

**Board of County
Commissioners**



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July 21, 2010

via Federal Express

Mr. R. Kipp Frohlich, Section Leader
Imperiled Species Management Section
Florida Fish & Wildlife Commission
620 South Meridian Street
Tallahassee, FL 32399-1600

Re: Flagler County Local Rule Review Committee Report

Dear Mr. Frohlich:

On behalf of the members of the Flagler County Local Rule Review Committee (LRRC), it is my pleasure to transmit to you their response to the Florida Fish & Wildlife Commission Manatee Protection Rule Review Data Discussion and Preliminary Identification of Areas for LRRC Review, transmitted on May 24, 2010.

The 10-member committee gave great weight to the FWC staff recommendations as well as the comments from the public at each of their six meetings. Copies of the minutes of these meetings as well as the public comments are included as part of their report.

We look forward to the FWC response to the committee's report and will transmit it to the committee as soon as it is received. Any information you can provide as to the schedule from this point forward would be appreciated by the Flagler County Board of County Commissioners and the public.

Please feel free to contact me should you have any questions regarding the LRRC report.

Sincerely,

Tim Telfer
Environmental Planner

Attachment
/clm

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District 1
Alan Peterson

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Milissa Holland

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District 4
Bob Abbott

District 5
George Hanns

**REPORT FROM THE
LOCAL RULE REVIEW COMMITTEE
FOR FLAGLER COUNTY**

FINAL REPORT

JULY 19, 2010

Report from the Local Rule Review Committee for Flagler County

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Acknowledgements

This report was prepared by the Flagler County LRRC, whose members include:

Chris J. Vorndran	Edward H. Caroe
Mayor James C. Netherton	Stan Ksyniak
Linda Provencher	Richard McCleery
Chris Herrera	Mayor Jonathan S. Netts
S. Laureen Kornel	Virginia Tee

This report was written by Virginia Tee and Jim Netherton, and endorsed by the entire Local Rule Review Committee (LRRC) for submittal to the Florida Fish and Wildlife Conservation Commission. Flagler County staff provided support during the term of the committee. This report is submitted on behalf of the LRRC to fulfill their obligations under the Florida Manatee Sanctuary Act to review and provide recommendations on proposed speed zones in the Flagler County section of the Intracoastal Waterway.

The LRRC would like to thank the following individuals who attended one or more meetings and provided valuable assistance and information to the committee:

Chris Boland, Florida Fish and Wildlife Conservation Commission
Scott Calleson, Florida Fish and Wildlife Conservation Commission
John Milo, United States Fish and Wildlife Service
Interested citizens advocating for manatees and for boating activities

Background

On May 10, 2007 Flagler County Staff held a meeting for city representatives as well as other interested parties to discuss the current manatee situation, outline manatee protection measures, and facilitate a discussion of resources available to accomplish the appropriate goals. The presentation described manatee sighting and mortality information, potential protection measures via reduced speed zones, ongoing data collection programs to identify manatee usage areas and county-wide boating facility sites, and education and awareness programs. No specific manatee protection plan for Flagler County resulted from this meeting.

On March 8, 2010 Mr. Kip Frohlich, Section Leader of the Imperiled Species Management Section of the Florida Fish and Wildlife Conservation Commission (FWC) sent a letter (Appendix A) to the Flagler County Commission describing the current situation regarding statewide manatee protection. In this instance the state is not establishing a manatee protection plan for Flagler County, which is beyond their authority. Their authority does, however, extend to establishing speed zones in the Intracoastal Waterway. This is a form of protection that is more limited than a complete manatee protection plan, but is often a component in such a plan.

His letter states in part:

“The Florida Fish and Wildlife Conservation Commission (FWC) approved a Manatee Management Plan (MMP) in December 2007 to provide a state framework for conserving and managing manatees in Florida. The MMP is complementary to the federal Florida Manatee Recovery Plan, with both plans describing actions that will ensure the manatee’s long-term survival. One of the many tasks called for in the MMP is to evaluate areas that currently have little or no manatee protection regulations to determine if new manatee protection zones may be warranted. Flagler County is one of the first areas identified in the MPP for this evaluation.”

“In recent years we have met with Flagler County staff, the U.S. Fish and Wildlife Service, and stakeholders in regards to a variety of manatee concerns related to state and federal approval of construction of additional marine facilities and potential impacts to manatees. As a part of those meetings it was discussed that there are virtually no state manatee protection zones in Flagler County. The only exception is a small portion of waterway in the southern part of the county which is regulated in the FWC rule for Volusia County (68C-22.012, Fla. Admin. Code). The zones included in the Volusia County rule were adopted in 1991. It was also clear that additional data needed to be collected in this area so that we could better evaluate the potential risks. New manatee distribution data were collected in 2005-2007 and aerial surveys were flown in 2007-2009 to collect boating data in Flagler County. FWC staff has reviewed these data and other information, and spoken to County staff. Based on our initial review of all information, we believe additional manatee protection zones may be warranted in Flagler County.”

In summary, FWC analyzed manatee sighting data, watercraft-related manatee mortality, boating data, coincidence of manatees and motorboats and identified five segments of the Intracoastal Waterway in Flagler County where a manatee protection speed zone rule change may be warranted. (The FWC divided three of those segments into two subparts each.) Each zone was proposed and reviewed as follows:

- A. Marineland and Matanzas River
- B. Palm Coast (B and B1)
- C. Fox's Cut
- D. Smith Creek North of SR 100 (D1 and D2)
- E. Smith Creek South of SR 100 (E1 and E2)

In order to adopt or amend manatee speed zone rules FWC must follow the process outlined in Florida Statute 379.2431(2)(f). FWC therefore notified the Flagler County Board of County Commissioners that the process had been initiated and that the county must appoint a Local Rule Review Committee (LRRRC) within 60 days. The purpose of the committee is to review the FWC proposal for new speed zone rules and provide comments and recommendations. The LRRRC has 60 days from formation to accomplish its task and report to the FWC.

Another factor influencing the process is a concern by the US Fish and Wildlife Service with watercraft related manatee mortalities in Flagler County that have occurred during the past decade. They are greater than in previous decades and, in the view of USF&WS, may be related to the increase in dock permit requests processed by the US Army Corps of Engineers. The agency wants to work with other state agencies to find reasonable approaches to protect manatees in Flagler County in a way that does not eliminate the watercraft activities. (See comments by John Milio (USF&WS) in the minutes for the May 26, 2010 meeting).

On May 3, 2010 Flagler County responded by appointing a ten member Local Rule Review Committee (Appendix B). Members were:

Chris J. Vorndran representing the City of Palm Coast/waterway users
Edward H. Caroe representing the City of Palm Coast/manatee/environmental advocates
Mayor James C. Netherton representing the Town of Marineland/manatee/environmental advocates
Stan Ksyniak representing the City of Flagler Beach/waterway user
Linda Provencher representing the City of Flagler Beach/manatee/environmental advocates
Richard McCleery representing waterway users
Chris Herrera representing waterway users
Mayor Jon S. Netts representing waterway users
S. Laureen Kornel representing manatee/environmental advocates
Virginia Tee representing manatee/environmental advocates

The LRRRC committee held its organizational meeting on May 13, 2010 and elected Mayor Jon Netts chair and Mr. Ed Caroe recording secretary.

Other meetings were held on:

May 26, 2010

June 9, 2010

June 23, 2010

July 8, 2010

July 19, 2010

Meeting minutes are attached as Appendix D.

The FWC proposal for new speed rules (Appendix C)

The FWC proposal for rule making is critically dependent on 3 factors: (1) manatee fatalities due to watercraft injuries; (2) the number of manatees in the area; and (3) the number of boats in the area.

Item (1) is addressed by the statewide mortality data collected by the Fish and Wildlife Research Institute (http://research.myfwc.com/features/category_sub.asp?id=2241) and begins in 1974. Watercraft related injuries are a subset of overall fatalities and can be extracted for Flagler County from the dataset. From 1974 to 2009 there have been 14 watercraft related deaths, 9 of which have occurred since 2002. Of these 9, 7 have occurred around the Gamble Rogers State Park area.

Item (2) is addressed by aerial surveys. These were flown by FWC staff twice a month for two years, from November 2005 through September 2007. A total of 47 survey flights were flown. Each flight surveyed approximately 8.7 square kilometers of Flagler County coastal waters. Observations were entirely visual, subject to the counting biases inherent in the method, and are not considered indicative of the absolute number of manatees that can be found in county waters. Instead they are taken to represent the relative abundance and distribution of manatees at the time of the survey.

Item (3) is also addressed by aerial surveys. Mote Marine Laboratory flew 20 surveys from August 2007 through February 2009 such that 5 flights were carried out in each of the Winter (Dec – Feb), Spring (Mar – May), Summer (Jun – Aug), and Fall (Sep – Nov) quarters to observe both weekday and weekend traffic. Boats observed operating under human or sail power were not included. There were 732 observed powered boats, which were further sorted into plowing, cruising or planing classes. The planing “fast boat” subset included 277 boats (38% of the total).

Finally, conclusions were drawn based on attempts to see where manatees and boats might coincide, since a watercraft related manatee injury requires that a boat and a manatee coincide in time and space. GIS mapping was used to put circles of activity around sighted boats and manatees, and the places where these circles overlap (are “coincident”) are considered to have the greatest potential for harmful interactions. Table 3 of the FWC report lists the various coincidence (COIN) levels determined in the 5 sections under discussion.

The LRRC committee reviewed this report, considered the FWC recommendations for warm season manatee protection speed zones and also considered the duration of the warm season as proposed by FWC.

The LRRC offers the following recommendations:

Summary of Local Rule Review Committee (LRRC) Recommendations, Including Majority and Minority Opinions

A. Marineland and Long Creek (4 miles). Starting from the Flagler/St Johns County line and extending 4 miles south.

FWC has not identified this as an area where a zone may be warranted, but requested input from the LRRC.

Majority opinion agrees with the FWC recommendation for no speed zone (7 votes).

Minority opinion (s). One member disagreed with the FWC recommendation (1 vote). Another member suggested a modification of the FWC recommendation; namely, a slow, minimum wake outside the channel (1 vote).

B. Palm Coast

FWC recommendation.

(1). The area from south of the Marineland zone to north of the Palm Coast residential canals had one watercraft related fatality in 1990. FWC has not identified this as an area where a zone may be warranted, but is requesting input from the LRRC,

Majority opinion did not see a need for a speed zone in this area.

Minority opinion. None.

FWC recommendation

(2). Zone B1. The area from the northern shoreline of the central Palm Coast residential canal to approximately 300 feet south of the Dunes Hammock Bridge should have a warm weather (April through October) Slow Speed Minimum Wake zone throughout its 1.5 mile length.

Majority opinion felt that the area should extend from 300 feet south of the Dunes Hammock Bridge to 100 feet north of the most southerly Palm Coast canal entrance and should be in effect during the warm season only (see the LRRC recommendation regarding warm season duration for all affected areas below) (7 votes).

Minority opinion(s) suggested that: (1) the FWC recommendation be accepted (1 vote); (2) that the speed zone apply weekends only (1 vote); (3) a ¼ mile slow speed zone be put in place at the mouth of each of the three entrances to the Palm Coast canals (1 vote).

C. Fox's Cut

FWC has not identified this as an area where a zone may be warranted, but requested input from the LRRC.

