DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
POST OFFICE BOX 4970
JACKSONVILLE, FLORIDA 32232

REPLY TO ATTENTION OF

October 11, 2019

Regulatory Division
North Permits Branch
Jacksonville Permits Section

PUBLIC NOTICE

Permit Application Number SAJ-2019-02065 (SP-TMM)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) as described below:

APPLICANT: Flagler County
Attn: Mr. Jerry Cameron
Flagler County Board of County Commissioners
1769 East Moody Boulevard, Building 2
Bunnell, Florida 32110

WATERWAY AND LOCATION: The proposed project site is located along the shoreline of and in the navigable of the Atlantic Ocean at two locations between the Florida Department of Environmental Protection (FDEP) range monuments R-64.5 and R-80; and, R-94 and R-101 (North Site: Sections 19, 29, 30, Township 12 South, 32 East; South Site: Sections 26, 35, 36, 12, Township 12 South, Range 31 East), in Flagler County, Florida. The borrow area associated with this project is located approximately 10.5 nautical miles from the shoreline. The borrow area is located in Federal waters. The U.S. Department of Interior (DOI), Bureau of Ocean Energy Management (BOEM), has the sole regulatory authority over the use and conveyance of Outer Continental Shelf (OCS) sand resources under the OCS Lands Act. The applicant is coordinating with BOEM for authorization of use of federal sand resources from the borrow area.

Directions to the sites are as follows: From the north (e.g., Jacksonville, Florida) take Interstate 95 south to Exit 284 (State Road 100 East / East Moody Boulevard). Traveling east, proceed on State Road 100 for 10 miles to the intersection of Florida Highway A1A. The project lies along two sections of the Atlantic Ocean shoreline within the City of Flagler Beach.

From the south (e.g., Daytona, Florida) take Interstate 95 north to Exit 284 (–State Road100 East / East Moody Boulevard). Traveling east, proceed on State Road 100 for 10 miles to the intersection of Florida Highway A1A. The project lies along two sections of the Atlantic Ocean shoreline within the City of Flagler Beach.

APPROXIMATE CENTRAL COORDINATES:

Site Locations	Latitude	Longitude	DNR Monuments
North Segment	29.474787º	-81.124076º	R-64.5 to R-80
South Segment	29.43443°	-81.10582°	R-94 to R-101
Borrow area	29.569516°	-80.956256°	Due East in the Atlantic Ocean

PROJECT PURPOSE:

Basic: The basic project purpose is shoreline protection.

Overall: The overall project purpose is a Flagler County Beach/Dune Restoration Project (Project Area) for shoreline stabilization to extend the Corps Hurricane and Storm Damage Reduction Project (Federal Project) for shoreline stabilization.

EXISTING CONDITIONS: The project site is along the Coast of Flagler County between beach R monuments R-64.5 and R-80; and, R-94 and R-101. Geomorphic features include a line of dunes that range in height from 10 to 23 feet Mean Sea Level with relatively steep faces composed primarily of coquina shell hash and fine quartz sand. There are no submerged aquatic vegetation or hardbottom/reef resources in the Project Area. Nearshore and offshore environments of the Project Area, including the borrow area and pipeline corridors, consist of sand and/or shell hash.

Offshore Borrow Area: The borrow area footprint is located in the sandy/muddy seabed of the Atlantic Ocean 10 nautical miles east of the on shore Project Area. The 150-meter mixing zone around the 345-acre offshore borrow area encompasses 568 acres of unvegetated, unconsolidated sandy seabed of the Atlantic Ocean. There is unvegetated, soft bottom habitat within the turbidity mixing zone at the borrow area and along the pipeline routes.

PROPOSED WORK: The applicant proposes to construct the Flagler County Beach/Dune Restoration Project, which includes re-nourishment and maintenance, of approximately 4.1 miles of Atlantic Ocean Shoreline between beach range (R) monuments R-64.5 and R-80; and, R-94 and R-101. This project would place approximately 1.3 million cubic yards of compatible beach sand material. The project links with the Federal Project that spans R-80 to R-94 (FDEP Permit # 0378136-001-JC) for a total of 6.7 miles of beach re-nourishment.

