebb tidal shoal, to restore the previously authorized design templates for the Central and South Boca Raton Beach Nourishment project areas. The project's construction duration is expected to be 90 days.

The applicant contends no direct or indirect burial of nearshore hardbottom (Figures 2a and 2b) shall result from equilibration of the project fill in excess of that identified and mitigated under previous State and Federal permits and approvals (Figure 3).

Action Area

The project is located on the southeast Florida coast at Boca Raton, a coastal community in Palm Beach County. The Service has determined the action area for this project includes 2.3 miles of Palm Beach County shoreline from DEP monument R-216 to R-222 and R-223.3 to R-227.9.

STATUS OF THE SPECIES AND CRITICAL HABITAT RANGEWIDE

Species/Critical Habitat Description

Loggerhead Sea Turtle

The loggerhead sea turtle, listed as a threatened species on July 28, 1978 (43 FR 32800), inhabits the continental shelves and estuarine environments along the margins of the Atlantic, Pacific,

and Indian Oceans. Loggerhead sea turtles nest on coasts within the continental United States (U.S.) from Louisiana to Virginia. Major nesting concentrations in the U.S. are found on the coastal islands of North Carolina, South Carolina, and Georgia, and on the Atlantic and Gulf coasts of Florida (Hopkins and Richardson 1984).

No critical habitat has been designated for the loggerhead sea turtle.

Green Sea Turtle

The green sea turtle was federally listed as a protected species on July 28, 1978 (43 FR 32800). Breeding populations of the green turtle in Florida and along the Pacific Coast of Mexico are listed as endangered; all other populations are listed as threatened. The green sea turtle has a worldwide distribution in tropical and subtropical waters. Major green sea turtle nesting colonies in the Atlantic occur on Ascension Island, Aves Island, Costa Rica, and Surinam. Within the U.S., green sea turtles nest in small numbers in the U.S. Virgin Islands and Puerto Rico, and in larger numbers along the east coast of Florida, particularly in Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward Counties (NMFS and Service 1991a). Nesting also has been documented along the Gulf coast of Florida on Santa Rosa Island (Okaloosa and Escambia Counties) and from Pinellas County through Collier County (FWC 2004). Green sea turtles also nest sporadically in Georgia, North Carolina and South Carolina.

Critical habitat for the green sea turtle has been designated for the waters surrounding Culebra Island, Puerto Rico, and its outlying keys.

Leatherback Sea Turtle

The leatherback sea turtle, listed as an endangered species on June 2, 1970 (35 FR 8491), nests on the shores of the Atlantic, Pacific and Indian Oceans. Non-breeding animals have been recorded as far north as the British Isles and the Maritime Provinces of Canada and as far south as Argentina and the Cape of Good Hope (Pritchard 1992). Nesting grounds are distributed worldwide, with the Pacific Coast of Mexico supporting the world's largest known concentration of nesting leatherbacks. The largest nesting colony in the wider Caribbean region is found in French Guiana, but nesting occurs frequently, although in lesser numbers, from Costa Rica to Columbia and in Guyana, Surinam, and Trinidad (NMFS and Service 1992; National Research Council 1990).

The leatherback regularly nests in the U.S. in Puerto Rico, the U.S. Virgin Islands, and along the Atlantic coast of Florida as far north as Georgia (NMFS and Service 1992). Leatherback turtles occasionally nest in Georgia, South Carolina, and North Carolina (Murphy 1996; Winn 1996; Boettcher 1998). Leatherback nesting has also been reported on the northwest coast of Florida (LeBuff 1990; FWC 2004); a false crawl (non-nesting emergence) has been observed on Sanibel Island (LeBuff 1990).

Marine and terrestrial critical habitat for the leatherback sea turtle has been designated at Sandy Point on the western end of the island of St. Croix, U.S. Virgin Islands.

Hawksbill Sea Turtle

The hawksbill sea turtle was listed as an endangered species on June 2, 1970 (35 FR 8491). The hawksbill is found in tropical and subtropical seas of the Atlantic, Pacific, and Indian Oceans. The species is widely distributed in the Caribbean Sea and western Atlantic Ocean. Within the continental U.S., hawksbill sea turtle nesting is rare and is restricted to the southeastern coast of Florida (Volusia through Dade Counties) and the Florida Keys (Monroe County) (Meylan 1992; Meylan et al. 1995). However, hawksbill tracks are difficult to differentiate from those of loggerheads and may not be recognized by surveyors. Therefore, surveys in Florida likely underestimate actual hawksbill nesting numbers (Meylan et al. 1995). In the U.S. Caribbean, hawksbill nesting occurs on beaches throughout Puerto Rico and the U.S. Virgin Islands (NMFS and Service 1993).

Critical habitat for the hawksbill sea turtle has been designated for selected beaches and/or waters of Mona, Monito, Culebrita, and Culebra Islands, Puerto Rico.

Kemp's Ridley Sea Turtle

The Kemp's ridley sea turtle was listed as endangered on December 2, 1970 (35 FR 18320). The range of the Kemp's ridley includes the Gulf coasts of Mexico and the U.S., and the Atlantic coast of North America as far north as Nova Scotia and Newfoundland. Most Kemp's ridleys nest on the coastal beaches of the Mexican states of Tamaulipas and Vera Cruz, although a very small number nest consistently along the Texas coast (TEWG 1998). In addition, rare nesting events have been reported in Florida, Alabama, South Carolina, and North Carolina. Hatchlings, after leaving the beach, are believed to become entrained in eddies within the Gulf of Mexico, where they are dispersed within the Gulf and Atlantic by oceanic surface currents until they reach about 8 inches in length, at which size they enter coastal shallow water habitats (Ogren 1989). Outside of nesting, adult Kemp's ridleys are believed to spend most of their time in the Gulf of Mexico, while juveniles and subadults also regularly occur along the eastern seaboard of the United States (NMFS and Service 1992).

No critical habitat has been designated for the Kemp's Ridley sea turtle.

Life History

Loggerhead Sea Turtle

Loggerheads are known to nest from one to seven times within a nesting season (Talbert et al. 1980; Richardson and Richardson 1982; Lenarz et al. 1981); the mean is approximately 4.1 (Murphy and Hopkins 1984). The interval between nesting events within a season varies around a mean of about 14 days (Dodd 1988). Mean clutch size varies from about 100 to 126 along the southeastern U.S. coast (NMFS and Service 1991b). Nesting migration intervals of 2 to 3 years are most common in loggerheads, but the number can vary from 1 to 7 years (Dodd 1988). Age at sexual maturity is believed to be about 20 to 30 years (TEWG 1998).

Green Sea Turtle

Green sea turtles deposit from 1 to 9 clutches within a nesting season, but the average is about 3.3. The interval between nesting events within a season varies around a mean of about 13 days (Hirth 1997). Mean clutch size varies widely among populations. Average clutch size reported for Florida was 136 eggs in 130 clutches (Witherington and Ehrhart 1989). Only occasionally do females produce clutches in successive years. Usually 2, 3, 4 or more years intervene between breeding seasons (NMFS and Service 1991a). Age at sexual maturity is believed to be 20 to 50 years (Hirth 1997).

Leatherback Sea Turtle

Leatherbacks nest an average of 5 to 7 times within a nesting season, with an observed maximum of 11 (NMFS and Service 1992). The interval between nesting events within a season is about 9 to 10 days. Clutch size averages 80 to 85 yolked eggs, with the addition of usually a few dozen smaller, yolkless eggs, mostly laid toward the end of the clutch (Pritchard 1992). Nesting migration intervals of 2 to 3 years were observed in leatherbacks nesting on the Sandy Point National Wildlife Refuge, St. Croix, U.S. Virgin Islands (McDonald and Dutton 1996). Leatherbacks are believed to reach sexual maturity in 6 to 10 years (Zug and Parham 1996).

Hawksbill Sea Turtle

Hawksbills nest on average about 4.5 times per season at intervals of approximately 14 days (Corliss et al. 1989). In Florida and the U.S. Caribbean, clutch size is approximately 140 eggs, although several records exist of over 200 eggs per nest (NMFS and Service 1993). On the basis of limited information, nesting migration intervals of 2 to 3 years predominate. Hawksbills are recruited into the reef environment at about 14 inches in length and are believed to begin breeding about 30 years later. However, the time required to reach 14 inches in length is unknown and growth rates vary geographically. As a result, age at sexual maturity is not known.

Kemp's Ridley Sea Turtle

Nesting occurs from April into July during which time the turtles appear off the Tamaulipas and Vera Cruz coasts of Mexico. Precipitated by strong winds, the females swarm to mass nesting emergences, known as arribadas or arribazones, to nest during daylight hours. Clutch size averages 100 eggs (NMFS and Service 1992). Some females breed annually and nest an average of 1 to 4 times in a season at intervals of 10 to 28 days. Age at sexual maturity is believed to be between 7 to 15 years (TEWG 1998).