Majority opinion did not see a need for a speed zone in this area (7 votes).

Minority opinion(s).

One member recommended that there be manatee caution signs at the north and south entrances to Fox's Cut (1 vote). Another member recommended a modification; namely, a warm season Slow Speed Minimum Wake zone on weekends only (1 vote). A third member of the minority disagreed with the FWC recommendation (1 vote).

D. Smith Creek North of S.R. 100

FWC Recommendation.

(1) Zone D1: Add a warm season (April through October) Slow Speed Minimum Wake zone starting just north of the Silver Lake Marina extending to the south lip of Lehigh Canal (total linear distance: 1.2 miles).

Majority opinion did not see a need for a speed zone in this area (6 votes).

Minority opinion agreed with the FWC recommendation (3 votes).

FWC Recommendation.

(2) Zone D2: Add a warm season (April through October) Slow Speed Minimum Wake zone starting at the south lip of LeHigh Canal extending to approximately 300 feet south of the State Route 100 bridge (total linear distance: 1.5 miles).

Majority opinion recommended a modification to the FWC proposal, recommending that a slow speed out of channel zone be adopted for this area (8 votes).

Minority opinion agreed with the FWC recommendation (1 vote).

E. Smith Creek South of S.R. 100

FWC Recommendation

(1) Zone E1: Add a warm season (April through October) Slow Speed Minimum Wake zone starting at the Gamble Rodgers Memorial State Recreation Area boat launch extending approximately 1.8 miles north in Smith Creek.

Majority opinion recommended a modification to the FWC proposal, recommending that the distance be shortened to bracket the boat ramp at Gamble Rogers State Park (5 votes).

Minority opinion agreed with the FWC recommendation (4 votes).

FWC Recommendation

(2) Zone E1: Change existing zone to a warm season (April through October) Slow Speed Minimum Wake zone and remove the component of the existing zones that are in effect during the cold season (total linear distance: 0.7 miles). Also, amend the Volusia County rule to remove the portion of the existing zone that is located within Flagler County.

Majority opinion recommends a modification of the FWC recommendation; namely, to extend the "Volusia Rules" in season to Gamble Rogers Park (5 Votes).

Minority opinion agrees with the FWC recommendation (4 Votes).

Other Committee Recommendations:

Warm Season Duration

FWC Recommendation.
April 1 through October 30.

Majority opinion is that the warm season should be between May 1 through July 31 (6 votes).

Minority opinion.

One member recommended that the warm season should be between May 1 and September 30 (1 vote). Another member agreed with the FWC recommendation (1 vote).

Boater Education

The Local Rule Review Committee urges FWC to support additional manatee education for the boating public. There are six public access points to the Intracoastal Waterway within Flagler County: Gamble Rogers Park, Betty Steflik Park in Flagler Beach, Herschel King Park, Bings Landing and Hammock Beach Marina, all in unincorporated Flagler County, the Palm Coast Marina in the City of Palm Coast, and a seventh access point, a redevelopment of a marina in the Town of Marineland is in the planning stage. These are ideal locations for educational signage, if not already present. Instead of proposing regulations that will prove to be extremely difficult to enforce, spend some time and money educating boaters. There are a number of fishing and boating clubs in Flagler County; instead of regulations, why not a "speaker's bureau?"

Other manatee protection actions

To "save the manatee" there are many pro-active manatee protection possibilities that FL Fish and Wildlife (& others) should investigate. (A) As part of adding more channel-only planing

speeds with flanking minimum wake zones, some wide channels can be narrowed to provide wider, safer flanking areas for anchored fishermen as well as manatee. (B) When a channel area is dredged, should shoal flanking areas also be dredged to maybe 6-feet MLW to benefit fishermen and manatee? Data studies and some experimenting in higher manatee death areas will be valuable. (C) Some navigation aids are very widely spaced; additional aids will help keep cruising boats within the channel and anchored fishermen outside the channel.

Discussion of Reasons for LRRC Recommendations

General principles applicable to Flagler County

Manatee Population Arguments

The manatee population in Flagler County is strongly influenced by the water temperature. In the winter it is too cold for comfort and most of the manatees leave. During the warm months manatees primarily transit the ICW. There are no favored areas along the boat channel that accumulate manatees. There are no significant submerged grass beds that serve as a food source. The biologists that run kayaking ecotours from the Marineland area comment that they see manatees feeding on young spartina shoots and even sometimes pulling over mangroves to feed on the leaves. They further note that manatees don't use the shallow estuarine flats adjacent to the ICW and don't go any further than the mouths of the feeder creeks that lead to them. They prefer deeper water.

The Palm Coast canal system is the primary area used by manatees when they are not in the ICW. To a lesser extent they can be found in other residential canals and marina basins. Palm Coast is an area with high perinatal fatalities, suggesting that it is important for mother/calf pairs and may be a birthing ground or nursing area. Several members of the LRRC suggested that more attention be paid to this effect and research be directed toward whether the perinatal mortality is in the expected range for a wild population and, if it turns out to be high, whether water quality might be affecting it. Perinatal mortality in our area is a more important component of overall manatee deaths than watercraft injuries and deserves greater attention.

Some felt that the freshwater source in the southern Palm Coast canal system should be considered a manatee attractor and a potential area of concern for manatee safety. The Big Mulberry Creek drains an area west of I-95 and brings most of the fresh water into this system. Many feel that this is the reason that manatees are more often seen in the southern canal system. There is no physical connection between the southern system and northern or middle canals without using the ICW.

Two areas that all members of the LRRC agree need attention are the Palm Coast canal system and the area around Gamble Rogers State Park. Gamble Rogers Park in particular is the site of most of the watercraft related fatalities during the past decade. All other parts of the ICW generated more disputes about what, if anything, should be done.

Manatee Protection Arguments

There are three reasons for slower speeds to protect manatees: (1) manatees have more time to react; (2) the boat operator has more time to react; and (3) in the event of a collision, the trauma is much less to the mammal.

Generally, there was frustration with the data provided by the FWC to support the imposition of manatee protection zones. While the aerial coincidence data was helpful, the mortality data was generally thought to be less so. All agreed that manatees could travel a great distance after being struck by a watercraft, so focusing on the location that a carcass was found was thought to be potentially misleading.

Almost all manatees have been hit by watercraft more than once so the overall issue is about more than those who are killed. The effects of the strikes on the overall health, longevity, reproduction, etc., of the manatee may be affected by multiple strikes. Manatees travelling surface more frequently to breathe so the potential for strikes increase where a manatee is migrating through an area rather than staying to feed, such as the ICW portions of Flagler County.

Protection of manatees is an ethical and moral issue which was not fully appreciated by the whole committee. Boaters must expect reasonable restrictions on their activities as population grows, and an increase in transit time is not an unreasonable restriction if it prevents manatee strikes. Fatalities are not the only concern; non fatal strikes are equally to be avoided. Slowing boat speeds is the best way to accomplish this. Also, FWC has already made some concessions to boaters, such as shortening the length of the seasonal restriction by 15 days, and their recommendations are not as severe as they could be. Slow speed zones should be in place 7 days a week in the warm season and no exemptions should be made for anyone; fast moving boats are a threat to manatees and should be slowed.

Many questioned what else was being done about protecting manatees except proposing potentially unenforceable speed zones? For instance, what is the county doing about reduction in habitat, fertilizer runoff, etc? The no wake zones will not change the fact that tug boats (which are frequently found in the ICW in Flagler County) “suck” water and all that is in it, including manatees, from the shoreline.

Human Population Arguments

The census bureau listed the population of Flagler County as 49,832 in year 2000 and 91,622 in year 2009. Overall Flagler boat registration was 3907 in 2001 and 4820 in 2008. This increase doesn't seem to correlate very strongly with an essentially flat manatee fatality curve and doesn't really suggest that an increase in dock permits should trigger slow speed zones. The number of watercraft-related manatee deaths, county-wide, has remained relatively consistent at less than one per year. Imposing slow speed zones on a third of Flagler County is an overreaction.

According to FIND data, 93% of Flagler County boaters interviewed were on single-day trips (as opposed to multiple-day trips) and 87% of them planned to restrict their activity to the Intracoastal Waterway. The ICW is where the vast majority of Flagler County residents do their boating. Again, unnecessary speed restrictions will diminish the perceived value of living on or near the water in Flagler County and, from an inspection of the data, will have little or no positive effect on protecting manatees.

Boating Safety Arguments

The mission of FWC, as it relates to boating regulations, is two-fold; safety of the boating public and protection of the manatee. The proposed imposition of many (6.7) miles of “Slow Speed – Minimum Wake” restrictions in the already relatively short (18.5 miles) Flagler County ICW will force recreational boaters to relocate their activity to the few remaining unaffected portions of the Intracoastal within Flagler County. As a result there will be an increased density of so-called “fast boats” (an unnecessarily pejorative term since it encompasses any boat not fully

settled in the water) in these areas. As you squeeze more and more boats into less and less space, you are almost certainly going to negatively impact the safety of the boating public.

Much of the supporting data for the proposed restrictions depends on the "coincidence" of manatees and "fast boats." As mentioned above, if you impose speed limits in one area of the Flagler County ICW, you will force such "fast boats" to move to the remaining unrestricted areas. Will future studies then conclude that these heretofore unrestricted areas now have a higher "coincidence" of "fast boats" that will warrant new, additional areas for speed restrictions? Where does this stop?

Opinions by several members of the public and the committee suggested that manatee speed zones were also protective of human life. One individual suggested that the three recent boating deaths in Volusia County may have resulted from the increase in manatee zones in that area.

Economic Arguments

Recreational boating is a significant component of the attractiveness of Flagler County. The City of Palm Coast has many miles of salt water canals with access to the Intracoastal Waterway. Homes on these canals demand higher-than-average prices due to such water access. The City of Flagler Beach, like Palm Coast, has numerous homes situated on salt water canals with ICW access. Most of the homes along the ICW (Island Estates and Grand Haven, for example) have docks; testimony that they are not there "just for the view." These homes enjoy a correspondingly increased property value as a result of waterway access. Unnecessary waterway restrictions will have a significant negative impact on property values in Flagler County; values that are already greatly impacted by the economic recession we are experiencing. Local governments can ill afford such additional impacts on our tax base.

Data taken from the Florida Inland Navigation District (FIND) "Economic Analysis of the District's Waterways in Flagler County" shows that in 2003 (the most recent study)

\$133 million in business volume
\$46 million in personal income
1,116 jobs, and
\$163 to \$185 million in property taxes

in Flagler County were directly attributable to the Intracoastal Waterway. Given the significant growth in Flagler County from 2003 until now, there is no doubt that these numbers significantly under-represent the value that recreational boating brings to Flagler County.

Sea Ray Boats is a major employer in a county with high unemployment rates and has a significant impact on the Flagler County economy. Their business is critically dependent on the ability to water test the boats they build prior to delivery. Their normal test route is from the Lehigh Canal north to the Marineland area. Their test procedures include a requirement to run at all speeds for some minimum time. The LRRC committee majority opinion is generally sympathetic to this need and opposes broad slow speed zones in the test area. There was some discussion about obtaining an exemption from slow speed requirements for Sea Ray captains during testing, which is a legitimate option. This exemption is based on the fact that this testing

is done during lower traffic weekdays and that a captain and observer are present who are trained to observe, log and report manatee sightings. When manatees are in the area, the test procedure is modified to avoid them. Most members felt it would lead to others ignoring the speed zones using the principle of "if he can do it, so can I." It is better not to have broad zones, especially considering that manatee fatalities are not a big problem here.