The applicant proposes the use of material from an offshore borrow area located approximately 10 nautical miles offshore of the City of Flagler Beach. The borrow area, roughly 345 acres in size, lies within a larger offshore sand source area, Borrow Area 3A, identified by the Corps in 2015. The excavation of the borrow area would be completed with a trailing suction hopper dredge and direct pump-out to the project

shoreline. There is potential to utilize non capture relocation trawling if necessitated. Construction is currently planned immediately following the Federal project. The Flagler County project is expected to begin in fall of 2020 and is projected to last approximately 3 to 5 months. The renourishment interval is projected to be 11 years.

AVOIDANCE AND MINIMIZATION INFORMATION: The applicant has provided the following information in support of efforts to avoid impacts to the aquatic environment:

No hardbottom impacts are proposed or anticipated. Flagler County completed a side-scan survey of the nearshore and four pipeline corridors seaward of the Project Area beach in June 2019. Side-scan results were diver verified in July 2019. No hardbottom resources were found along the nearshore zone or pipeline corridors for the non-federal project. The benthic habitat in these work areas consists of sand and/or shell hash.

Additionally, the applicant has provided the following information in support of efforts to minimize impacts to the aquatic environment:

Sand: Geotechnical evaluation of the borrow area sand has demonstrated compatibility with existing beach sediments in terms of color and grain size distribution.

Wildlife: In order to minimize potential impacts to nesting female and sea turtle hatchlings, the proposed beach fill design incorporates a dipping 1:50 slope over the seaward 100 feet of the berm, effectively lowering the seaward edge of the berm by 2.0 feet over a nearly 100-foot distance. The seaward-dipping seaward slope should minimize the potential for escarpment formations, prevent ponding on the new beach berm, and assist in directing hatchlings seaward to the ocean. Protective measures such as nest monitoring and relocation would alleviate the potential for some of the negative impacts to nesting sea turtles. Construction is scheduled for outside of sea turtle nesting season. Shorebird and sea turtle monitoring would be conducted per permit requirements.

Aesthetics: Best management practices would be executed to minimize the extended presence of equipment and personnel in the Project Area and related habitats.

COMPENSATORY MITIGATION: The applicant has provided the following explanation why compensatory mitigation should not be required: The applicant noted that the work proposed would not result in the loss of aquatic functions or services nor result in impacts to hardbottom. Therefore, the applicant expressed an opinion that compensatory mitigation is not warranted.

CULTURAL RESOURCES:
Borrow Area: The Corps Jacksonville District Civil Works contracted a remote sensing survey of Borrow Area 3A in July 2019 conducted by Panamerican Consultants, Inc. No magnetic anomalies or sonar contacts were found within Borrow Area 3A. The results of this study have been coordinated with the Florida State Historic Preservation Office (SHPO) and the borrow area has been approved for sand borrowing activities with no

effect to historic properties. There is no additional consultation necessary for the borrow project area.

Beach Area: A 2012 cultural resources survey was conducted for the National Environmental Protection Act (NEPA) Feasibility study for the beach and staging areas for a boundary that included both the Federal and Local Projects. This study determined that no historic properties would be affected by sand placement activities for the beach area, and this section was cleared for use by SHPO. There is no additional consultation necessary for the beach placement Project Area.

Pipeline Areas: In coordination with BOEM, the SHPO, and the Corps Regulatory Division Archeologist, Flagler County is planning to conduct side-scan and magnetometer surveys of the four 600-foot-wide (alongshore) by 4,000-foot-long (onshore/offshore) pipeline corridors seaward of the project area. The data would be used to verify the presence or absence of culturally significant resources within the four designated pipeline corridors and identify the potential need and scope of any buffers around resources should any be present. Regulatory Division's final determination relative to historic resource impacts is subject to review by and coordination with the SHPO and, if applicable, those federally recognized tribes with concerns in Florida and the permit area.

ENDANGERED SPECIES:
The following is a table of species and critical habitat that may appear in the Project Area. The table includes the associated Federal listing status of each species, the managing agency, the programmatic biological opinion in which the species falls under for this project, and the Corps determination of whether each species is covered under the biological opinion. This table is based on analysis by the Corps, information provided by the applicant, and current biological opinions.