Population Dynamics

Loggerhead Sea Turtle

Total estimated nesting in the Southeast U.S. is approximately 68,000 to 90,000 nests per year, according to the FWC statewide nesting database 2002, the Georgia Department of Natural Resources statewide nesting database 2002, the South Carolina Department of Natural Resources statewide nesting database 2002, and the North Carolina Wildlife Resources Commission

statewide nesting database 2002. In 1998, there were over 80,000 nests in Florida alone. From a global perspective, the southeastern U.S. nesting aggregation is of paramount importance to the survival of the species and is second in size only to that which nests on islands in the Arabian Sea off Oman (Ross 1982; Ehrhart 1989; NMFS and Service 1991b). The status of the Oman colony has not been evaluated recently (Meylan et al. 1995). The loggerhead nesting aggregations in Oman, the southeastern U.S., and Australia account for about 88 percent of nesting worldwide (NMFS and Service 1991b). About 80 percent of loggerhead nesting in the southeastern U.S. occurs in 6 Florida counties (Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward Counties) (NMFS and Service 1991b).

Green Sea Turtle

About 150 to 2,750 females are estimated to nest on beaches in the continental U.S. annually (FWC 2004). In the U.S. Pacific, over 90 percent of nesting throughout the Hawaiian archipelago occurs at the French Frigate Shoals, where about 200 to 700 females nest each year (NMFS and Service 1998). Elsewhere in the U.S. Pacific, nesting takes place at scattered locations in the Commonwealth of the Northern Marianas, Guam, and American Samoa. In the western Pacific, the largest green sea turtle nesting aggregation in the world occurs on Raine Island, Australia, where thousands of females nest nightly in an average nesting season (Limpus et al. 1979). In the Indian Ocean, major nesting beaches occur in Oman where 30,000 females are reported to nest annually (Ross and Barwani 1995).

Leatherback Sea Turtle

Recent estimates of global nesting populations indicate 26,000 to 43,000 nesting females annually (Spotila et al. 1996). The largest nesting populations at present occur in the western Atlantic in French Guiana (4,500 to 7,500 females nesting per year) and Colombia (estimated several thousand nests annually), and in the western Pacific in West Papua (formerly Irian Jaya) and Indonesia (about 600 to 650 females nesting per year). In the U.S., small nesting populations occur on the Florida east coast (100 females per year) (FWC 2004), Sandy Point, U.S. Virgin Islands (50 to 190 females per year) (Alexander et al. 2002), and Puerto Rico (30 to 90 females per year).

Hawksbill Sea Turtle

About 15,000 females are estimated to nest each year throughout the world with the Caribbean accounting for 20 to 30 percent of the world's hawksbill population (Meylan 1989). Only five regional populations remain with more than 1,000 females nesting annually (Seychelles, Mexico, Indonesia, and two in Australia) (Meylan and Donnelly 1999). Mexico is now the most important region for hawksbills in the Caribbean with 3,000 nests per year (Meylan 1989). Other significant but smaller populations in the Caribbean still occur in Martinique, Jamaica, Guatemala, Nicaragua, Grenada, Dominican Republic, Turks and Caicos Islands, Cuba, Puerto Rico, and U.S. Virgin Islands. In the U.S. Caribbean, about 100 to 500 nests per year are laid on Mona Island, Puerto Rico, and 70 to 130 nests per year on Buck Island Reef National Monument, U.S. Virgin Islands. In the U.S. Pacific, hawksbills nest only on main island beaches

in Hawaii, primarily along the east coast of the island of Hawaii. Hawksbill nesting has also been documented in American Samoa and Guam (NMFS and Service 1998)

Kemp's Ridley Sea Turtle

The 40,000 nesting females estimated from a single mass nesting emergence in 1947 reflected a much larger total number of nesting turtles in that year than exists today (Carr 1963; Hildebrand 1963). However, nesting in Mexico has steadily increased from 702 nests in 1985 to over 6,000 nests in 2000 (Service 2001). Despite protection for the nests, turtles have been and continue to be lost to incidental catch by shrimp trawls (NMFS and Service 1992).

Status and Distribution

Loggerhead Sea Turtle

Genetic research involving analysis of mitochondrial DNA has identified five different loggerhead nesting subpopulations in the western North Atlantic: (1) the Northern Subpopulation occurring from North Carolina to around Cape Canaveral, Florida (about 29° North); (2) the South Florida Subpopulation occurring from about 29° North on Florida's east coast to Sarasota on Florida's west coast; (3) the Dry Tortugas, Florida, Subpopulation; (4) the Northwest Florida Subpopulation occurring at Eglin Air Force Base and the beaches near Panama City; and (5) the Yucatán Subpopulation occurring on the eastern Yucatán Peninsula, Mexico (Bowen 1994, 1995; Bowen et al. 1993; Encalada et al. 1998; Pearce 2001). These data indicate gene flow between these five regions is very low. If nesting females are extirpated from one of these regions, regional dispersal will not be sufficient to replenish the depleted nesting subpopulation. The Northern Subpopulation has declined substantially since the early 1970s, but most of that decline occurred prior to 1979. No significant trend has been detected in recent years (TEWG 1998, 2000). Adult loggerheads of the South Florida Subpopulation have shown significant increases over the last 25 years, indicating the population is recovering, although a trend could not be detected from the State of Florida's Index Nesting Beach Survey program from 1989 to 2002. Nesting surveys in the Dry Tortugas, Northwest Florida, and Yucatán Subpopulations have been too irregular to date, to allow for a meaningful trend analysis (TEWG 1998, 2000).

Threats include incidental take from channel dredging and commercial trawling, longline, and gill net fisheries; loss or degradation of nesting habitat from coastal development and beach armoring; disorientation of hatchlings by beachfront lighting; excessive nest predation by native and non-native predators; degradation of foraging habitat; marine pollution and debris; watercraft strikes; and disease. There is particular concern about the extensive take of juvenile loggerheads in the eastern Atlantic by longline fishing vessels from several countries.

Green Sea Turtle

Total population estimates for the green sea turtle are unavailable, and trends based on nesting data are difficult to assess because of large annual fluctuations in numbers of nesting females. For instance, in Florida, where the majority of green sea turtle nesting in the southeastern U.S. occurs, estimates range from 150 to 2,750 females nesting annually (FWC 2004). Populations in

Surinam, and Tortuguero, Costa Rica, may be stable, but there is insufficient data for other areas to confirm a trend.

A major factor contributing to the green turtle's decline worldwide is commercial harvest for eggs and food. Fibropapillomatosis, a disease of sea turtles characterized by the development of multiple tumors on the skin and internal organs, is also a mortality factor and has seriously impacted green sea turtle populations in Florida, Hawaii, and other parts of the world. The tumors interfere with swimming, eating, breathing, vision, and reproduction, and turtles with heavy tumor burdens may die. Other threats include loss or degradation of nesting habitat from coastal development and beach armoring; disorientation of hatchlings by beachfront lighting; excessive nest predation by native and non-native predators; degradation of foraging habitat; marine pollution and debris; watercraft strikes; and incidental take from channel dredging and commercial fishing operations.

Leatherback Sea Turtle

Declines in leatherback nesting have occurred over the last 2 decades along the Pacific coasts of Mexico and Costa Rica. The Mexican leatherback nesting population, once considered to be the world's largest leatherback nesting population (65 percent of the worldwide population), is now less than 1 percent of its estimated size in 1980. Spotila et al. (1996) estimated the number of leatherback sea turtles nesting on 28 beaches throughout the world from the literature and from communications with investigators studying those beaches. The estimated worldwide population of leatherbacks in 1995 was about 34,500 females on these beaches with a lower limit of about 26,200 and an upper limit of about 42,900. This is less than one third the 1980 estimate of 115,000. Leatherbacks are rare in the Indian Ocean and in very low numbers in the western Pacific Ocean. The largest population is in the western Atlantic. Using an age-based demographic model, Spotila et al. (1996) determined leatherback populations in the Indian Ocean and western Pacific Ocean cannot withstand even moderate levels of adult mortality and even the Atlantic populations are being exploited at a rate that cannot be sustained. They concluded leatherbacks are on the road to extinction and further population declines can be expected unless we take action to reduce adult mortality and increase survival of eggs and hatchlings.

The crash of the Pacific leatherback population is believed primarily to be the result of exploitation by humans for the eggs and meat, as well as incidental take in numerous commercial fisheries of the Pacific. Other factors threatening leatherbacks globally include loss or degradation of nesting habitat from coastal development; disorientation of hatchlings by beachfront lighting; excessive nest predation by native and non-native predators; degradation of foraging habitat; marine pollution and debris; and watercraft strikes.

Hawksbill Sea Turtle

The hawksbill sea turtle has experienced global population declines of 80 percent or more during the past century and continued declines are projected (Meylan and Donnelly 1999). Most populations are declining, depleted, or remnants of larger aggregations. Hawksbills were previously abundant, as evidenced by high-density nesting at a few remaining sites and by trade

statistics. The decline of this species is primarily due to human exploitation for tortoiseshell. While the legal hawksbill shell trade ended when Japan agreed to stop importing shell in 1993, a significant illegal trade continues. It is believed individual hawksbill populations around the world will continue to disappear under the current regime of exploitation for eggs, meat, and tortoiseshell, loss of nesting and foraging habitat, incidental capture in fishing gear, ingestion of and entanglement in marine debris, oil pollution, and boat collisions. Hawksbills are closely associated with coral reefs, one of the most endangered of all marine ecosystem types.

Kemp's Ridley Sea Turtle

The decline of this species was primarily due to human activities, including the direct harvest of adults and eggs and incidental capture in commercial fishing operations. Today, under strict protection, the population appears to be in the early stages of recover. The recent nesting increase can be attributed to full protection of nesting females and their nests in Mexico resulting from a bi-national effort between Mexico and the U.S. to prevent the extinction of the Kemp's ridley, and the requirement to use turtle excluder devices in shrimp trawls both in the United States and Mexico.