However, some members of the public expressed that ecotourism in Flagler County would benefit from manatee protection. Additionally, by forcing people to "slow down" as they passed through Flagler County, the benefits of living in Flagler County could become more readily apparent.

Law Enforcement Arguments

Public comment from boaters emphasized that the currently suggested speed zones are driven by a legislative mandate and not by a real-world problem. Most boaters feel that an average of one manatee fatality per year is a regrettable but unavoidable consequence of manatees and boats using the same waterway. Eliminating manatee injuries would require eliminating all manatees or all boats, neither of which is possible. Slowing boating speed over a wide area is extremely unpopular; each mile that a boat travels at 5 mph instead of 25 mph adds 10 minutes to the journey. This may be tolerable for 10 or even 20 minutes, but not for 60 minutes or more. One way around this dilemma is to target smaller speed zones around important areas and not institute broad zones hoping to include problem areas in the larger solution. Law enforcement will not be adequate to slow down all boaters who don't believe that the manatee protection laws are fair and equitable and don't want to observe them.

Duration of Restriction Arguments

Most members of the committee agree that the speed zones should only be in effect during the warm season when the Flagler manatee population increases. However, they also felt that a 7 month warm season is too long. The majority want the warm season defined as May through July; a minority think that May through September is appropriate.

Most members believe that the data shows that May, June, and July are when there is a high probability of manatee-watercraft incidents. One member believes that the data shows that that probability extends through September.

Discussion of specific zones

A. Marineland and Long Creek (4 miles). Starting from the Flagler/St. Johns County line and extending 4 miles south.

There is an expectation that the marina will begin redevelopment within the next year and that a slow, minimum wake zone of about ¼ mile will be needed around the entrance for boating safety. Historically there was a no-wake zone around the marina when it was active. When the marina is developed FWC will be petitioned for a slow, minimum wake zone based on boating safety needs.

Although there was initial agreement between several members that because manatees are seen daily around the marina area during the summer season, ultimately the vote showed that only one member of the committee supported an out of channel slow speed, minimum wake zone. Her rationale was that there was evidence of a high coincidence of manatees in the area during the warm season and the channel is wide enough to support such a zone.

B. Palm Coast

The LRRC committee agrees that the Palm Coast canal system is often used by manatees. They feel that the majority of manatees congregate in the southern canals because there are sources of fresh water present. The canal system is covered by a slow speed zone so no additional protection is needed. Most members felt that the southern entry to the canal system is most often used because most manatees are seen in the south canals. This is where the protection should exist. Members also note that, although there are a significant number of deaths recorded from this area, they are mostly not watercraft related. This is where most of the perinatal mortality occurs, so other factors than boats are responsible for these fatalities. Only 3 watercraft related fatalities are recorded here (1990, 1995, and 1998).

A view that did not gain support was that manatees use any of the three entries randomly and once inside the canal system find their way to favored hangouts by trial and error. This view endorsed protecting only the mouths of the canal entries since this is where the manatees must enter and exit.

Another opinion that was in the minority was that this area did not show a significant enough coincidence to support a slow speed minimum wake zone, except on the weekends when the aerial data showed a high incidence of planing boats.

C. Fox's Cut

Most members did not support a manatee zone in this area because the FWC had not recommended one and there was no mortality data to support it.

Another opinion that was in the minority was that the data showed a higher coincidence of fast boats in this area than in the Palm Coast zone, representing a greater risk to manatees than an area where a recommendation had been made and that the fast boat coincidence was significantly higher on the weekends.

D. Smith Creek North of S.R. 100

D1: Generally, the members rejected the FWC recommendation because there was no watercraft-related manatee mortality data in the area and the potential negative impact that a speed zone in this area would have on Sea Ray Boats.

D2: Similar to D1, the majority rejected the FWC recommendation because there was no watercraft-related manatee mortality data in this area and there already exists a "Boater Safety Zone" in the vicinity of the S.R. 100 Bridge and the boat ramp immediately south of the bridge.

If the 1.8 miles restriction were to take effect, it would cause more congestion just north of the proposed zone to the S.R. 100 bridge resulting in not only a boating hazard between boaters, but creating high coincidence for boats on plane and manatees in that area.

E. Smith Creek South of S.R. 100

E1: While all agreed that a slow zone was warranted in this area, the majority requested that the zone be shortened because the manatee mortality data seemed to be clustered around the boat ramp. The S.R. 100 launch ramp offers boaters a choice of turning north or south to leave the current slow speed zone. South is favored by water skiers. If the slow speed zone concentrates fast boats to a smaller area here then boating safety issues arise and the fast boat COIN values similarly increase. Most members felt that a slow speed zone around the Gamble Rogers basin would be the most effective way to protect manatees while allowing boaters traditional use of the northern section of this zone.

E2: This area has no reported watercraft-related deaths and, as such, does not warrant a "slow speed" designation. Boaters travelling northward from Volusia County are already subject to a numerical restriction (30 mph daytime and 25 mph night) and are further restricted to "slow speed out of channel." It was also suggested that extending the Volusia County Rule from the Flagler County line northward to Gamble Rogers might make sense.

However, the minority do not agree that the Volusia County Rule provides any real protection to manatees due to the fact that most boats are planing at 25 mph. The high mortality data in the E zone generally, and without being able to accurately pinpoint where the deaths occurred suggests that the FWC recommendation is appropriate.

Appendix A.	Letter from FWC dated March 8, 2010 Announcing Rule-Making
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APPENDIX A

Report from the Local Rule Review Committee for Flagler County

LETTER FROM
FLORIDA FISH & WILDLIFE CONSERVATION COMMISSION
DATED MARCH 8, 2010
ANNOUNCING RULE-MAKING



**Florida Fish
and Wildlife
Conservation
Commission**

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Karen Ventimiglia
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Imperiled Species
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Kipp Frohlich
Section Leader
(850) 922-4330
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March 8, 2010

The Honorable George Hanns, Chair
Flagler County Commission
1760 East Moody Boulevard, Suite 301
Bunnell, FL 32110

Dear Chairman Hanns:

The purpose of this letter is three fold. First I want to provide you with some background regarding our state manatee management plan and how it relates to Flagler County. In addition, I will provide you an update on recent activities and progress that we have made related to manatee protection. Lastly, I wanted to let you know about our future plans and also request increased involvement and participation of Flagler County.

The Florida Fish and Wildlife Conservation Commission (FWC) approved a Manatee Management Plan (MMP) in December 2007 to provide a state framework for conserving and managing manatees in Florida. The MMP is complementary to the federal Florida Manatee Recovery Plan, with both plans describing actions that will ensure the manatee's long-term survival. One of the many tasks called for in the MMP is to evaluate areas that currently have little or no manatee protection regulations to determine if new manatee protection zones may be warranted. Flagler County is one of the first areas identified in the MMP for this evaluation.

In recent years we have met with Flagler County staff, the U.S. Fish and Wildlife Service, and stakeholders in regards to a variety of manatee concerns related to state and federal approval of construction of additional marine facilities and potential impacts to manatees. As a part of those meetings it was discussed that there are virtually no state manatee protection zones in Flagler County. The only exception is a small portion of waterway in the southern part of the county which is regulated in the FWC rule for Volusia County (68C-22.012, Fla. Admin. Code). The zones included in the Volusia County rule were adopted in 1991. It was also clear that additional data needed to be collected in this area so that we could better evaluate the potential risks. New manatee distribution data were collected in 2005-07 and aerial surveys were flown in 2007-09 to collect boating data in Flagler County. FWC staff has reviewed these data and other information, and spoken to County staff. Based on our initial review of all information, we believe additional manatee protection zones may be warranted in Flagler County.

Florida Statute § 379.2431(2)(f) prescribes the steps required for the FWC to adopt or amend manatee speed zone rules. While we have informally discussed this with your staff, this letter serves as official notification that we are initiating the next steps of considering manatee protection rules for Flagler County. Pursuant to the statute, Flagler County has 60 days after receipt of this letter to form a Local Rule Review Committee (LRRC) to review the FWC proposal and provide comments and recommendations. Once the LRRC has been formed, we will provide a preliminary rule proposal to the LRRC and the LRRC will then have an additional 60 days to review the proposal and submit its report. (I have enclosed a copy of the statute for your convenience.)

Working through the various issues will take time and it is difficult to predict with certainty a proposed timeline. However, based on our work with other counties, we are

The Honorable George Hanns

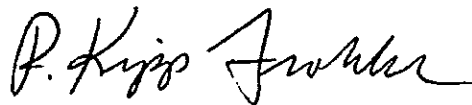
Page 2

March 8, 2010

hopeful that we could complete the LRRC process by July 2010. If rules are warranted we would hope to present a draft to our Commissioners at the September 2010 FWC meeting, with final presentation and consideration to occur at a subsequent FWC meeting, likely in early 2011. Of course this is a cooperative endeavour and we will work with your staff and the LRRC in regards to scheduling and timing. It should also be noted that there is no predetermined outcome. Working with the LRRC may in fact lead us to develop a draft rule for our Commissioners to consider, but alternatively we may conclude upon further analysis that no additional rules are warranted.

It would be helpful if you could provide us with the name of your designee with whom we should work at a staff-to-staff level as this process moves forward. Mr. Chris Boland on my staff will be taking the lead for the FWC and he can be contacted at Chris.Boland@MyFWC.com. If you have any questions about this letter, the rule making process, or if we could assist you in anyway, please do not hesitate to contact me or Mr. Boland (850 922-4330). We look forward to working with you and Flagler County.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Kipp Frohlich". The signature is fluid and cursive, with the first name "R. Kipp" and last name "Frohlich" clearly distinguishable.

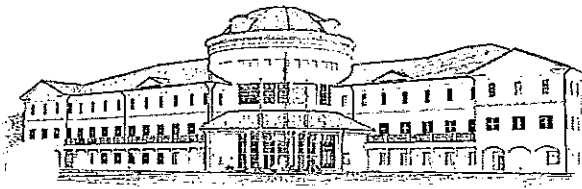
R. Kipp Frohlich, Section Leader
Imperiled Species Management Section

Enclosure

APPENDIX B

Report from the Local Rule Review Committee for Flagler County

APPOINTMENT OF
THE LOCAL RULE REVIEW COMMITTEE MEMBERS
BY FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
DATED MAY 5, 2010



Flagler County

Board of County Commissioners



1769 East Moody Boulevard, Building 2 • Bunnell, Florida 32110 • (386) 313-4000 • fax: (386) 313-4101 • www.FlaglerCounty.org

May 5, 2010

Mr. Edward H. Caroe
25 Coolidge Court
Palm Coast FL 32137

Dear Mr. Caroe:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At the request of the City of Palm Coast, you were appointed to serve as their "Manatee/Environmental Advocate" representative. A complete committee membership list is attached for your reference.

As has been relayed to you previously, the first meeting of this committee will be an organizational one, scheduled for Thursday, May 13, 2010 at 1:30 p.m. in the Financial Services conference room, located on the third floor of Building 2 of the Government Services Complex. One item of business at this meeting will be deciding on dates and times for future meetings. We, therefore, ask that you bring your meeting schedule so this can be accomplished.