Species/Critical Habitat	**Status***	**Agency***	**Biological Opinion***	**Covered Under Biological Opinion**	**Hopper Dredging Corps Initial Determination***
Manatee (*Trichechus manatus*)	T	USFWS	SPBO	Yes	MANLAA
Sea Turtles Nesting:					
Loggerhead (*Caretta caretta*)	T	USFWS	SPBO	Yes	May Affect
Green (*Chelonia mydas*)	T	USFWS	SPBO	Yes	May Affect
Kemp's Ridley (*Lepidochelys kempii*)		USFWS	SPBO	Yes	May Affect
Leatherback (*Dermochelys coriacea*)	E	USFWS	SPBO	Yes	May Affect
Hawksbill (*Eretmochelys imbricata*)	E	USFWS	SPBO	Yes	May Affect

Loggerhead Sea Turtle Critical terrestrial Habitat Unit LOGG-T-FL-03		USFWS	SPBO	Yes	MANLAA
Piping Plover (*Charadrius melodus*)	T	USFWS	P³BO	Yes	MANLAA
Rufa Red knot (*Calidris canutus rufa*)	T	USFWS	P³BO	Yes	MANLAA
North Atlantic Right Whale	E	NMFS	SARBO	Yes	MANLAA
North Atlantic Right Whale Critical Habitat Unit 2					NLAM
Sea Turtles Swimming:					
Green (*Chelonia mydas*);	T	NMFS	SARBO	Yes	May Affect
Kemp's Ridley (*Lepidochelys kempii*);	E	NMFS	SARBO	Yes	May Affect
Leatherback (*Dermochelys coriacea*);	E	NMFS	SARBO	Yes	May Affect
Loggerhead (*Caretta caretta*);	T	NMFS	SARBO	Yes	May Affect
Hawksbill (*Eretmochelys imbricata*)	E	NMFS	SARBO	Yes	May Affect
Loggerhead Sea Turtle Neritic Habitat Unit LOGG-N-15		NMFS	SARBO	Yes	NLAM
Atlantic sturgeon (*Acipenser oxyrinchus oyrinchus*)	E	NMFS		No	MALAA
Shortnose sturgeon (*Acipenser brevirostrum*)	E	NMFS	SARBO	Yes	MANLAA
Smalltooth Sawfish (*Pristis pectinata*)	E	NMFS		No	MANLAA
Giant Manta Ray (*Manta birostris*)	T	NMFS		No	MANLAA
Scalloped Hammerhead Shark (*Sphyrna lewini*)	T	NMFS		No	NE
Oceanic White Tip Shark (*Carcharhinus longimanus*)	T	NMFS		No	NE

*Key:
NMFS: National Marine Fisheries Service
USFWS: United States Fish and Wildlife Service
T: Federal Listing Status Threatened
E: Federal Listing Status Endangered
SPBO: Statewide Programmatic Biological Opinion 2015
SARBO: South Atlantic Region Biological Opinion 1997
P³BO: Piping Plover Programmatic Biological Opinion
MANLAA: May Affect, Not Likely to Adversely Affect
MALAA: May Affect, Likely to Adversely Affect

NLAM: Not Likely to Adversely Modify
NE: No Effect

The Corps has determined that this project is within the scope, and the species found at the Project Area will be covered by, multiple Endangered Species Act (ESA) consultations where they are noted in the table above. These include the United States Fish and Wildlife Service (USFWS) Statewide Programmatic Biological Opinion (SPBO), USFWS Piping Plover Programmatic Biological Opinion (P³BO), and the NMFS SARBO 1997. Any effects to rufa red knot would be managed per the terms and conditions of the P³BO. The Corps has determined that relevant minimization measures, Reasonable and Prudent Measures, and Terms and Conditions associated with each programmatic consultation are applicable to this project and would be implemented so the project is covered by the above programmatic consultations. In consideration of current procedures, the Corps Regulatory Division shall coordinate with the USFWS to request concurrence that the project is within the scope of, and covered by, the SPBO and P³BO. Also in accordance with current procedures, the Corps does not need to initiate additional consultation with the NMFS to request concurrence that the project is within the scope of, and covered by, the SARBO. If the new SARBO that is currently being reviewed is finalized before this project goes into effect, the Corps will evaluate the project based on the latest SARBO available. For species listed after the 1997 SARBO went into effect and that are therefore not yet covered by the current SARBO, the Corps will work with NMFS to determine the level of consultation necessitated, or review the forthcoming SARBO to determine whether the project fits within the new parameters.