Analysis of the Species/Critical Habitat Likely to be Affected

The proposed action has the potential to adversely affect nesting females, nests, and hatchlings within the proposed project area. The effects of the proposed action on sea turtles will be considered further in the remaining sections of this biological opinion. Potential effects include destruction of nests deposited within the boundaries of the proposed project, harassment in the form of disturbing or interfering with female turtles attempting to nest within the construction area or on adjacent beaches as a result of construction activities, disorientation of hatchling turtles on beaches adjacent to the construction area as they emerge from the nest and crawl to the water as a result of project lighting, and behavior modification of nesting females due to escarpment formation within the project area during a nesting season resulting in false crawls or situations where they choose marginal or unsuitable nesting areas to deposit eggs. The quality of the placed sand could affect the ability of female turtles to nest, the suitability of the nest incubation environment, and the ability of hatchlings to emerge from the nest.

Critical habitat has not been designated in the continental United States; therefore, the proposed action would not result in an adverse modification.

ENVIRONMENTAL BASELINE

The distribution of sea turtle nesting activity on the east coast of Florida makes up a high percent of the overall distribution of nesting activity within the state. According to the 2004 nesting season data, 90 percent of the total nesting activity on Florida's coastline occurs on the Atlantic coast. Palm Beach County accounted for approximately 23 percent of the overall nesting activity in the state of Florida during the 2004 season. Among the coastal counties of the east coast (Nassau, Duval, St. John's, Flagler, Volusia, Brevard, Indian River, St. Lucie, Martin, Broward, Miami-Dade, and Monroe), Palm Beach County constituted approximately 26 percent of the overall nesting on the Florida's eastern coastline in 2004 (FWC 2004). The green sea turtle, the leatherback sea turtle, and the loggerhead sea turtle constitute the highest nesting densities that

occur on the southeast coast from Brevard to Palm Beach counties. The hawksbill sea turtle and the Kemp's ridley sea turtle nest infrequently along the county's shoreline.

The FWC's marine turtle permit holders conduct surveys of sea turtle nesting and nesting activity each year during the nesting season for various sites in Palm Beach County. Total nests recorded for the previous 17 nesting seasons are listed in Table 1 (FWC 2004). In 2004, 11,893 nests were recorded for 42.4 miles of shoreline in Palm Beach County. These data suggest a decrease in overall sea turtle nesting in Palm Beach County when compared to surveys from the past 3 years (FWC 2004).

The action area is characterized by high-density residential and commercial development, with extensive public parks and public access and the two segments are divided by the Boca Inlet. The entire 2.3 miles of shoreline in the action area has been designated as critically eroded by the DEP.

Status of the Species/Critical Habitat Within the Action Area

Loggerhead Sea Turtle

The loggerhead sea turtle nesting and hatching season for southern Florida Atlantic beaches (Brevard through Miami-Dade Counties) extends from March 15 through November 30. Incubation ranges from 45 to 95 days. The number of loggerhead sea turtle nests laid in the segment of beach from DEP monument R-216 through the City of Boca Raton's southern limit each year between 1996 and 2004 ranged from 507 in 1999 to 213 in 2004. The number of false crawls each year ranged from 304 to 612 (Table 2) (Rusenko 2005).

Green Sea Turtle

The green sea turtle nesting and hatching season for southern Florida Atlantic beaches (Brevard through Miami-Dade Counties) extends from May 1 through November 30. Incubation ranges from about 45 to 75 days. The number of green sea turtle nests laid in the segment of beach from DEP monument R-216 through the City of Boca Raton's southern limit each year between 1996 and 2004 ranged from 73 in 2000 to 8 in 2001. The number of false crawls each year ranged from 6 to 84 (Table 2) (Rusenko 2005).

Leatherback Sea Turtle

The leatherback sea turtle nesting and hatching season for southern Florida Atlantic beaches (Brevard through Miami-Dade Counties) extends from February 15 through November 15. Incubation ranges from about 55 to 75 days. The number of leatherback sea turtle nests laid in the segment of beach from DEP monument R-216 through the City of Boca Raton's southern limit each year between 1996 and 2004 ranged from seven in 1997 to zero in 2004. The number of false crawls each year ranged from zero to two (Table 2) (Rusenko 2005).

Hawksbill Sea Turtle

The hawksbill sea turtle nesting and hatching season for southern Florida Atlantic beaches (Brevard through Miami-Dade Counties) extends from June 1 through December 31. Incubation

lasts about 60 days. A total of five documented nesting events have occurred within Palm Beach County over the last 19 years; however, no hawksbill sea turtle nesting has been documented within the action area.

Kemp's Ridley Sea Turtle

Kemp's ridley sea turtles rarely nest in the U.S., with no more than 30 nests in any one year (TEWG 2000). Four non-nesting emergences occurred between May 01, 1989 and September 10, 1989 in Palm Beach County; however, no nesting events have been documented in the last 15 years in or near the action area.

Factors Affecting the Species Habitat Within the Action Area

The action area for this project borders the southwestern Atlantic Ocean and includes 2.3 miles of the City of Boca Raton, Palm Beach County shoreline in two segments between DEP monuments R-216 to R-227.9. The area is characterized by high-density residential and commercial development, with extensive public parks and public access and the two segments are divided by the Boca Inlet. The entire 2.3 miles of shoreline in the City of Boca Raton action area has been designated as critically eroded by the DEP.

Erosion is attributed to winter frontal systems, tropical weather systems in the Atlantic, and the effects of Boca Inlet. The hurricanes of 2004 and 2005 contributed to the erosion within the action area. In addition to shoreline erosion and erosion response projects, nesting sea turtles face several potential land-based obstacles that may deter nesting. Buildings and seawalls along the proposed project's shoreline may pose an obstacle to nesting occurrences. Regular beach maintenance in the form of tractor tilling may disrupt or impact deposited nests and nesting females. Plastics, styrofoam, and fishing line are pollutants that may negatively impact nesting success and foraging. A 200-foot by 15-foot limestone rock groin was constructed in 2004 between DEP monument R-221 and R-222 to address high erosion rates along that segment of the action area. The presence of groins may interfere with nesting turtle access to the beach, trap hatchlings, and concentrate predators.

A primary threat to sea turtles along nesting shorelines includes the potential of sea turtle hatchling disorientation as a result of artificial lighting along the beach. Typically, sea turtle hatchlings will emerge from the nest and orient themselves towards the lighter, open horizon of the ocean (Salmon et al. 1992). If artificial lights are visible from the beach, sea turtle hatchlings tend to travel toward the artificial lights instead of the ocean. Disorientation events often result in hatchling mortality as a result of dehydration, predation, and in some cases, motor vehicle strikes.

EFFECTS OF THE ACTION

This section includes an analysis of the direct and indirect effects of the proposed action on nesting sea turtles and the interrelated and interdependent activities of those effects.

Factors to be Considered

The proposed action has the potential to adversely affect nesting females, nests, and hatchlings within the proposed project area through the placement of dredged material on the Central and South Boca Raton beaches. Sand placement activities are expected to occur along approximately 2.3 miles of suitable sea turtle nesting habitat, however construction is not likely to occur during sea turtle nesting season. The protection of sea turtles, manatees, and hardbottom habitat are environmental concerns within the action area.

As mentioned previously, the beach will be constructed entirely and uniformly of sand from the ebb tidal shoal. The applicant contends that no direct or indirect burial of nearshore hardbottom resources in excess of that identified and mitigated under previous state and Federal permits and approvals shall result from equilibration of the project toe of fill.

Analyses for Effects of the Action

Beneficial Effects

The placement of sand on a beach with reduced dry fore-dune habitat may increase sea turtle nesting habitat if the placed sand is highly compatible (*i.e.*, grain size, shape, color, etc.) with naturally occurring beach sediments in the area, and compaction and escarpment remediation measures are incorporated into the project. In addition, a nourished beach that is designed and constructed to mimic a natural beach system may be more stable than the eroding one it replaces, thereby benefiting sea turtles.

Direct Effects

Placement of sand on a beach in and of itself may not provide suitable nesting habitat for sea turtles. Although beach nourishment may increase the potential nesting area, significant negative impacts to sea turtles may result if protective measures are not incorporated during project construction. Nourishment during the nesting season, particularly on or near high density nesting beaches, can cause increased loss of eggs and hatchlings and, along with other mortality sources, may significantly impact the long-term survival of the species. For instance, projects conducted during the nesting and hatching season could result in the loss of sea turtles through disruption of adult nesting activity and by burial or crushing of nests or hatchlings. While a nest monitoring and egg relocation program would reduce these impacts, nests may be inadvertently missed (when crawls are obscured by rainfall, wind, and/or tides) or misidentified as false crawls during daily patrols. In addition, nests may be destroyed by operations at night prior to beach patrols being performed. Even under the best of conditions, about 7 percent of the nests can be misidentified as false crawls by experienced sea turtle nest surveyors (Schroeder 1994).