Also enclosed for your review prior to this initial meeting is: (a) Orientation Packet for all Advisory Board members; (b) Description of the FWC Manatee Protection Rule Development Process; and (c) Florida Statute 379.2431(2)(f).

The staff liaison for this committee will be Mr. Tim Telfer, Environmental Planner. Tim can be reached at 386/313-4066 or ttelfer@flaglercounty.org.

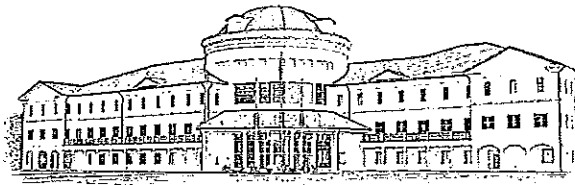
Thank you in advance for the time, effort and expertise you will bring to this committee.

Sincerely,

George Hanns, Chairman
Flagler County Board of County Commissioners

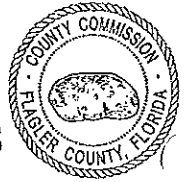
Enclosures (4)

c: Tim Telfer



Flagler County

Board of County Commissioners



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May 5, 2010

Mr. Chris Herrera
25 Pier Lane
Palm Coast, FL 32164

Dear Mr. Herrera:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At that meeting, the Board of County Commissioners appointed you to serve as one of the at-large "Waterway User" representatives. A complete committee membership list is attached for your reference.

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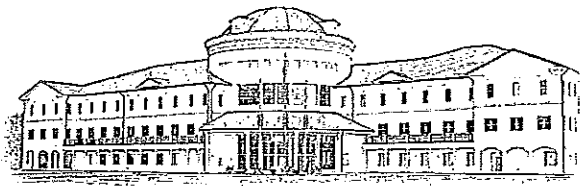
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Sincerely,

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Flagler County Board of County Commissioners

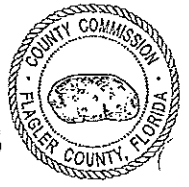
Enclosures (4)

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Flagler County

Board of County Commissioners



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May 5, 2010

Ms. S. Laureen Kornel
P O Box 661
Flagler Beach, FL 32136

Dear Ms. Kornel:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At that meeting, the Board of County Commissioners appointed you to serve as one of the at-large "Manatee/Environmental Advocate" representatives. A complete committee membership list is attached for your reference.

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Sincerely,

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Flagler County Board of County Commissioners

Enclosures (4)

c: Tim Telfer

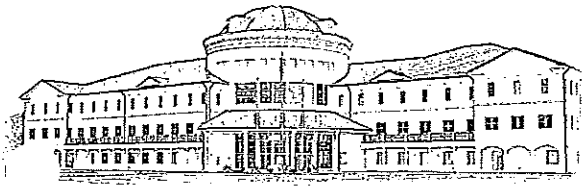
Alan Peterson
District 1

Milissa Holland
District 2

Barbara Revels
District 3

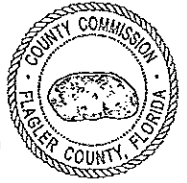
Bob Abbott
District 4

George Hanns
District 5



Flagler County

Board of County Commissioners



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May 5, 2010

Mr. Stan Ksuniak
164 Palm Circle
Flagler Beach, FL 32136

Dear Mr. Ksuniak:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At the request of the City of Flagler Beach, you were appointed to serve as their "Waterway User" representative. A complete committee membership list is attached for your reference.

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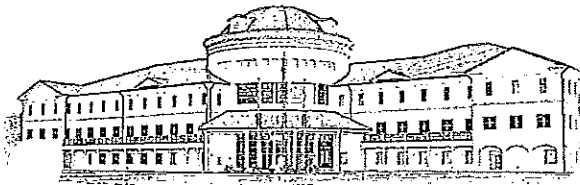
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Flagler County Board of County Commissioners

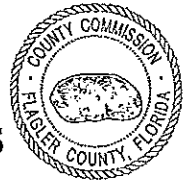
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Flagler County

Board of County Commissioners



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May 5, 2010

Mr. Richard McCleery
8 Sycamore Terrace
Palm Coast, FL 32137

Dear Mr. McCleery:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At that meeting, the Board of County Commissioners appointed you to serve as one of the at-large "Waterway User" representatives. A complete committee membership list is attached for your reference.

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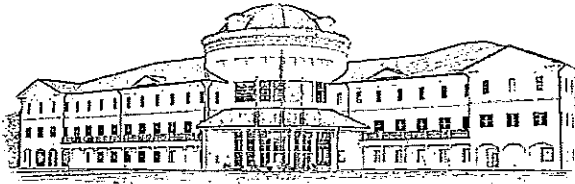
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Flagler County Board of County Commissioners

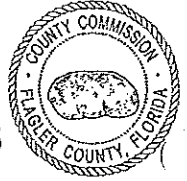
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Flagler County

Board of County Commissioners



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May 5, 2010

Mayor James Netherton
Town of Marineland
9505 Oceanshore Blvd.
St. Augustine, FL 32080

Dear Mayor Netherton:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At the request of the Town of Marineland, you were appointed to serve as their "Manatee/Environmental Advocate" representative. A complete committee membership list is attached for your reference.

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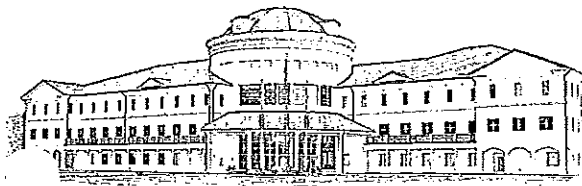
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Sincerely,

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Flagler County Board of County Commissioners

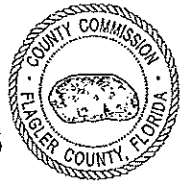
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Flagler County

Board of County Commissioners



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May 5, 2010

Mayor Jonathan S. Netts
City of Palm Coast
17 Flintstone Court
Palm Coast, FL 32137

Dear Mayor Netts:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At that meeting, the Board of County Commissioners appointed you to serve as one of the at-large "Waterway User" representatives. A complete committee membership list is attached for your reference.

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Enclosures (4)

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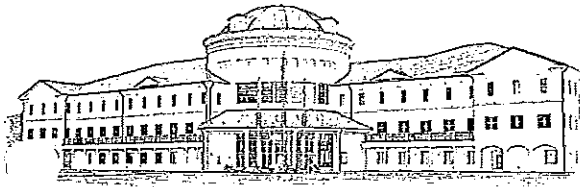
Alan Peterson
District 1

Milissa Holland
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District 3

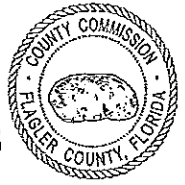
Bob Abbott
District 4

George Hanns
District 5



Flagler County

Board of County Commissioners



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May 5, 2010

Ms. Linda Provencher
P O Box 1632
Flagler Beach, FL 32136

Dear Ms. Provencher:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At the request of the City of Flagler Beach, you were appointed to serve as their "Manatee/Environmental Advocate" representative. A complete committee membership list is attached for your reference.

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Sincerely,

George Hanns, Chairman
Flagler County Board of County Commissioners

Enclosures (4)

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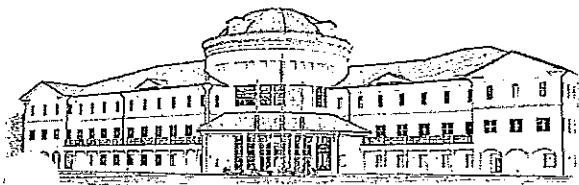
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George Hanns
District 5



Flagler County

Board of County Commissioners



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May 5, 2010

Ms. Virginia Tee
39 Ocean Street
Palm Coast, FL 32137

Dear Ms. Tee:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At that meeting, the Board of County Commissioners appointed you to serve as one of the at-large "Manatee/Environmental Advocate" representatives. A complete committee membership list is attached for your reference.

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Enclosures (4)

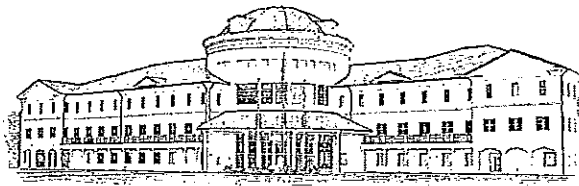
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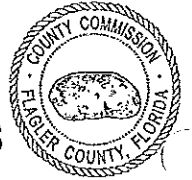
Bob Abbott
District 4

George Hanns
District 5



Flagler County

Board of County Commissioners



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May 5, 2010

Mr. Chris J. Vorndran
137 Cochise Court
Palm Coast, FL 32137

Dear Mr. Vorndran:

It is my pleasure to inform you that the Flagler County Board of County Commissioners appointed the citizens to the Local Rule Review Committee at their May 3, 2010 meeting. At the request of the City of Palm Coast, you were appointed to serve as their "Waterway User" representative. A complete committee membership list is attached for your reference.

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Thank you in advance for the time, effort and expertise you will bring to this committee.

Sincerely,


George Hanns, Chairman
Flagler County Board of County Commissioners

Enclosures (4)

c: Tim Telfer

APPENDIX C

Report from the Local Rule Review Committee for Flagler County

FLORIDA FISH & WILDLIFE COMMISSION
STAFF REPORT DATED MAY 24, 2010
DESCRIBING RECOMMENDED SPEED ZONES AND
DISCUSSING DATA AND METHODOLOGY
USED TO CREATE THOSE ZONES



May 24, 2010

Committee Members
Flagler County Local Rule Review Committee

**Florida Fish
and Wildlife
Conservation
Commission**

Commissioners
Rodney Barreto
Chairman
Miami

Richard A. Corbett
Vice Chairman
Tampa

Kathy Barco
Jacksonville

Ronald M. Bergeron
Fort Lauderdale

Dwight Stephenson
Delray Beach

Kenneth W. Wright
Winter Park

Brian S. Yablonski
Tallahassee

Executive Staff
Nick Wiley
Executive Director
Greg Holder
Assistant Executive Director

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well-being and the benefit
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Tallahassee, Florida
32399-1600
Voice: (850) 488-4676

Hearing/speech impaired:
(800) 955-8771 (T)
(800) 955-8770 (V)

MyFWC.com

Thank you for agreeing to serve on the Local Rule Review Committee (LRRC) for Flagler County. The Florida Fish and Wildlife Conservation Committee (FWC) is required to initiate the LRRC process before proposing new or amended rules that would regulate the speed and operation of motorboats for the purpose of manatee protection. The letter we sent on March 8, 2010, to notify Flagler County of our intent to consider rule making (copy attached) provides additional information about the LRRC process and other background information.

As stated in the letter, the FWC is reviewing Flagler County to determine if new manatee protection zones are needed. Based on our preliminary staff review, we believe some new zones may be warranted. These potential zones and a discussion of the rationale for them are detailed in the attached document (*Flagler County Manatee Protection Rule Review Data Discussion and Preliminary Identification of Areas for LRRC Review*). It is important to stress that the potential zones are not final staff recommendations. Before we finalize the staff recommendations, we want to fully evaluate the perspectives and issues raised during the LRRC process. We therefore request that the LRRC review the potential zones identified by staff and provide recommendations as to what zones, if any, should be proposed. If the LRRC identifies any other zones it feels are needed or suggested modifications to the FWC potential zones, we would like to know about these as well.