The following species may also be found within the Project Area or the project is within the species consultation area:

Florida Scrub Jay (*Aphelocoma coerulescens*): The project site is within the threatened Florida scrub jay consultation area identified by the USFWS and the Corps for this species. Therefore, this species could be present at the project site. Information from the Florida Natural Areas Inventory indicates that the Florida Scrub Jay has extremely specific habitat requirements. It is endemic to peninsular Florida inhabiting fire dominated, low-growing, oak scrub habitat found on well-drained sandy soils. The species may persist in areas with sparser oaks or scrub areas that are overgrown, but at much lower densities and with reduced survivorship. According to the USFWS, bare sand patches are essential for foraging and acorn-caching. Scrub habitat is a community composed of evergreen shrubs, with or without a canopy of pines, and is found on dry, infertile, sandy ridges. Scrub jay habitat is absent from the project site. Therefore, the Corps concludes that the project would have *no effect* on this species.

Eastern Indigo Snake (*Drymarchon corais couperi*): The applicant notes gopher tortoise (*Gopherus polyphemus*) have the potential to occur in the vegetated dunes west of the Project Area. If burrows are present, habitat for the Eastern indigo snake may be present. The applicant would implement the *Standard Protection Measures for the Eastern Indigo Snake, August 12, 2013* during the implementation of any work authorized. In consideration of this information, the Corps evaluated the project utilizing the *U.S. Army Corps of Engineers U.S. Fish and Wildlife Service Eastern Indigo Snake*

Programmatic Effect Determination Key, 2010. Use of this key resulted in the sequence A–B–C–D–E – *Not Likely to Adversely Affect* due to the beach nourishment not covering the vegetated dune system and the absence of any previously identified Eastern indigo snakes at the work site.

ESSENTIAL FISH HABITAT (EFH):
This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. The fill portion of the Project Area encompasses approximately 50 acres of dry, sandy beach; 67 acres of intertidal flat/surf zone; and 68 acres of shallow, subtidal habitat within the area of direct fill placement. There are an additional 66 acres of shallow, subtidal habitat that will be gradually affected by beach fill equilibration. Subtidal areas in the project area are unconsolidated sandy/shelly bottom habitat.

The 150-meter turbidity mixing zone at the beach fill site encompasses an overall total of approximately 67 acres of intertidal habitat and 303 acres of shallow subtidal unvegetated habitat. The 150-meter mixing zone around the 345-acre offshore borrow area encompasses 568 acres of unvegetated, unconsolidated sandy seabed of the Atlantic Ocean. The benthic habitat in all locations of the proposed activities contains unvegetated sandy and/shelly bottom, tidal, and sub-tidal areas that may be utilized by various life stages of penaeid shrimp complex, spiny lobster, migratory/pelagic fish, and snapper/grouper complex.

The rectangular Borrow Area 3A will house the borrow material for both the Federal and Flagler County beach nourishment projects (Figure 1). Within this area, the central compartment labeled Project Borrow Area will house the material for the Flagler County project. The entire Borrow Area 3A has been surveyed for geotechnical material as well as live/hardbottom as part of the Federal Project for beach nourishment. At this time, the Corps Civil Works for the Federal Project is in coordination with NMFS regarding survey results to confirm the material is compatible for use on the beach and that no live/hardbottom is present at the borrow area. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the South Atlantic Region. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service. Our final determination relative to project impacts and the need for mitigation measures is subject to the results from the Corps Civil Works coordination with the NMFS on this Borrow Area 3A material.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The Corps has verified the extent of Federal jurisdiction.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

Bureau of Ocean Energy Management: The U.S. DOI, BOEM, is serving as a cooperating agency, per the Memorandum of Understanding Between Army Corps of Engineers U.S. Department of the Army and Bureau of Ocean Energy Management U.S. Department of the Interior to Coordinate the Use Of Sand, Gravel, and Shell Resources from the Outer Continental Shelf, 2017, with the Corps with respect to implementation of the required NEPA process, the ESA Section 7 consultations, the Magnuson-Stevens Fishery and Conservation Management Act Essential Fish Habitat consultation (Section 305), the National Historic Preservation Act Section 106 process, and the Coastal Zone Management Act Section 307 consistency determination. BOEM has sole regulatory authority over the use of OCS sand resources and conveyance on the OCS under the OCS Lands Act. BOEM is authorized under Public Law 103-426 [43 United States Code (U.S.C.) 1337(k)(2)] to negotiate on a non-competitive basis the rights to OCS sand resources for shore protection projects. BOEM's connected action is to issue a non-competitive negotiated agreement (NNA) authorizing use of federal sand resources from Borrow Area 3A at the request of Flagler County. If you have any questions regarding BOEM's action(s), you may contact Mr. Doug Piatkowski by electronic mail at douglas.piatkowski@boem.gov or by telephone at 703-787-1833.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Jacksonville Permits Section within 30 days from the date of this notice. For electronic mail (preferred) submit comments to Terri.M.Mashour@usace.army.mil. For standard mail submit comments to Post Office Box 4970, Jacksonville, Florida 32232. Please reference this permit number, SAJ- 2019-02065 (SP-TMM), on all submittals.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, Terri Mashour by electronic mail at Terri.M.Mashour@usace.army.mil or by telephone at (904) 570-5412.