1. Nest relocation

Besides the potential for missing nests during a nest relocation program, there is a potential for eggs to be damaged by their movement, particularly if eggs are not relocated within 12 hours of deposition (Limpus et al. 1979). Nest relocation can have adverse impacts on incubation temperature (and hence sex ratios), gas exchange parameters, hydric environment of nests,

hatching success, and hatchling emergence (Limpus et al. 1979; Ackerman 1980; Parmenter 1980; Spotila et al. 1983; McGehee 1990). Relocating nests into sands deficient in oxygen or moisture can result in mortality, morbidity, and reduced behavioral competence of hatchlings. Water availability is known to influence the incubation environment of the embryos and hatchlings of turtles with flexible-shelled eggs, which has been shown to affect nitrogen excretion (Packard et al. 1984), mobilization of calcium (Packard and Packard 1986), mobilization of yolk nutrients (Packard et al. 1985), hatchling size (Packard et al. 1981; McGehee 1990), energy reserves in the yolk at hatching (Packard et al. 1988), and locomotory ability of hatchlings (Miller et al. 1987). In a 1994 Florida study comparing loggerhead hatching and emergence success of relocated nests with nests, Moody (1998) found that hatching success was lower in relocated nests at 9 of 12 beaches evaluated and emergence success was lower in relocated nests at 10 of 12 beaches surveyed in 1993 and 1994.

2. Missed nests

Although a nesting survey and nest marking program would reduce the potential for nests to be impacted by construction activities, nests may inadvertently be missed (when crawls are obscured by rainfall, wind, and/or tides) or misidentified as false crawls during daily patrols. Even under the best conditions, about 7 percent of nests can be misidentified as false crawls by experienced sea turtle nest surveyors (Schroeder 1994).

3. Equipment

The placement of pipelines and the use of heavy machinery on the beach during a construction project may also have adverse effects on sea turtles. They can create barriers to nesting females emerging from the surf and crawling up the beach, causing a higher incidence of false crawls and unnecessary energy expenditure.

4. Artificial lighting

Visual cues are the primary sea-finding mechanism for hatchling sea turtles (Mrosovsky and Carr 1967; Mrosovsky and Shettleworth 1968; Dickerson and Nelson 1989; Witherington and Bjorndal 1991). When artificial lighting is present on or near the beach, it can misdirect hatchlings once they emerge from their nests and prevent them from reaching the ocean (Philbosian 1976; Mann 1977). In addition, a significant reduction in sea turtle nesting activity has been documented on beaches illuminated with artificial lights (Witherington 1992). Therefore, construction lights along a project beach and on the dredging vessel may deter females from coming ashore to nest, misdirect females trying to return to the surf after a nesting event, and misdirect emergent hatchlings from adjacent non-project beaches. Any source of bright lighting can profoundly affect the orientation of hatchlings, both during the crawl from the beach to the ocean and once they begin swimming offshore. Hatchlings attracted to light sources on dredging barges may not only suffer from interference in migration, but may also experience higher probabilities of predation to predatory fishes that are also attracted to the barge lights. This impact could be reduced by using the minimum amount of light necessary (may require shielding) or low pressure sodium lighting during project construction.

Indirect Effects

Many of the direct effects of beach nourishment may persist over time and become indirect impacts. These indirect effects include increased susceptibility of relocated nests to catastrophic events, the consequences of potential increased beachfront development, changes in the physical characteristics of the beach, the formation of escarpments, and future sand migration.

1. Increased susceptibility to catastrophic events

Nest relocation may concentrate eggs in an area making them more susceptible to catastrophic events. Hatchlings released from concentrated areas also may be subject to greater predation rates from both land and marine predators, because the predators learn where to concentrate their efforts (Glenn 1998; Wyneken et al. 1998).

2. Increased beachfront development

Pilkey and Dixon (1996) state that beach replenishment frequently leads to more development in greater density within shorefront communities that are then left with a future of further replenishment or more drastic stabilization measures. Dean (1999) also notes that the very existence of a beach nourishment project can encourage more development in coastal areas. Following completion of a beach nourishment project in Miami during 1982, investment in new and updated facilities substantially increased tourism there (National Research Council 1995). Increased building density immediately adjacent to the beach often resulted as older buildings were replaced by much larger ones that accommodated more beach users. Overall, shoreline management creates an upward spiral of initial protective measures resulting in more expensive development which leads to the need for more and larger protective measures. Increased shoreline development may adversely affect sea turtle nesting success. Greater development may support larger populations of mammalian predators, such as foxes and raccoons, than undeveloped areas (National Research Council 1990a), and can also result in greater adverse effects due to artificial lighting, as discussed above.

3. Changes in the physical environment

Beach nourishment may result in changes in sand density (compaction), beach shear resistance (hardness), beach moisture content, beach slope, sand color, sand grain size, sand grain shape, and sand grain mineral content if the placed sand is dissimilar from the original beach sand (Nelson and Dickerson 1988a). These changes could result in adverse impacts on nest site selection, digging behavior, clutch viability, and emergence by hatchlings (Nelson and Dickerson 1987; Nelson 1988).

Beach compaction and unnatural beach profiles that may result from beach nourishment activities could negatively impact sea turtles regardless of the timing of projects. Very fine sand and/or the use of heavy machinery can cause sand compaction on nourished beaches (Nelson et al. 1987; Nelson and Dickerson 1988a). Significant reductions in nesting success (*i.e.*, false crawls occurred more frequently) have been documented on severely compacted nourished

beaches (Fletemeyer 1980; Raymond 1984; Nelson and Dickerson 1987; Nelson et al. 1987), and increased false crawls may result in increased physiological stress to nesting females. Sand compaction may increase the length of time required for female sea turtles to excavate nests and also cause increased physiological stress to the animals (Nelson and Dickerson 1988c). Nelson and Dickerson (1988b) concluded that, in general, beaches nourished from offshore borrow sites are harder than natural beaches, and while some may soften over time through erosion and accretion of sand, others may remain hard for 10 years or more.

These impacts can be minimized by using suitable sand and by tilling compacted sand after project completion. The level of compaction of a beach can be assessed by measuring sand compaction using a cone penetrometer (Nelson 1987). Tilling of a nourished beach with a root rake may reduce the sand compaction to levels comparable to unnourished beaches. However, a pilot study by Nelson and Dickerson (1988c) showed that a tilled nourished beach will remain uncompacted for up to 1 year. Therefore, the Service requires multi-year beach compaction monitoring and, if necessary, tilling to ensure that project impacts on sea turtles are minimized.

A change in sediment color on a beach could change the natural incubation temperatures of nests in an area, which, in turn, could alter natural sex ratios. To provide the most suitable sediment for nesting sea turtles, the color of the nourished sediments must resemble the natural beach sand in the area. Natural reworking of sediments and bleaching from exposure to the sun would help to lighten dark nourishment sediments; however, the timeframe for sediment mixing and bleaching to occur could be critical to a successful sea turtle nesting season.

4. Escarpment formation

On nourished beaches, steep escarpments may develop along their water line interface as they adjust from an unnatural construction profile to a more natural beach profile (Coastal Engineering Research Center 1984; Nelson et al. 1987). These escarpments can hamper or prevent access to nesting sites (Nelson and Blihovde 1998). Researchers have shown that female turtles coming ashore to nest can be discouraged by the formation of an escarpment, leading to situations where they choose marginal or unsuitable nesting areas to deposit eggs (*e.g.*, in front of the escarpments, which often results in failure of nests due to prolonged tidal inundation). This impact can be minimized by leveling any escarpments prior to the nesting season.

5. Erosion

Future sand displacement on nesting beaches is a potential effect of the nourishment project. Dredging of sand offshore from a project area has the potential to cause erosion of the newly created beach or other areas on the same or adjacent beaches by creating a sand sink. The remainder of the system responds to this sand sink by providing sand from the beach to attempt to reestablish equilibrium (National Research Council 1990b).

Species' Response to the Proposed Action

Ernest and Martin (1999) conducted a comprehensive study to assess the effects of beach nourishment on loggerhead sea turtle nesting and reproductive success. The following findings

illustrate sea turtle responses to and recovery from a nourishment project. A significantly larger proportion of turtles emerging on nourished beaches abandoned their nesting attempts than turtles emerging on Control or pre-nourished beaches. This reduction in nesting success was most pronounced during the first year following project construction and is most likely the result of changes in physical beach characteristics associated with the nourishment project (*e.g.*, beach profile, sediment grain size, beach compaction, frequency, and extent of escarpments). During the first post-construction year, the time required for turtles to excavate an egg chamber on the untilled, hard-packed sands of one treatment area increased significantly relative to Control and background conditions. However, in another treatment area, tilling was effective in reducing sediment compaction to levels that did not significantly prolong digging times. As natural processes reduced compaction levels on nourished beaches during the second post-construction year, digging times returned to background levels.

During the first post-construction year, nests on the nourished beaches were deposited significantly farther from both the toe of the dune and the tide line than nests on Control beaches. Furthermore, nests were distributed throughout all available habitats and were not clustered near the dune as they were in the Control. As the width of nourished beaches decreased during the second year, among-treatment differences in nest placement diminished. More nests were washed out on the wide, flat beaches of the nourished treatments than on the narrower steeply sloped beaches of the Control. This phenomenon persisted through the second post-construction year monitoring and resulted from the placement of nests near the seaward edge of the beach berm where dramatic profile changes, caused by erosion and scarping, occurred as the beach equilibrated to a more natural contour.