We have provided County staff with the documents mentioned above as well as the geographic information system (GIS) data that can be displayed, queried, and analyzed in ArcGIS®. A summary and description of the documents and data is included in the appendices of the attached document.

In closing, I want to again thank you for agreeing to serve on the Flagler County LRRC. The FWC greatly appreciates the work that you will perform. I can assure you that FWC staff and the Commissioners will give very careful and deliberate consideration to the recommendations that the LRRC provides. We look forward to working with you.

Sincerely,

R. Kipp Frohlich, Section Leader
Imperiled Species Management Section

Attachments

Flagler County Manatee Protection Rule Review Data Discussion and Preliminary Identification of Areas for LRRC Review

**Prepared by FWC staff for use by the
Flagler County Local Rule Review Committee (LRRC)
in fulfillment of Florida Statute 379.2431(2)(f)7**

May 2010

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Introduction

This document summarizes and discusses the primary data and analyses used during the Florida Fish and Wildlife Conservation Commission's (FWC) preliminary review of the need for manatee protection boat speed zones in Flagler County. The document identifies and discusses five potential zones FWC staff believes may be warranted based on the data review and three other areas where FWC staff requests input from the LRRC. At this time staff has not made a final determination as to whether any of these potential zones should be presented to the FWC Commissioners for consideration. Prior to making a final determination, staff will fully evaluate the local perspective as provided by the LRRC. The FWC requests that the LRRC review these potential zones and provide recommendations as to what zones, if any, it believes should be established. This document should not be construed to limit what information the LRRC may consider or what zones it can recommend. The LRRC report may contain any recommendations the LRRC deems worthy and the FWC response to the LRRC report will address all recommendations.

Overview of Data Analysis

1. Notes on data analysis and data sources

- a. For purposes of analyzing and summarizing data, the county was divided into five primary regions. These regions were: Marineland and Long Creek; Palm Coast to the Dunes Hammock Bridge; Fox Cut; Fox Cut to the State Road 100 Bridge; and, south of the State Road 100 Bridge to the Flagler-Volusia County line. A map of these regions is included as **Figure 1**.
- b. For purposes of creating maps to display data, the county was divided into two regions: the North Region extends from the St. Johns County line to the Dunes Hammock Bridge; the South Region extends from the Dunes Hammock Bridge to the Volusia County line.
- c. The primary data sources used in this review are discussed in the following sections. Other data that were also considered in the review are not discussed in this document, such as manatee telemetry data. These data and other information are included in the list of supporting data.
- d. A 2003 publication discussing manatee use patterns along the Atlantic Coast based on telemetry data has been provided to the county. This document should be used as an aid to understand the telemetry data.

2. Notes on Manatee Aerial Survey Data

- a. Manatee distributional aerial survey (AS) data for Flagler County were collected twice a month for a two year period from November 2005 through September 2007 by FWC Fish and Wildlife Research Institute (FWRI) staff.
- b. A total of 47 survey flights were flown.
- c. Each flight surveyed approximately 8.7 km² of coastal waters in the county.
- d. This dataset does not account for manatees that may have been present but not counted during the surveys due to a variety of potential survey biases (e.g., detection and availability biases). These biases can and likely do vary spatially and temporally so counts should not be assumed to represent the absolute number of manatees that were using the area when the surveys were flown. Failure to account for the biases (which cannot be done after-the-fact given the survey design) limits how much significance should be placed on

the results. This same situation exists in almost all other areas where data have been collected. Nevertheless, we believe the data are still useful in assessing the relative abundance and distribution of manatees and potential changes over time.

3. Notes on Manatee Mortality Data

- a. Manatee mortality data have been collected since 1974. Data through December 2009 were used for this review.
- b. Each data point in the mortality database represents the location where a carcass was recovered and not necessarily the location where a manatee died. In many cases, winds and currents can move a carcass after a manatee has died and, in the case of boat-related deaths, if a manatee is not killed immediately it can move under its own power before ultimately succumbing to its injuries. Depending on the nature and extent of the injuries, manatees can sometimes survive for days or weeks (and occasionally even months) after being hit by a boat. For these reasons, care should be taken when interpreting these data because the absence of data points cannot be assumed to mean no deaths occurred and vice versa.
- c. When possible, the FWRI Marine Mammal Pathobiology Lab (MMPL) records whether watercraft-related deaths were “acute,” meaning the animal had extensive injuries and the collision most likely occurred relatively close to the location of the carcass recovery, or “chronic,” meaning the animal sustained less extensive injuries and may have been able to travel some distance before succumbing to the injuries. A determination of acute versus chronic cannot always be made and this information has consistently been noted on necropsy reports only in recent years. Where this information is available, it has been noted in the discussions in the following sections.

4. Notes on Boat Aerial Survey Data

- a. The primary boating data used for this review were collected by MOTE Marine Laboratory (MML) from August 2007 through February 2009 using aerial surveys. A written report discussing this data was compiled by MML and provided to FWRI in June 2009. An electronic version (PDF format) of this report has been provided to Flagler County staff.
- b. MML flew 20 surveys. The data were collected in four survey quarters: Winter (Dec. – Feb.), Spring (Mar. – May), Summer (June – Aug.), and Fall (Sept. – Nov.). Each quarter contained five flights consisting of two weekday flights and three weekend flights.
- c. The boat data used in this analysis was a subset of the overall dataset. Vessels that were classified as operating under human-power or sail power [“SPEED” = 1 OR “SPEED”=2] were not included in the analysis. This power boat data set included a total of 732 boats in Flagler County.
- d. The Flagler County power boat data was further subdivided to include vessels that were classified as plowing, cruising or planing [“SPEED” >= 4]. This “Fast Boats” subset included a total of 277 boats, or approximately 38% of the dataset.

5. Manatee-Boat coincidence

- a. The manatee and boat aerial survey point data were processed in ArcGIS using the kernel density command with a cell size of 25 meters and a search radius of 325 meters. Coincidence values were calculated by multiplying the per survey manatee cover by the per survey boating cover.

- b. Coincidence is the area of potential spatial overlap between the two datasets, with the higher numbers and warmer colors representing a higher potential for manatee-boat interactions.
- c. Six coincidence covers were created, one using the Flagler power boats dataset described above and one using only boats from the “fast” boats. An all boat coincidence and a “fast” boat coincidence cover were created for the warmer month period (Apr. - Oct.) and the colder month period (Nov.-Mar.).

6. Countywide Data Summary

Manatee Aerial Survey Data

- The data document a strong seasonal disparity in the number of manatees seen, with an overall density of 0.327 in the warmer months (Apr.-Oct.) and 0.046 in the colder months (Nov.-Mar.), which means documented manatee use was approximately 7.8 times higher during the warmer months. **Table 1** summarizes the aerial survey data by zone and season.

Mortality Data

- 75 carcasses have been recovered in the coastal portion of the county since 1974, with 59 (79%) recovered during the warmer months and 16 (21%) recovered during the colder months. (The warmer months account for 58% of the year while the colder months account for 42%.) The “Perinatal (≤ 150 cm)” category had the most deaths (36). “Human Related: Watercraft collision” was the next highest category with 14, nine (9) of which have occurred since 2002. **Table 2** summarizes the mortality data by month and cause of death.
- The first watercraft-related carcass was recovered in the county in 1990. Since that date, watercraft-related carcass recoveries have been increasing in coastal Flagler County. During the 1990-1999 period, five (5) manatee deaths were identified as watercraft-related, while from 2000-2009, nine (9) watercraft-related manatee deaths were recorded in the county’s coastal waters.
- Of the 14 watercraft-related deaths recorded in the county’s coastal waters, 12 (86%) were recovered during the warmer months and two (14%) were recovered during the colder months. Two watercraft-related deaths are the most ever recovered in the county in one year (in 2007, 2006, and 2003).
- Five (5) of the six (6) watercraft-related carcasses recovered in the coastal part of the county since 2004 were identified as acute deaths and one (1) as a chronic death. None of the reports for deaths in Flagler County prior to 2004 includes an assessment of acute versus chronic.

Coincidence Data

- The mean countywide “All Boats” coincidence value (“Coin”) was 0.476 while the mean overall “Fast Boats” coincidence value (“Fast Coin”) was 0.206. The ratio of Fast Coin to Coin (0.433 in this case) gives an indication of how much of the overall coincidence was the result of boats traveling at higher speeds. **Table 3** summarizes the coincidence analysis results by zone and season.
- The mean countywide coincidence values for the warmer months (Coin = 0.662; Fast Coin = 0.327) were several times greater than the corresponding values for the colder months (0.103 and 0.058, respectively). This suggests the overall boating risk to manatees is substantially higher during the warmer months.

Seasonality of the Data

- Because of the seasonal trend displayed in the datasets, the data have been analyzed and presented based on traditional warm (April through October) and cold (November through March) season ranges. FWC staff chose this seasonal break to remain consistent with other state manatee protection zones; however, alternative seasonal windows may be appropriate.

7. Areas identified by FWC staff where protection zones may be warranted

Site-specific areas identified by FWC staff as potentially warranting manatee protection zones are discussed in the zone by zone discussions below. Figures showing the locations of the site-specific areas are also included for each region.

FWC Preliminary Rule Proposals

1. Marineland & Matanzas River

Data Discussion

Manatee Aerial Survey Data

- The mean density of manatees seen per survey per square kilometer was 0.104. The density documented during the warmer months (0.150) was approximately 4 times greater than that seen during the colder months (0.038).

Mortality Data

- Five manatee carcasses have been recovered in this zone, none of which were attributed to watercraft-related injuries. The carcass recovered in 1992 (MNE9221) was attributed to another form of human related injuries, but the origin of the injuries was undetermined. Of the remaining four carcasses, two were attributed to natural causes and two were too decomposed to conclusively attribute to a cause of death.

Coincidence Data

- Coin for this region was 0.363 and Fast Coin was 0.142. The ratio of Fast Coin to Coin was 0.391, indicating that fast boats accounted for a relatively large portion of the manatee-boat coincidence in this area. The Coin value for the warmer months (0.396) was approximately 3 times the value for the colder months (0.118).

Areas identified by FWC staff where protection zones may be warranted

- The FWC has received requests to review the portion of the Matanzas River in the Intracoastal Waterway adjacent to Marineland for potential manatee protection boating speed zones. Three manatee carcasses have been recovered in the vicinity of Marineland, none of which was the result of watercraft-related injuries. The area around Marineland had a heightened level of warm season Fast Coin (1.109), but upon further examination, this was because of one group of 16 manatees travelling through the area. FWC staff has not identified this as an area where a zone may be warranted, but we are requesting input from the LRRC.

2. Palm Coast

Data Discussion

Manatee Aerial Survey Data

- The mean density of manatees seen per survey per square kilometer was 0.121. The density documented during the warmer months (0.152) was approximately 2 times greater than that seen during the colder months (0.075).

Mortality Data

- Thirty manatee carcasses have been recovered in this zone. Most (23) of the 30 recovered manatee carcasses were classified as perinatal deaths, signifying that this area may be used by manatees as a calving or nursing area.
- Three (3) of the carcass recoveries were attributed to watercraft-related injuries. These three carcasses were recovered in 1990, 1995, and 1998. None of the reports for these deaths includes an assessment of acute versus chronic.