IMPACT ON NATURAL RESOURCES: Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with USFWS, Environmental Protection Agency (EPA), the NMFS, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action would have on the natural resources of the area. By means of this notice, we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public

interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board, in the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

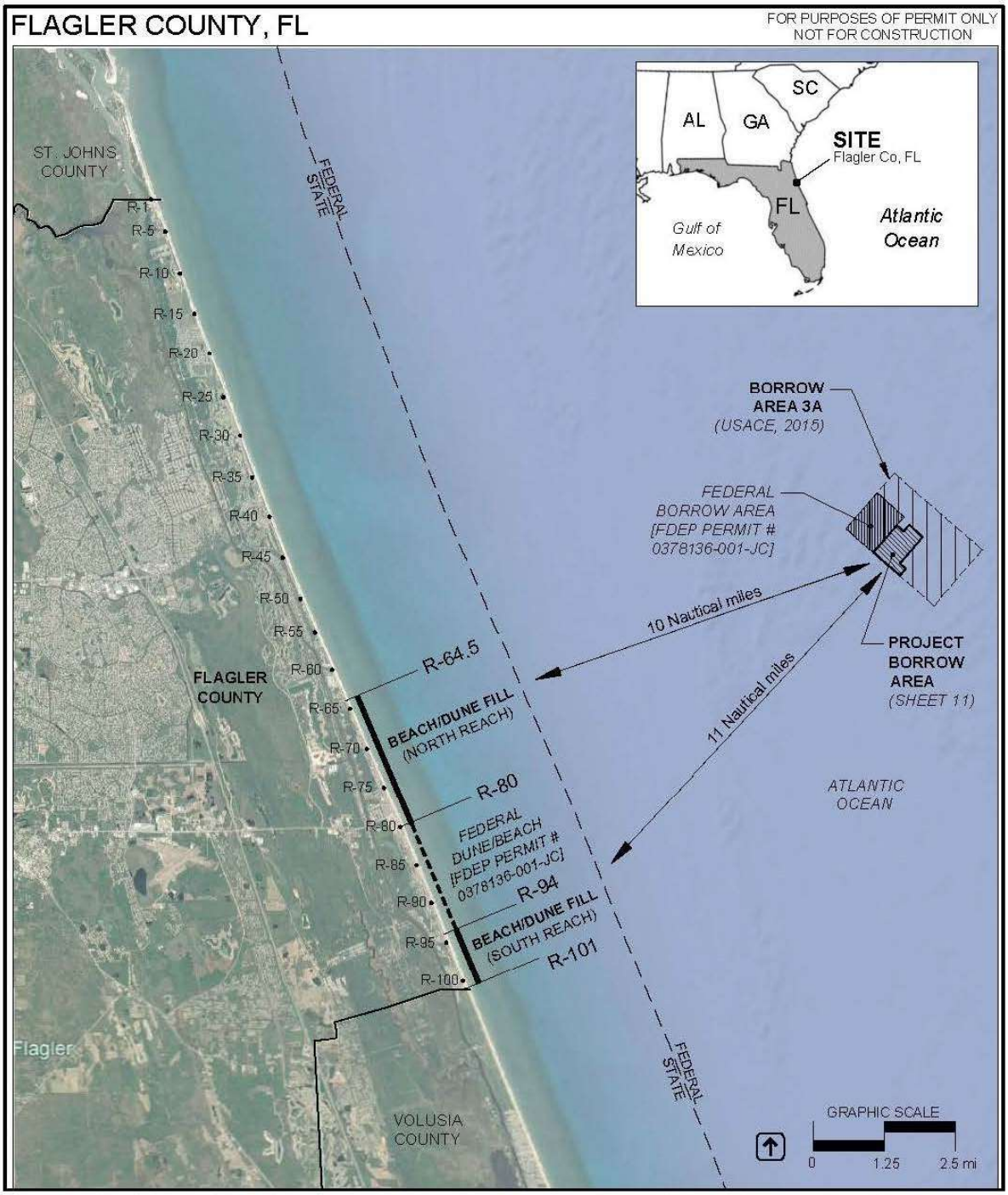

Figure 1. Project location map – Flagler County Dune/Beach Restoration Project.