As with other beach nourishment projects, Ernest and Martin (1999) found the principal effect of nourishment on sea turtle reproduction was a reduction in nesting success during the first year following project construction. Although most studies have attributed this phenomenon to an increase in beach compaction and escarpment formation, Ernest and Martin (1999) indicate changes in beach profile may be more important. Regardless, as a nourished beach is reworked by natural processes in subsequent years and adjusts from an unnatural construction profile to a more natural beach profile, beach compaction and the frequency of escarpment formation decline, and nesting and nesting success return to levels found on natural beaches.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA. The Service is not aware of any cumulative effects in the project area.

CONCLUSION

After reviewing the current status of the loggerhead, green, leatherback, hawksbill, and Kemp's ridley sea turtles, the environmental baseline for the action area, the effects of the proposed

beach nourishment, and the cumulative effects, it is the Service's biological opinion that the beach nourishment project, as proposed, is not likely to jeopardize the continued existence of the loggerhead, green sea turtle, leatherback, hawksbill, and Kemp's ridley sea turtles, and is not likely to destroy or adversely modify designated critical habitat. No critical habitat has been designated in the project area for the loggerhead, green, leatherback, hawksbill, or Kemp's ridley sea turtle; therefore, none will be affected.

The proposed project will affect only 2.3 miles of the approximately 1,400 miles of available sea turtle nesting habitat in the southeastern U.S. Research has shown that the principal effect of beach nourishment on sea turtle reproduction is a reduction in nesting success, and this reduction is most often limited to the first year following project construction. Research has also shown that the impacts of a nourishment project on sea turtle nesting habitat are typically short-term because a nourished beach will be reworked by natural processes in subsequent years, and beach compaction and the frequency of escarpment formation will decline. Although a variety of factors, including some that cannot be controlled, can influence how a nourishment project will perform from an engineering perspective, measures can be implemented to minimize impacts to sea turtles.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered or threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited under the ESA provided that such taking is in compliance with the terms and conditions of this incidental take statement.

The measures described below are non-discretionary, and must be implemented by the Corps so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and implement the terms and conditions or (2) fails to require the applicant adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Corps must report the progress of the action and its impacts on the species to the Service as specified in the incidental take statement [50 CFR §402.14(i)(3)].

AMOUNT OR EXTENT OF TAKE

The Service anticipates 2.3 miles of nesting beach habitat could be taken as a result of this proposed action. The take is expected to be in the form of: (1) destruction of all nests that may be constructed and eggs that may be deposited from March 1 through April 30 and from September 1 through September 30 and missed by a nest survey and egg relocation program within the boundaries of the proposed project; (2) destruction of all nests deposited from October 1 through February 28 (or 29 as applicable) when a nest survey and egg relocation program is not required to be in place within the boundaries of the proposed project; (3) reduced hatching success due to egg mortality during relocation and adverse conditions at the relocation site; (4) harassment in the form of disturbing or interfering with female turtles attempting to nest within the construction area or on adjacent beaches as a result of construction activities; (5) misdirection of hatchling turtles on beaches adjacent to the construction area as they emerge from the nest and crawl to the water as a result of project lighting; (6) behavior modification of nesting females due to escarpment formation within the project area during a nesting season, resulting in false crawls or situations where they choose marginal or unsuitable nesting areas to deposit eggs; and (7) destruction of nests from escarpment leveling within a nesting season when such leveling has been approved by the Fish and Wildlife Service.

Incidental take is anticipated for only the 2.3 miles of beach that has been identified for sand placement. The Service anticipates incidental take of sea turtles will be difficult to detect for the following reasons: (1) the turtles nest primarily at night and all nests are not found because [a] natural factors, such as rainfall, wind, and tides may obscure crawls and [b] human-caused factors, such as pedestrian and vehicular traffic, may obscure crawls, and result in nests being destroyed because they were missed during a nesting survey and egg relocation program; (2) the total number of hatchlings per undiscovered nest is unknown; (3) the reduction in percent hatching and emerging success per relocated nest over the natural nest site is unknown; (4) an unknown number of females may avoid the project beach and be forced to nest in a less than optimal area; (5) lights may misdirect an unknown number of hatchlings and cause death; and (6) escarpments may form and cause an unknown number of females from accessing a suitable nesting site. However, the level of take of these species can be anticipated by the disturbance and renourishment of suitable turtle nesting beach habitat because: (1) turtles nest within the project site; (2) beach renourishment will likely occur during a portion of the nesting season; (3) the renourishment project will modify the incubation substrate, beach slope, and sand compaction; and (4) artificial lighting will deter and/or misdirect nesting females and hatchlings.

EFFECT OF THE TAKE

In the accompanying biological opinion, the Service determined this level of anticipated take is not likely to result in jeopardy to the species. Critical habitat has not been designated in the project area; therefore, the project will not result in destruction or adverse modification of critical habitat.

REASONABLE AND PRUDENT MEASURES

The Service believes the following reasonable and prudent measures are necessary and appropriate to minimize take of loggerhead, green, leatherback, hawksbill, and Kemp's ridley sea turtles:

1. Beach quality sand suitable for sea turtle nesting, successful incubation, and hatchling emergence must be used on the project site.
2. Beach nourishment activities must not occur from May 1 through October 31, the period of peak sea turtle egg laying and egg hatching, to reduce the possibility of sea turtle nest burial, crushing of eggs, or nest excavation.
3. If the beach nourishment project will be conducted during the period from March 1 through April 30, surveys for early nesting sea turtles must be conducted. If nests are constructed in the area of beach nourishment, the eggs must be relocated.
4. If the beach nourishment project will be conducted during the period from November 1 through November 30, surveys for late nesting sea turtles must be conducted. If nests are constructed in the area of beach nourishment, the eggs must be relocated.
5. Immediately after completion of the beach nourishment project and prior to the next three nesting seasons, beach compaction must be monitored and tilling must be conducted as required by March 1 to reduce the likelihood of impacting sea turtle nesting and hatching activities. The March 1 deadline is required to reduce impacts to leatherbacks that nest in greater frequency along the South Atlantic coast of Florida than elsewhere in the continental United States.
6. Immediately after completion of the beach nourishment project and prior to the next three nesting seasons, monitoring must be conducted to determine if escarpments are present and escarpments must be leveled as required to reduce the likelihood of impacting sea turtle nesting and hatching activities.
7. The applicant must ensure that contractors doing the beach nourishment work fully understand the sea turtle protection measures detailed in this incidental take statement.
8. During the early and late portions of the nesting season, construction equipment and materials must be stored in a manner that will minimize impacts to sea turtles to the maximum extent practicable.
9. During the early and late portions of the nesting season, lighting associated with the project must be minimized to reduce the possibility of disrupting and misdirecting nesting and/or hatchling sea turtles.

TERMS AND CONDITIONS

In order to be exempt from the prohibitions of section 9 of the ESA, the Corps must comply with the following terms and conditions, which implement the reasonable and prudent measures, described above and outline required reporting/monitoring requirements. These terms and conditions are non-discretionary:

1. All fill material placed must be sand similar to a native beach in the vicinity of the site that has not been affected by prior renourishment activities. The fill material must be similar in both coloration and grain size distribution to the native beach. All such fill material must be free of construction debris, rocks, or other foreign matter and must not contain, on average, greater than 10 percent fines (*i.e.*, silt and clay) (passing the #200 sieve) and must not contain, on average, greater than 5 percent coarse gravel or cobbles, exclusive of shell material (retained by the #4 sieve).
2. Beach nourishment must be started after October 31 and be completed before May 1. During the May 1 through October 31 period, no construction equipment or pipes will be stored on the beach.
3. If the beach nourishment project will be conducted during the period from March 1 through April 30, daily early morning surveys for sea turtle nests must be conducted from March 1 through April 30 or until completion of the project (whichever is earliest), and eggs must be relocated per the following requirements:
 - 3a. Nesting surveys and egg relocations will only be conducted by personnel with prior experience and training in nesting survey and egg relocation procedures. Surveyors must have a valid FWC permit. Nesting surveys must be conducted daily between sunrise and 9 a.m. Surveys must be performed in such a manner so as to ensure that construction activity does not occur in any location prior to completion of the necessary sea turtle protection measures and
 - 3b. Only those nests that may be affected by construction activities will be relocated. Nests requiring relocation must be moved no later than 9 a.m. the morning following deposition to a nearby self-release beach site in a secure setting where artificial lighting will not interfere with hatchling orientation. Nest relocations in association with construction activities must cease when construction activities no longer threaten nests. Nests deposited within areas where construction activities have ceased or will not occur for 65 days must be marked and left in place unless other factors threaten the success of the nest. Any nests left in the active construction zone must be clearly marked, and all mechanical equipment must avoid nests by at least 10 feet.
4. If the beach nourishment project will be conducted during the period from November 1 through November 30, daily early morning sea turtle nesting surveys must be conducted 65 days prior to project initiation and continue through September 30, and eggs must be relocated per the preceding requirements.

5. Immediately after completion of the beach nourishment project and prior to March 1 for 3 subsequent years, sand compaction must be monitored in the area of restoration in accordance with a protocol agreed to by the Service, the State regulatory agency, and the applicant. At a minimum, the protocol provided under 5a and 5b below must be followed. If required, the area must be tilled to a depth of 36 inches, and each pass of the tilling equipment must be overlapped to allow more thorough and even tilling. All tilling activity must be completed prior to March 1. An annual summary of compaction surveys and the actions taken must be submitted to the Service. (NOTE: The requirement for compaction monitoring can be eliminated if the decision is made to till regardless of post-construction compaction levels. Also, out-year compaction monitoring and remediation are not required if placed material no longer remains on the dry beach).