Coincidence Data

- Coin for this region was 0.215 and Fast Coin was 0.064. The ratio of Fast Coin to Coin was 0.298 indicating that fast boats accounted for a moderate portion of the manatee-boat coincidence in this area. The Coin value for the warmer months (0.232) was approximately 2.5 times the value for the colder months (0.090).

Areas identified by FWC staff where protection zones may be warranted

- FWC staff initially considered the area in the Intracoastal Waterway north of the Palm Coast residential canals where the waterway widens with the Matanzas River flats to the west. This area has heightened warm season coincidence (0.916) and Fast Coin (0.657). Three manatee carcasses have been recovered in the immediate vicinity, one of which was a watercraft related mortality (MJAV9028) recovered in May 1990. Four groups of manatees were observed in this area; all groups were one or two animals each. FWC staff has not identified this as an area where a zone may be warranted, but we are requesting input from the LRRC.
- B1: An area extending from the northern shoreline of the central Palm Coast residential canal to approximately 300 feet south of the Dunes Hammock Bridge. This area has heightened warm season coincidence (1.459) and Fast Coin (0.466). The area's ratio of Fast Coin to coincidence (0.32) indicates "fast" boats are a moderate component of the overall manatee-boat coincidence in this area. The number of perinatal carcasses recorded in the Palm Coast canal residential system and the fact mother-calf pairs have been seen in this area suggest this area may be an important calving or nursing area.

Potential Zone: Add a warm season (April through October) Slow Speed Minimum Wake zone starting just north of the central Palm Coast residential canal extending to approximately 300 feet south of the Dunes Hammock Bridge (total linear distance: 1.5 miles).

3. Fox Cut

Data Discussion

Manatee Aerial Survey Data

- The mean density of manatees seen per survey per square kilometer was 0.250. The density documented during the warmer months (0.407) was approximately 22 times greater than that seen during the colder months (0.018).

Mortality Data

- One (1) manatee carcass has been recovered in this area. The carcass was recovered in 2003 and was classified as a perinatal.

Coincidence Data

- Coin for this region was 0.886 and Fast Coin was 0.447. The ratio of Fast Coin to Coin was 0.506 indicating that fast boats accounted for a relatively large portion of the manatee-boat coincidence in this area. The Coin value for the warmer months (1.714) was approximately 42 times the value for the colder months (0.041).

Areas identified by FWC staff where protection zones may be warranted

- FWC staff has not identified this as an area where a zone may be warranted, but we are requesting input from the LRRC.

4. Smith Creek North of S.R. 100

Data Discussion

Manatee Aerial Survey Data

- The mean density of manatees seen per survey per square kilometer was 0.469. The density documented during the warmer months (0.764) was approximately 22 times greater than that seen during the colder months (0.035).

Mortality Data

- Seventeen manatee carcasses have been recovered in this area. Most (10) of the 17 recovered manatee carcasses were classified as perinatal deaths, signifying that this area may be used by manatees as a calving or nursing area.
- One (1) of the carcass recoveries was attributed to watercraft-related injuries. This carcass was recovered in 2006 and was classified as an acute death, indicating that the interaction with the vessel likely occurred nearby.
- Of the remaining six (6) carcasses, two were determined to have died from natural causes and the cause of death was undetermined for the remaining four.

Coincidence Data

- Coin for this region was 0.915 and Fast Coin was 0.402. The ratio of Fast Coin to Coin was 0.439 indicating that fast boats accounted for a relatively large portion of the manatee-boat coincidence in this area. The Coin value for the warmer months (1.326) was approximately 9 times the value for the colder months (0.153).

Areas identified by FWC staff where protection zones may be warranted

- D1: Smith Creek extending from the southern shore of Lehigh Canal northward to just north of the Silver Lake Marina. This area displays heightened warm season Coin (1.797) and "Fast Coin (0.694). The area's ratio of Fast Coin to Coin (0.39) indicates "fast" boats are a large component of the overall manatee-boat coincidence in this area. Four manatee carcasses have been recovered in the immediate vicinity. One was a watercraft-related mortality recovered in 2006 (MNE0632); it was classified as an "acute" death. Of the remaining 3 deaths, two were perinatal and one was undetermined.

Potential Zone: Add a warm season (April through October) Slow Speed Minimum Wake zone starting just north of the Silver Lake Marina extending to the south lip of Lehigh Canal (total linear distance: 1.2 miles).

- D2: Smith Creek extending from approximately 300 feet south of the State Route 100 bridge to the southern shore of the Lehigh Canal. This area displays relatively high warm

season Coin (1.055) and Fast Coin (0.580). The area's ratio of Fast Coin to Coin (0.55) indicates "fast" boats are a very large component of the overall manatee-boat coincidence in this area. Ten manatee carcasses have been recovered in the immediate vicinity, most of which (7) were perinatal deaths. No watercraft related carcasses have been recovered in this area.

Potential Zone: Add a warm season (April through October) Slow Speed Minimum Wake zone starting at the south lip of LeHigh Canal extending to approximately 300 feet south of the State Route 100 bridge (total linear distance: 1.5 miles).

5. Smith Creek South of S.R. 100

Data Discussion

Manatee Aerial Survey Data

- The mean density of manatees seen per survey per square kilometer was 0.400. The density documented during the warmer months (0.646) was approximately 17 times greater than that seen during the colder months (0.039).

Mortality Data

- Fifteen (15) manatee carcasses have been recovered in this area. Most (10) of the 15 recovered manatee carcasses were classified as watercraft-related deaths.
- The first watercraft-related carcass was recovered in 1993 and the most recent was recovered in 2009. The most watercraft related deaths to occur in one year in this area is two (2003 and 2007).
- Of the five (5) watercraft-related carcasses that have been recovered since 2004, four (4) were designated as acute, indicating that the animals likely sustained the injuries nearby; the other was listed as chronic. None of the reports for deaths prior to 2004 includes an assessment of acute versus chronic.
- The remaining five carcasses consist of two perinatal deaths, two adult manatees dying from natural causes, and one whose cause of death was undetermined.

Coincidence Data

- Coin for this region was 0.607 and Fast Coin was 0.314. The ratio of the Fast Coin to Coin was 0.517 indicating that fast boats accounted for a relatively large portion of the manatee-boat coincidence in this area. The Coin value for the warmer months (0.946) was approximately 18 times the value for the colder months (0.051).

Areas identified by FWC staff where protection zones may be warranted

- E1: An area extending approximately 1.8 miles north from the Gamble Rodgers Memorial State Recreation Area boat launch canal in Smith Creek, inclusive of all associated canals. This area displays relatively high warm season Coin (1.052) and Fast Coin (0.875). The area's ratio of Fast Coin to Coin (0.83) indicates that the majority of boats are travelling at plowing speed or faster and that these "fast" boats are an extremely large component of the overall manatee-boat coincidence in this area. Twelve manatee carcasses have been recovered in the immediate vicinity, the majority of which (9) were watercraft-related deaths. Eight of the watercraft-related carcasses were recovered during the warm season months. Of the nine watercraft related deaths, seven have occurred since 2000. Three (3) of the watercraft-related carcasses were designated as acute deaths and one as chronic.

Potential Zone: Add a warm season (April through October) Slow Speed Minimum Wake zone starting at the Gamble Rodgers Memorial State Recreation Area boat launch extending approximately 1.8 miles north in Smith Creek.

- E2: An area extending from the Volusia County line north to the Gamble Rodgers Memorial State Recreation Area. This area is currently regulated by state manatee protection speed zones under the Volusia County Rule (68C-22.012, Florida Administrative Code). The waterway is currently regulated as a Slow Speed zone outside of the channel and 30 mph in the channel during daylight hours and 25 mph in the channel during nighttime hours. This area displays relatively high warm season Coin (0.937) and Fast Coin (0.707). The area's ratio of Fast Coin to Coin (0.75) indicates that the majority of boats are travelling at plowing speed or faster and that these "fast" boats are an extremely large component of the overall manatee-boat coincidence in this area. No manatee carcasses have been recovered in the immediate vicinity.

Potential Zone: Change the existing zone to a warm season (April through October) Slow Speed Minimum Wake zone and remove the component of the existing zones that are in effect during the cold season (total linear distance: 0.7 miles). Also, amend the Volusia County rule to remove the portion of the existing zone that is located within Flagler County.

Appendix A: List of Data Layers & Descriptions

Base Data Layers

1. Shoreline – a rasterized shoreline of coastal Flagler and St. Johns Counties with land = 1 and water = 2. Layer based upon FWC’s statewide shoreline accurate to a scale of 1:12,000 and compared to Aerial Photography
2. WaterMask – a reclassification of the Shoreline raster with land = “NoData” and water = 1.
3. VolusiaRule_68C_22_012FAC – a polygon feature class displaying the Volusia and Associated County Rules 68C-22.012 that extend into Flagler County.
4. ManateeTelemetry_SireniaPTT_1988_1997_LClass3 – a subset of USGS Sirenia Project satellite telemetry data including all telemetry hits occurring within Flagler County
5. ManateeDeaths_2009_12 – a point feature class displaying the locations of manatee carcass recoveries and the cause of death associated with the carcass
6. ManateeAerialSurveyPoints_2005_2007_FWC – Manatee Distribution Points collected by Florida Fish & Wildlife Research Institute via aerial survey from 2005-2007 covering St. Johns and Flagler Counties
7. ManateeAerialSurveyPath_2005_2007_FWC – a line shapefile representing the flight route flown by Florida Fish & Wildlife Research Institute during the manatee distribution survey of St. Johns and Flagler Counties
8. ManateeAerialSurveyPath_500mPolyBuffer – an expansion of the flight route path by 500 meters, representing the visibility of the aerial survey observers.
9. Flagler_Roads – a line shapefile representing the major roads in Flagler County
10. Flagler_CountyBounds_Poly – a polygon shapefile representing the Flagler County Boundary
11. Flagler_CityLimits_LandOnly – a polygon shapefile representing the municipalities in Flagler County
12. BoatSurvey_2007_2009_MOTE – a point feature class that recorded the locations and activities of boat traffic in Flagler and St. Johns County. This data was collected by Mote Marine Lab in aerial surveys flown from 2007 through 2009.
13. ATONs_Flag_2002_04: Locations of aids to navigation (i.e., channel markers) in Flagler County as of 2002-04

Final Data Layers

1. BoatSurvey_Density_Summer_perSurvey - Raster cover derived from the April through October (“warm season”) 2007-09 boat aerial survey data using the kernel density command in ArcGIS (Population field = Total; 325 meter search radius) and then dividing the cell values by the number of surveys (12) flown
2. BoatSurvey_Density_Winter_perSurvey - Raster cover derived from the November through March (“cold season”) 2007-09 boat aerial survey data using the kernel density command in ArcGIS (Population field = Total; 325 meter search radius) and then dividing the cell values by the number of surveys (8) flown