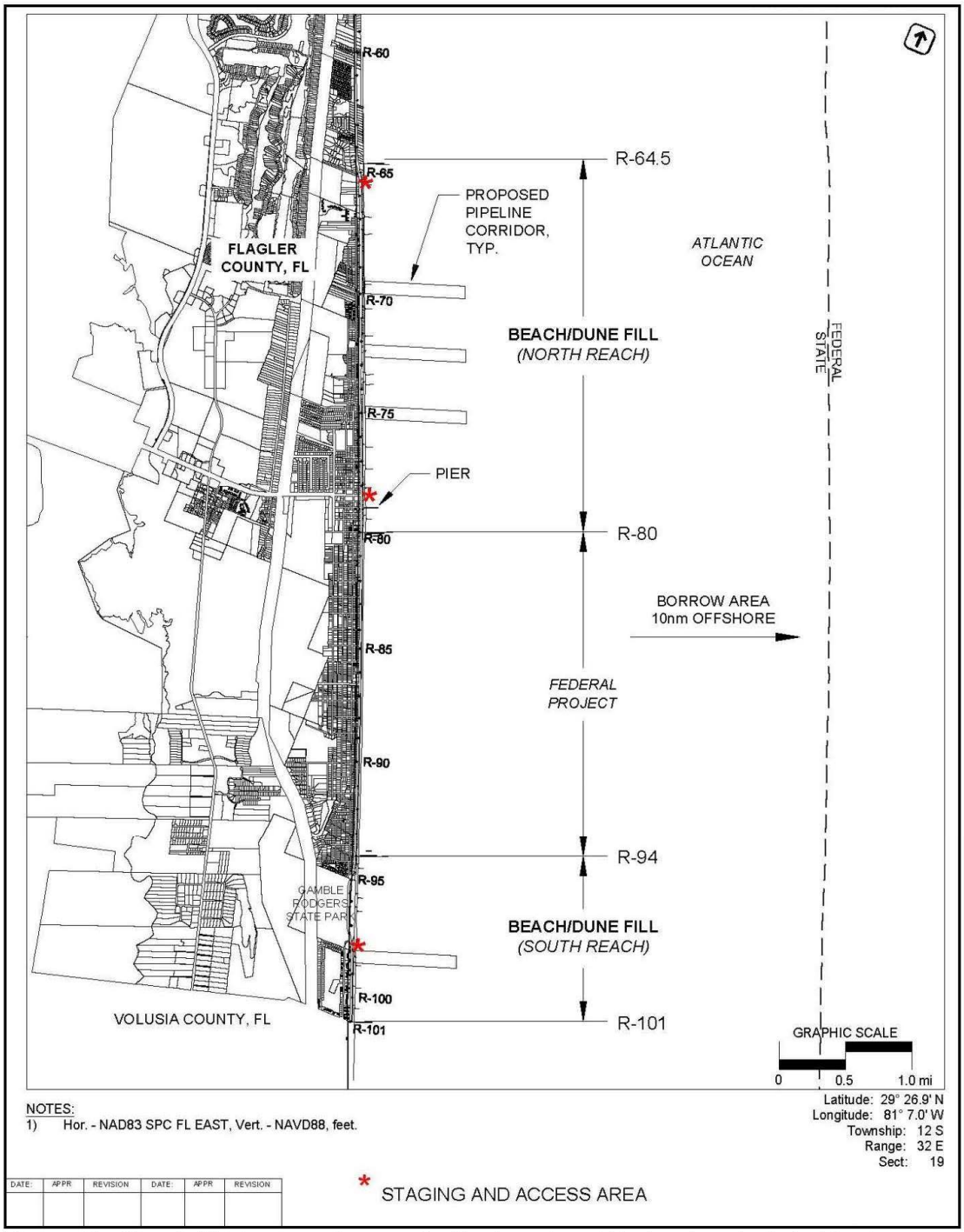

Figure 3. Beach fill placement areas for the Local and Federal projects in Flagler County.