- 5a. Compaction sampling stations must be located at 500-foot intervals along the project area. One station must be at the seaward edge of the dune/bulkhead line (when material is placed in this area), and one station must be midway between the dune line and the high water line (normal wrack line).

At each station, the cone penetrometer will be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes, especially if sediment layering exists. Layers of highly compact material may lie over less compact layers. Replicates will be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments. The three replicate compaction values for each depth will be averaged to produce final values for each depth at each station. Reports will include all 18 values for each transect line, and the final 6 averaged compaction values and

- 5b. If the average value for any depth exceeds 500 pounds per square inch (psi) for any two or more adjacent stations, then that area must be tilled immediately prior to March 1. If values exceeding 500 psi are distributed throughout the project area but in no case do those values exist at two adjacent stations at the same depth, then consultation with the Service will be required to determine if tilling is required. If a few values exceeding 500 psi are present randomly within the project area, tilling will not be required.
6. Visual surveys for escarpments along the project area must be made immediately after completion of the beach nourishment project and prior to March 1 for 3 subsequent years. Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet must be leveled to the natural beach contour by March 1. If the project is completed during the early part of the sea turtle nesting and hatching season (March 1 through April 30), escarpments may be required to be leveled immediately, while protecting nests that have been relocated or left in place. The Service must be contacted immediately if subsequent reformation of escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet occurs during the nesting and hatching season to determine the appropriate action to be taken. If it is

determined escarpment leveling is required during the nesting or hatching season, the Service will provide a brief written authorization that describes methods to be used to reduce the likelihood of impacting existing nests. An annual summary of escarpment surveys and actions taken must be submitted to the Service. (NOTE: Out-year escarpment monitoring and remediation are not required if placed material no longer remains on the dry beach).

7. The applicant must arrange a meeting between representatives of the contractor, the Service, the FWC, and the permitted person responsible for egg relocation at least 30 days prior to the commencement of work on this project. At least 10 days advance notice must be provided prior to conducting this meeting. This will provide an opportunity for explanation and/or clarification of the sea turtle protection measures.
8. From March 1 through April 30 and November 1 through November 30, staging areas for construction equipment must be located off the beach to the maximum extent practicable. Nighttime storage of construction equipment not in use must be off the beach to minimize disturbance to sea turtle nesting and hatching activities. In addition, all construction pipes that are placed on the beach must be located as far landward as possible without compromising the integrity of the existing or reconstructed dune system. Temporary storage of pipes must be off the beach to the maximum extent possible. Temporary storage of pipes on the beach must be in such a manner so as to impact the least amount of nesting habitat and must likewise not compromise the integrity of the dune systems (placement of pipes perpendicular to the shoreline is recommended as the method of storage).
9. From March 1 through April 30 and November 1 through November 30, direct lighting of the beach and nearshore waters must be limited to the immediate construction area and must comply with safety requirements. Lighting on offshore or onshore equipment must be minimized through reduction, shielding, lowering, and appropriate placement to avoid excessive illumination of the water's surface and nesting beach, while meeting all U.S. Coast Guard, EM 385-1-1, and Occupational Safety and Health Administration (OSHA) requirements. Light intensity of lighting plants must be reduced to the minimum standard required by OSHA for General Construction areas in order not to misdirect sea turtles. Shields must be affixed to the light housing and be large enough to block light from all lamps from being transmitted outside the construction area (Figure 4).
10. A report describing the actions taken to implement the terms and conditions of this incidental take statement must be submitted to the South Florida Ecological Services Office within 60 days of completion of the proposed work for each year when the activity has occurred. This report will include the dates of actual construction activities, names and qualifications of personnel involved in nest surveys and relocation activities, descriptions and locations of self-release beach sites, nest survey and relocation results, and hatching success of nests.

11. In the event a sea turtle nest is excavated during construction activities, the permitted person responsible for egg relocation for the project must be notified so the eggs can be moved to a suitable relocation site; and
12. Upon locating a sea turtle adult, hatchling, or egg harmed or destroyed as a direct or indirect result of the project, notification must be made to the FWC, Bureau of Marine Enforcement (formerly the Florida Marine Patrol), at (800) 342-5367 and the South Florida Ecological Services Office, Vero Beach, at (772) 562-3909. Care should be taken in handling injured turtles or eggs to ensure effective treatment or disposition, and in handling dead specimens to preserve biological materials in the best possible state for later analysis.

The Service believes incidental take will be limited to the 2.3 miles of beach that have been identified for sand placement. The reasonable and prudent measures, with their implementing terms and conditions, are designed to minimize the impact of incidental take that might otherwise result from the proposed action. The Service believes no more than the following types of incidental take will result from the proposed action: (1) destruction of all nests that may be constructed and eggs that may be deposited and missed by a nest survey and egg relocation program within the boundaries of the proposed project; (2) destruction of all nests deposited during the period when a nest survey and egg relocation program is not required to be in place within the boundaries of the proposed project; (3) reduced hatching success due to egg mortality during relocation and adverse conditions at the relocation site; (4) harassment in the form of disturbing or interfering with female turtles attempting to nest within the construction area or on adjacent beaches as a result of construction activities; (5) disorientation of hatchling turtles on beaches adjacent to the construction area as they emerge from the nest and crawl to the water as a result of project lighting; (6) behavior modification of nesting females due to escarpment formation within the project area during a nesting season, resulting in false crawls or situations where they choose marginal or unsuitable nesting areas to deposit eggs; and (7) destruction of nests from escarpment leveling within a nesting season when such leveling has been approved by the Service. The amount or extent of incidental take for sea turtles will be considered exceeded if the project results in more than a **one-time placement** of sand on the 2.3 miles of beach that have been identified. If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring reinitiation of consultation and review of the reasonable and prudent measures provided. The Corps must immediately provide an explanation of the causes of the taking and review with the Service the need for possible modification of the reasonable and prudent measures.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the ESA directs Federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information:

1. Appropriate native salt-resistant dune vegetation should be established on the restored dunes. The DEP, Bureau of Beaches and Wetland Resources, can provide technical assistance on the specifications for design and implementation.
2. Surveys for nesting success of sea turtles should be continued for a minimum of 3 years following beach nourishment to determine whether sea turtle nesting success has been adversely impacted; and
3. Educational signs should be placed where appropriate at beach access points explaining the importance of the area to sea turtles and/or the life history of sea turtle species that nest in the area.

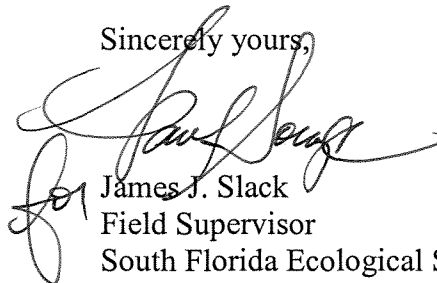
In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

REINITIATION NOTICE

This concludes formal consultation on the action outlined in the reinitiation request. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

Thank you for your cooperation in protecting fish and wildlife resources. Should you have additional questions regarding this matter, please contact Elizabeth Stafford at 772-562-3909, extension 304.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James J. Slack", is written over a printed name and title.

James J. Slack
Field Supervisor
South Florida Ecological Services Office

cc.

Service, Atlanta, Georgia (Joe Johnston/electronic copy)

Service, Jacksonville, Florida (Sandy MacPherson/electronic copy)

Corps, Palm Beach Gardens, Florida (John Studt) (Penny Cutt/electronic copy)

FWC, Office of Protected Species Management, Tallahassee, Florida (Robbin Trindell)

DEP, Bureau of Beaches and Coastal Systems, Tallahassee, Florida (Jackie Larson, Steven MacLeod)

NOAA Fisheries, Protected Resources Division, St. Petersburg, Florida (Eric Hawk)