3. BoatSurvey_FastDensity_Summer_perSurvey - Raster cover derived from the April through October ("warm season") and identifying boats travelling at plowing speed or faster ["SPEED" >=4] using the 2007-09 boat aerial survey data using the kernel density command in ArcGIS (Population field = Total; 325 meter search radius) and then dividing the cell values by the number of surveys (12) flown
4. BoatSurvey_FastDensity_Winter_perSurvey - Raster cover derived from the November through March ("cold season") and identifying boats travelling at plowing speed or faster ["SPEED" >=4] using the 2007-09 boat aerial survey data and using the kernel density command in ArcGIS (Population field = Total; 325 meter search radius) and then dividing the cell values by the number of surveys (8) flown
5. ManateeAerialSurveyDensity_Summer_perSurvey - Raster cover derived from the April through October ("warm season") 2005-07 aerial survey data using the kernel density command in ArcGIS (Population field = Total; 325 meter search radius) and then dividing the cell values by the number of surveys (28) flown
6. ManateeAerialSurveyDensity_Winter_perSurvey - Raster cover derived from the November through March ("cold season") 2005-07 aerial survey data using the kernel density command in ArcGIS (Population field = Total; 325 meter search radius) and then dividing the cell values by the number of surveys (19) flown
7. Coincidence_AllBoats_Summer - Raster cover of April through October ("warm season") manatee-boat coincidence created by multiplying the per survey manatee raster for April through October by the per survey boat raster for April through October
8. Coincidence_AllBoats_Winter - Raster cover of November through March ("cold season") manatee-boat coincidence created by multiplying the per survey manatee raster for November through March by the per survey boat raster for November through March
9. Coincidence_FastBoats_Summer - Raster cover of April through October ("warm season") manatee- "fast" boat coincidence created by multiplying the per survey manatee raster for April through October by the per survey "fast" boat raster for April through October
10. Coincidence_FastBoats_Winter - Raster cover of November through March ("cold season") manatee- "fast" boat coincidence created by multiplying the per survey manatee raster for November through March by the per survey "fast" boat raster for November through March
11. Flagler_2010_Prelim_Rule_Proposals – a polygon shapefile outlining the general location of areas where FWC staff believe manatee protection zones may be warranted

Appendix B: Data Summary Tables

List of Tables

Table 1: Manatee aerial survey data summary by region and season

Table 2: Manatee mortality (1974-Dec.2009) characterized by month and cause of death

Table 3: Manatee-boat coincidence & “fast” coincidence summary by region and season

Flagler County Manatee Aerial Survey Data: Summary of 2005-2007 Data

- [1] Manatees Seen: Number of manatees seen during Aerial Surveys Collected by FWRI 2005-2007 [47 flights]
- [2] Density: Mean number of manatees seen per survey per sq. km as calculated by the kernel density function in ArcGIS
- [3] Percent Total: Percentage of all the manatees seen in the entire county that were seen in the region
- [4] Percent Surveys: Percentage of all surveys during which at least one manatee was seen in the area
- [5] Does not include 2 manatees seen in the Atlantic Ocean, 35 manatees seen in Volusia County, 155 manatees seen in St. Johns County, or 2 manatees seen in Duval County in 2005-2007 surveys

Table 2

Coastal Flagler County Carcass Recoveries from 1974 through December 2009
Primary Cause of Death by Month

Month	Human Related: Other	Human Related: Watercraft collision	Natural: Cold Stress (beginning in 1986)	Natural: Other (includes red tide)	Perinatal (<= 150 cm)	Undetermined: Other	Undetermined: Too decomposed	Grand Total
January	0	1	3	0	0	1	0	5
February	0	0	0	2	0	0	2	4
March	0	0	1	0	1	0	0	2
April	0	0	0	2	4	0	1	7
May	0	6	0	1	10	0	1	18
June	0	2	0	1	3	0	1	7
July	0	3	0	0	6	1	2	12
August	0	0	0	0	7	0	0	7
September	0	1	0	1	3	0	1	6
October	0	0	0	0	1	0	1	2
November	0	1	1	0	1	0	0	3
December	1	0	1	0	0	0	0	2
Grand Total	1	14	6	7	36	2	9	75

Table 3

Flagler County Manatee-Boat Coincidence Analysis: Number of Manatees seen and Manatee-Boat Coincidence by Area & Season

Aerial Survey Period:		April - October 28				November - March 19				All Months 47			
Number of Manatee Surveys (2005-2007):													
Location		Total Seen [1]	Manatee Density [2]	Coin [3]	"Fast" Coin [4]	Total Seen [1]	Manatee Density [2]	Coin [3]	"Fast" Coin [4]	Total Seen [1]	Manatee Density [2]	Coin [3]	"Fast" Coin [4]
Coastal Flagler County [5]		213	0.327	0.662	0.327	21	0.046	0.103	0.058	234	0.213	0.476	0.206
	North County	65	0.151	0.324	0.155	14	0.054	0.111	0.058	79	0.111	0.300	0.109
	Marineland & Matanzas River	33	0.150	0.396	0.224	4	0.038	0.118	0.069	37	0.104	0.363	0.142
	Palm Coast	32	0.152	0.232	0.063	10	0.075	0.102	0.044	42	0.121	0.215	0.064
	South County	148	0.641	1.264	0.634	7	0.033	0.090	0.057	155	0.395	0.790	0.378
	Fox Cut	30	0.407	1.714	0.803	1	0.018	0.041	0.041	31	0.250	0.886	0.447
	Smith Creek N of SR100 Bridge	68	0.764	1.326	0.592	4	0.035	0.153	0.088	72	0.469	0.915	0.402
	Smith Creek S of SR100 Bridge	50	0.646	0.946	0.582	2	0.039	0.051	0.033	52	0.400	0.607	0.314

[1] Manatees Seen: Number of manatees seen during Aerial Surveys Collected by FWRI 2005-2007 [47 flights]

[2] Density: Mean number of manatees seen per survey per sq. km as calculated by the kernel density function in ArcGIS

[3] Coin: Manatee-Boat Coincidence value using the 2007 boat data (i.e., per survey manatee density x per survey boat density)

[4] "Fast" Coin: Mean manatee-boat coincidence value using the 2007 boat data but only including boats with observed speeds of "planing," "cruising," or "plowing"

[5] Does not include 2 manatees seen in the Atlantic Ocean, 35 manatees seen in Volusia County, 155 manatees seen in St. Johns County, or 2 manatees seen in Duval County in 2005-2007 surveys

Appendix C: Data Map Presentations

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Figure 17: Manatee-“Fast” Boat Coincidence Data, Cold Season; Southern Flagler County

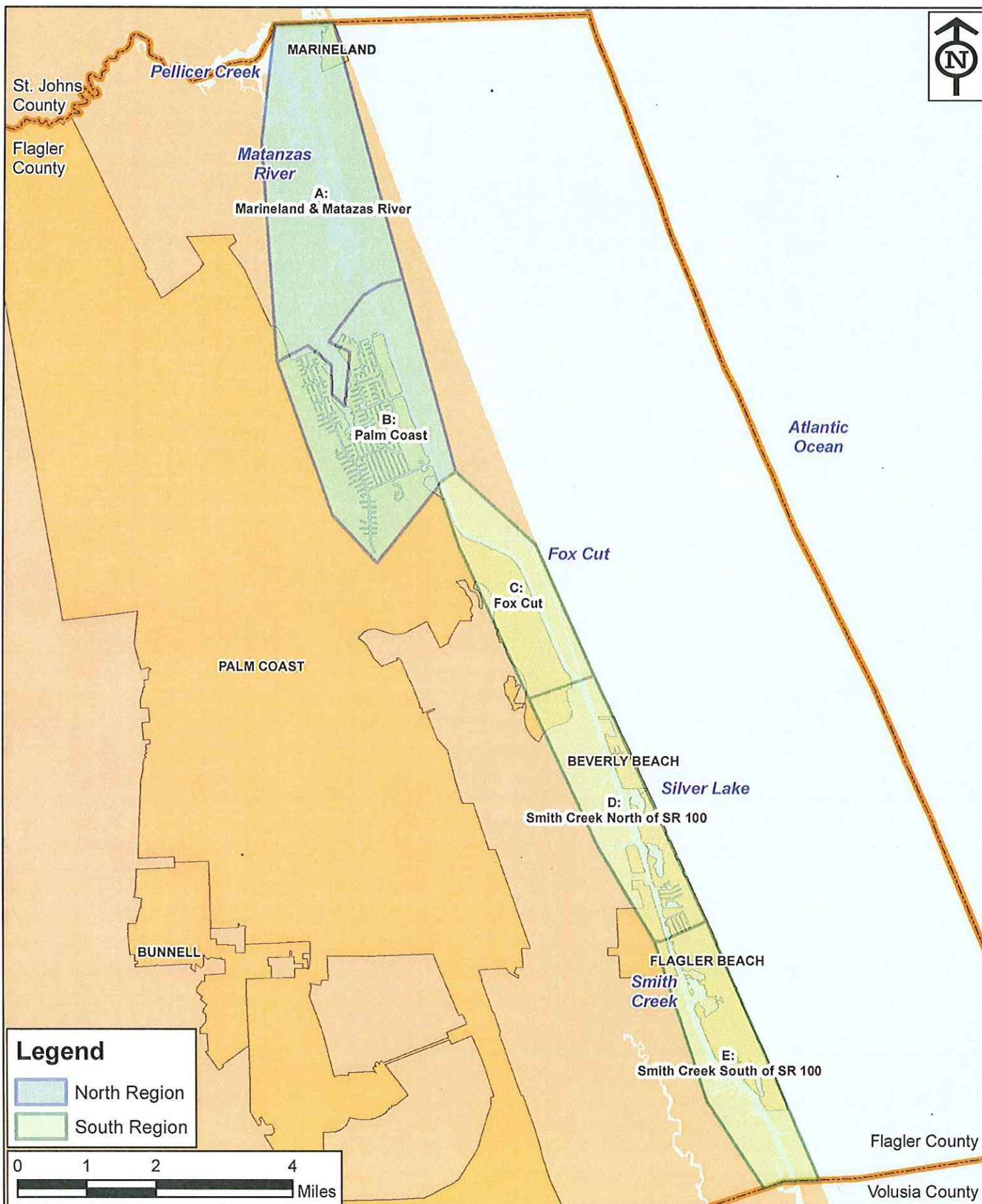
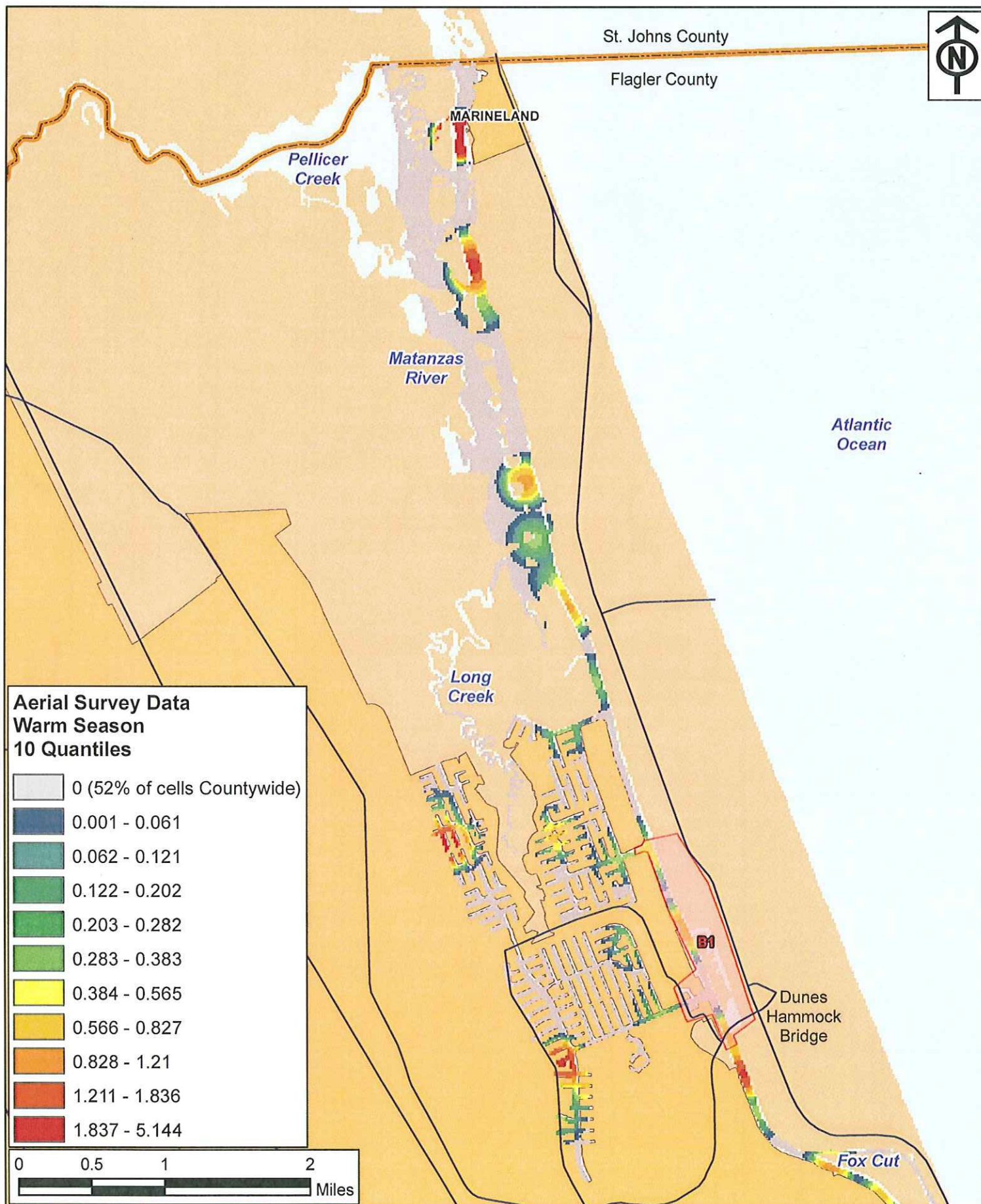