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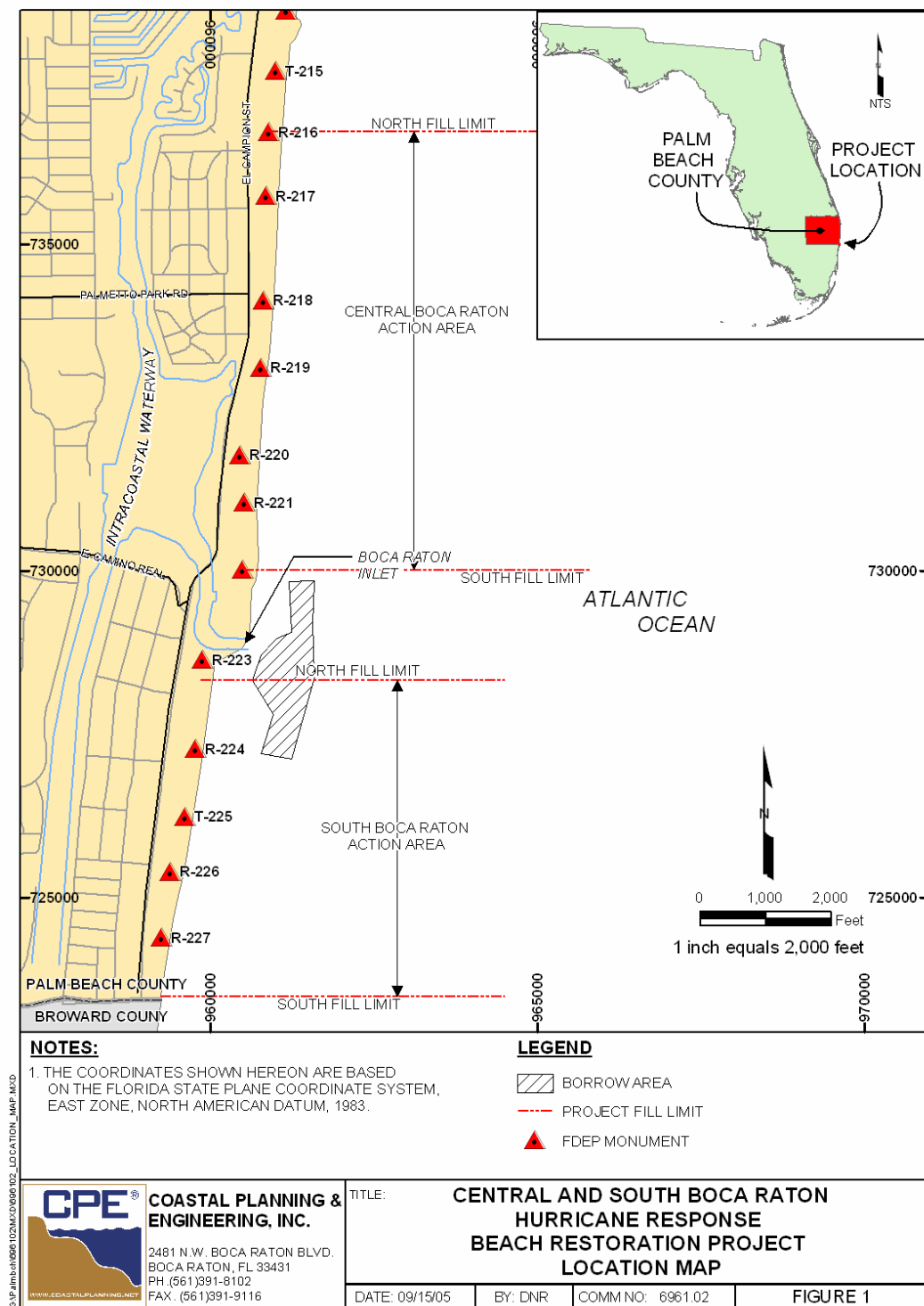


Figure 1. Location of the Central and South Boca Raton Hurricane Response Beach Restoration Project action area.

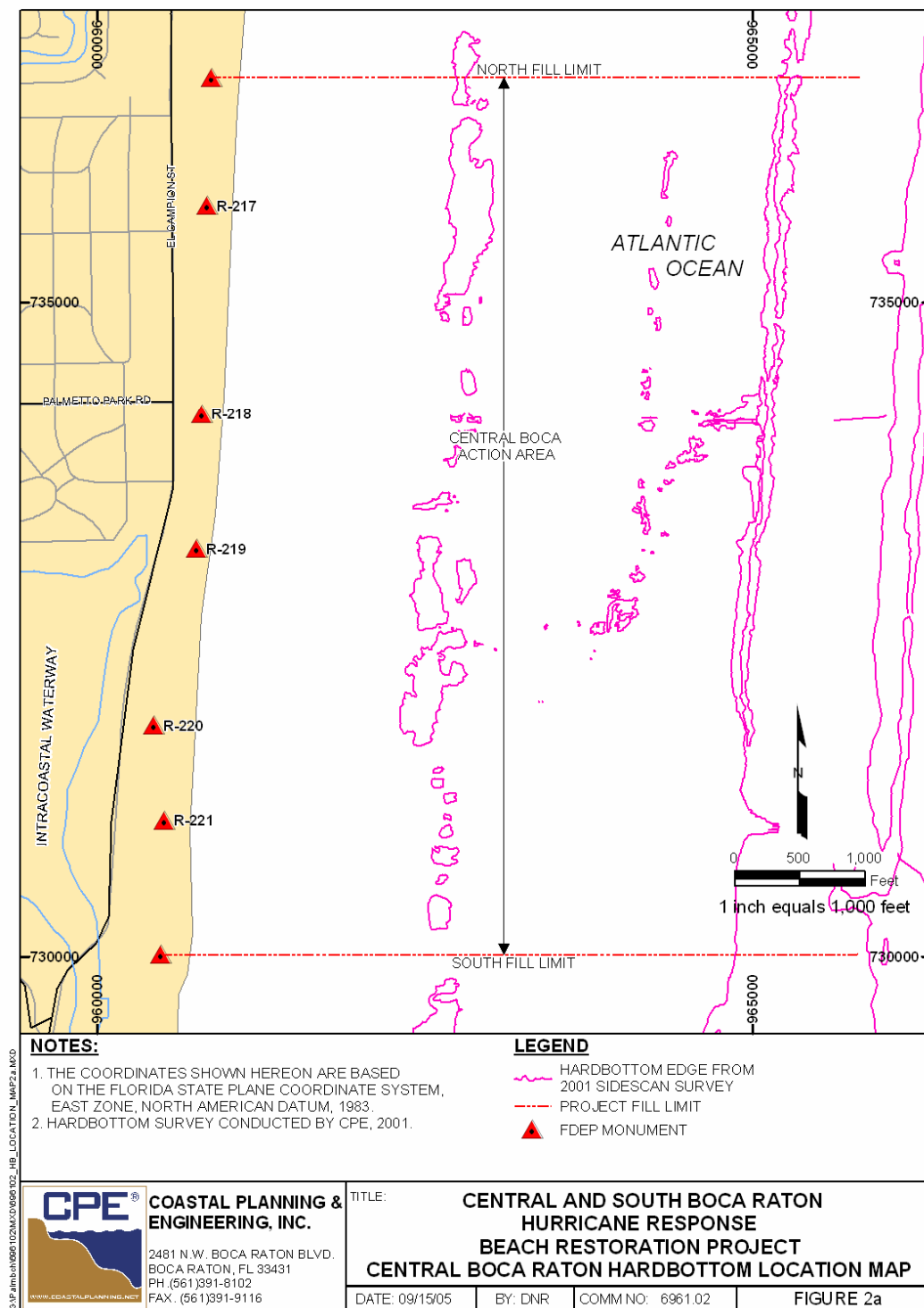


Figure 2a. Hardbottom resources in the Central Boca Raton action area.

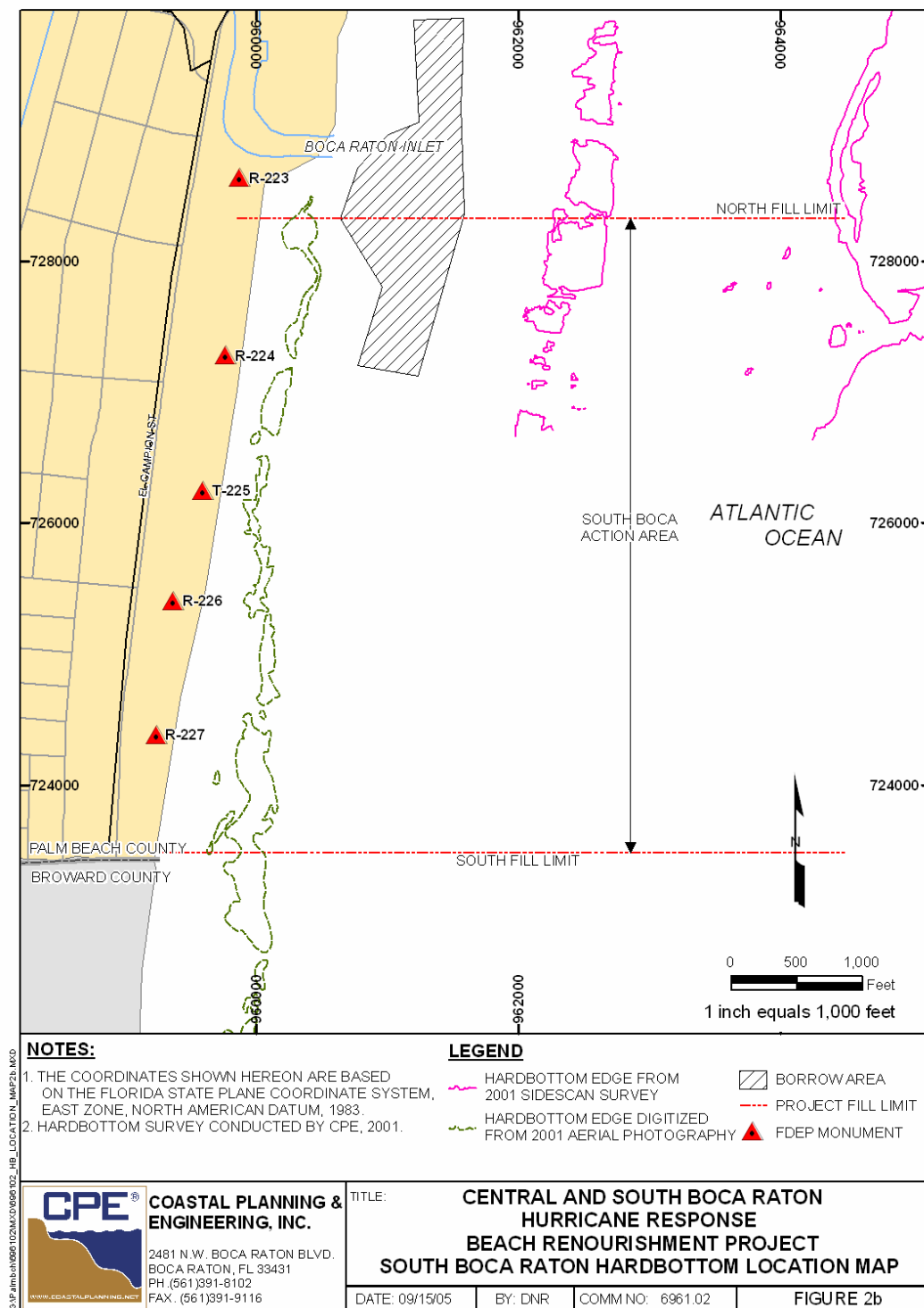


Figure 2b. Hardbottom resources in the South Boca Raton action area.

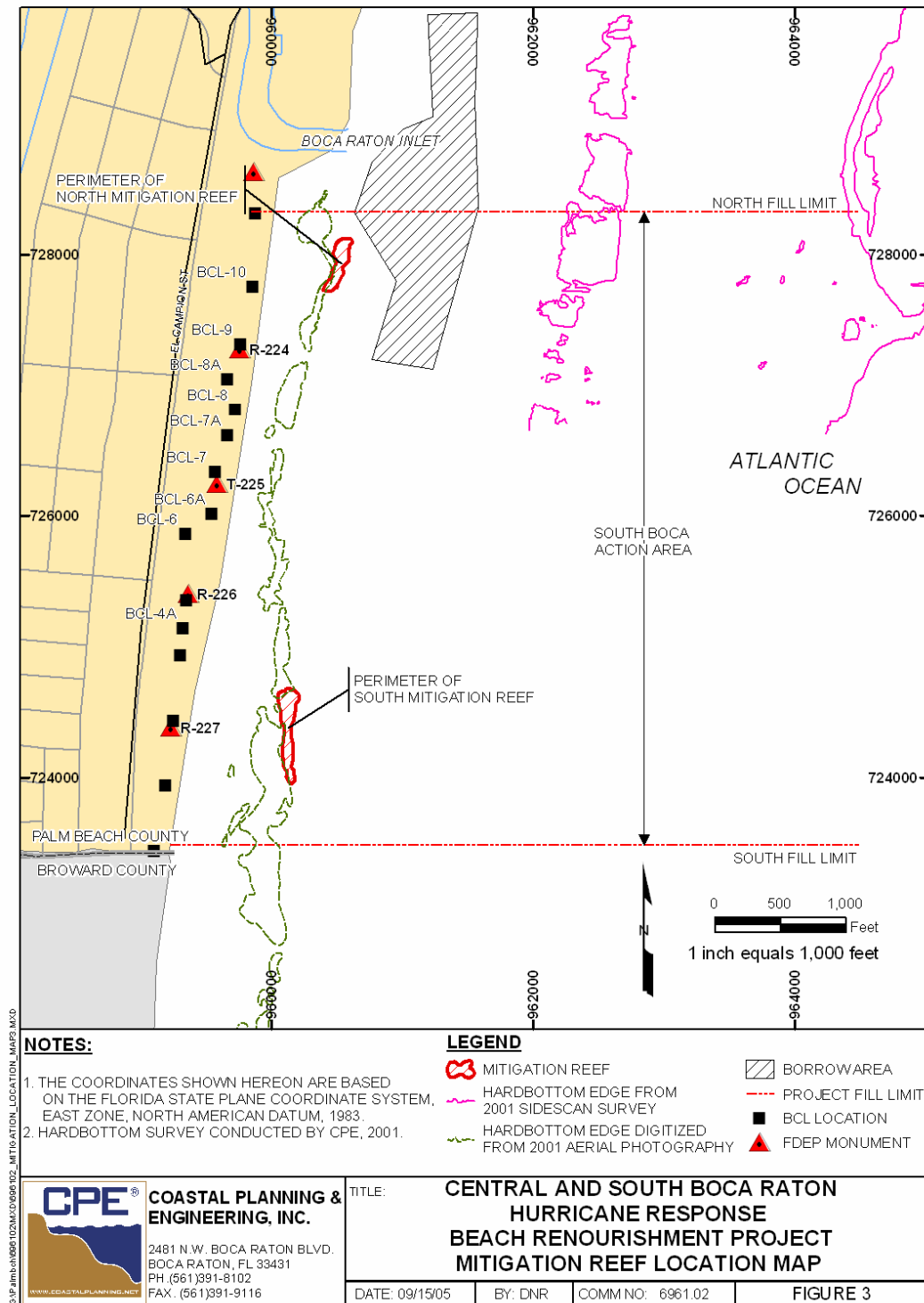


Figure 3. Mitigation reef locations for the South Boca Raton Beach Nourishment project.

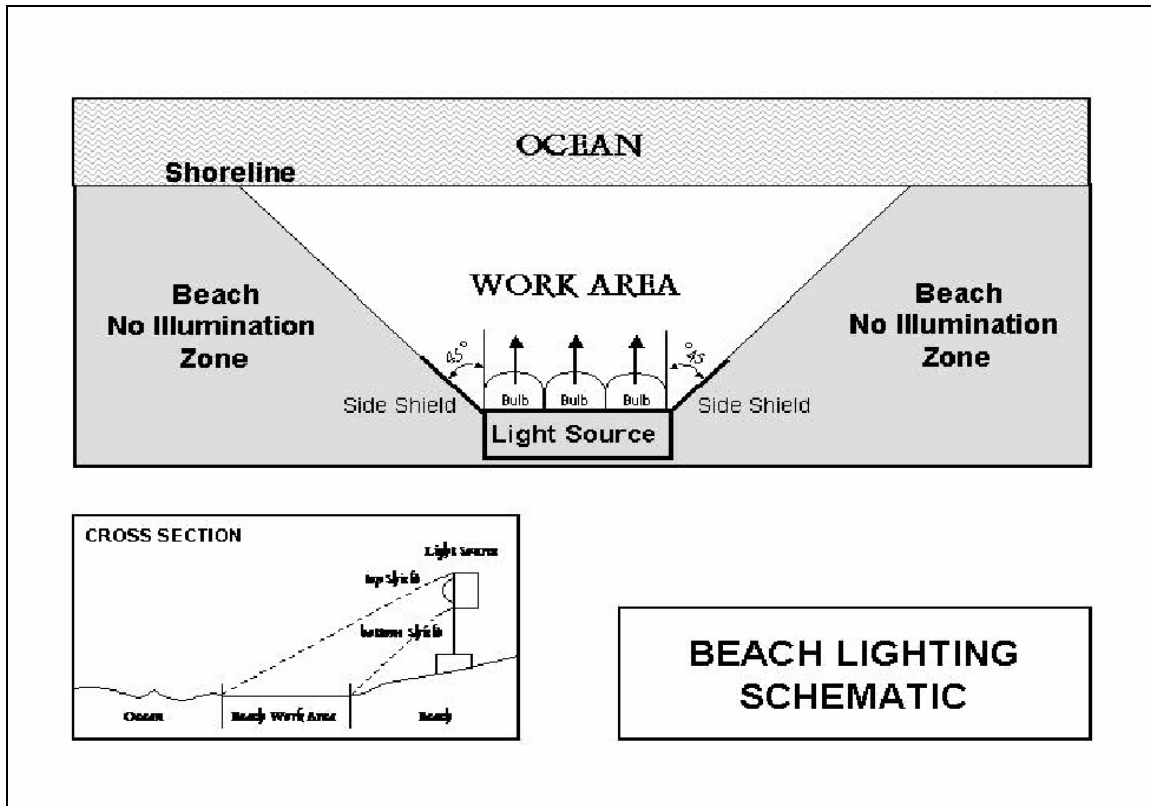


Figure 4. Lighting diagram.

Table 1. Sea Turtle Nesting Activity in Palm Beach County, Florida, 1988 through 2004 (FWC 2004).

Year	Nests	False Crawls (non-nesting emergences)	Total Emergences
1988	5695	3514	9209
1989	7959	4703	12662
1990	13203	8748	21951
1991	12158	9473	21631
1992	15014	9821	24835
1993	9643	8176	17819
1994	13671	13097	26768
1995	14379	14419	28798
1996	16242	13374	29616
1997	11991	9189	21180
1998	15472	17641	33113
1999	13597	13094	26691
2000	16289	18088	34377
2001	14266	13096	27362
2002	15621	15712	31333
2003	14036	15946	29982
2004	11893	17130	29023

Table 2. Sea turtle nesting and false crawl for the Project Area from DEP monument R-216 to the Broward County Line, from 1996 to 2004 (Rusenko 2005).

Year	Number of <i>Caretta caretta</i> Nests	Number of <i>C. caretta</i> False Crawls	Number of <i>Chelonia mydas</i> Nests	Number of <i>C. mydas</i> False Crawls	Number of <i>Dermochelys</i> <i>coriacea</i> Nests	Number of <i>D. coriacea</i> False Crawls
1996	502	501	40	45	3	0
1997	319	332	11	7	7	2
1998	476	612	46	84	4	2
1999	507	386	12	6	3	0
2000	429	477	73	34	6	0
2001	331	330	8	6	5	0
2002	323	304	51	55	3	2
2003	334	406	19	14	6	0
2004	213	304	15	24	0	0

Note: Data provided by Kirt Rusenko, PhD, City of Boca Raton (August, 2005)