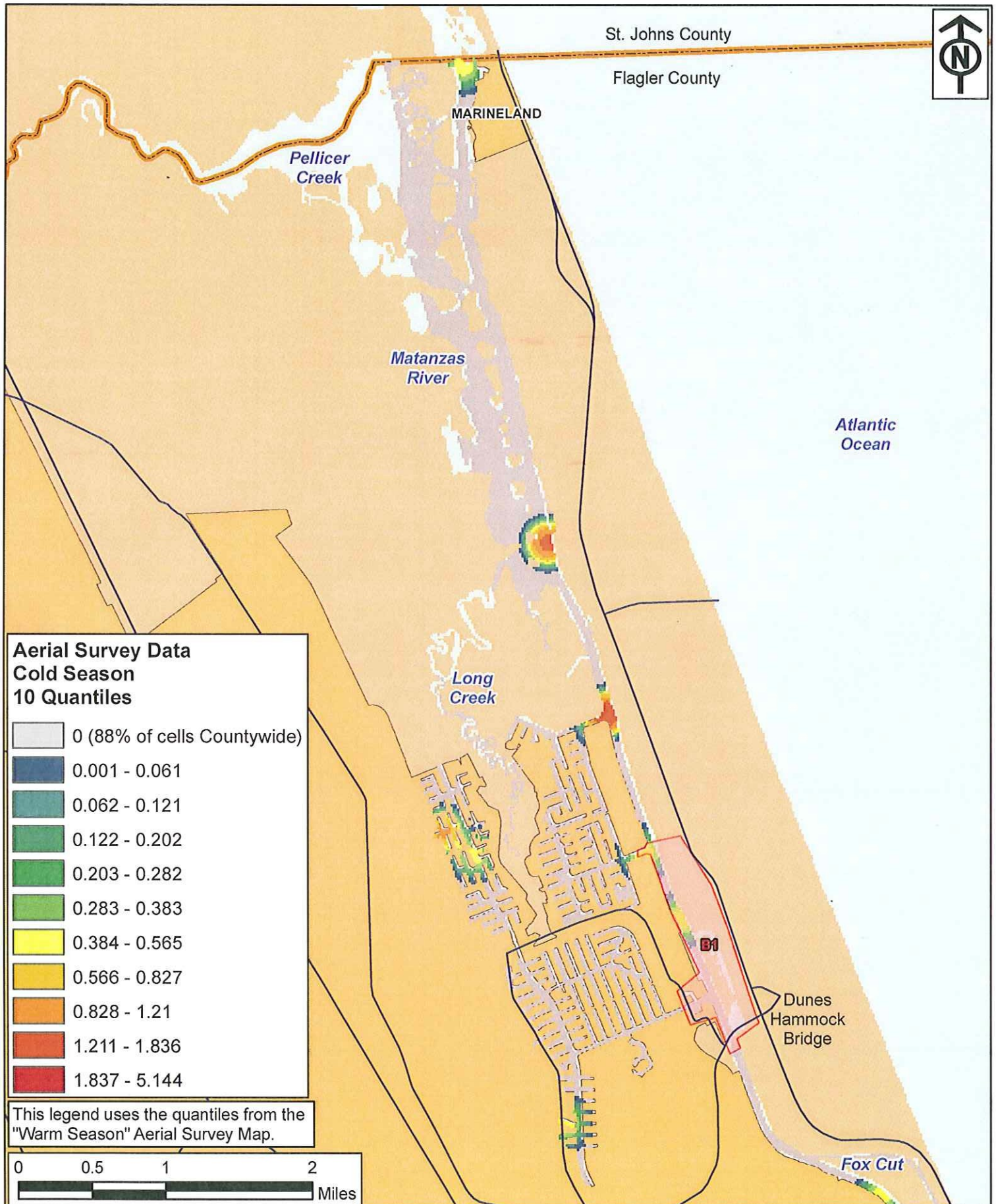
Figure 1: Data Summary Areas.

Florida Fish & Wildlife Conservation Commission
 Division of Habitat & Species Conservation
 Imperiled Species Management Section
 620 South Meridian Street, Mail Station 6A
 Tallahassee, Florida 32399-1600
 Tel: 850-922-4330 Fax: 850-922-4338



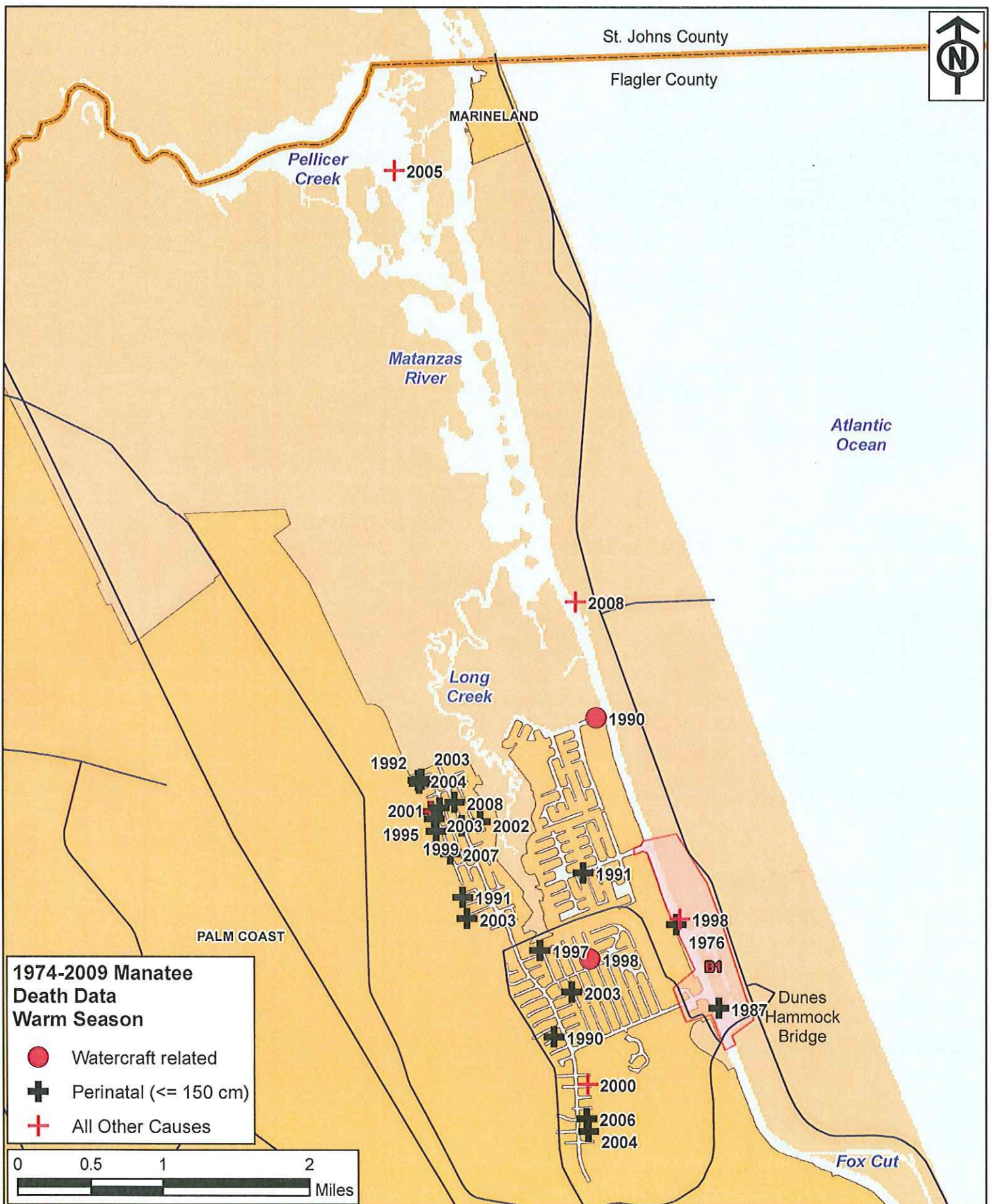
**Figure 2: 2005-07 Manatee Aerial Survey Data, Warm Season
(Kernel Density; 325 m Radius)
Northern Flagler County: St. Johns County line to
Dunes Hammock Bridge**

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**Figure 3: 2005-07 Manatee Aerial Survey Data, Cold Season
(Kernel Density; 325 m Radius)
Northern Flagler County: St. Johns County line to
Dunes Hammock Bridge**

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**Figure 4: Manatee Death Data (1974- December 2009)
Warm Season
Northern Flagler County: St. Johns County line to
Dunes Hammock Bridge**

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**Figure 5: Manatee Death Data (1974- December 2009)
Cold Season
Northern Flagler County: St. Johns County line to
Dunes Hammock Bridge**

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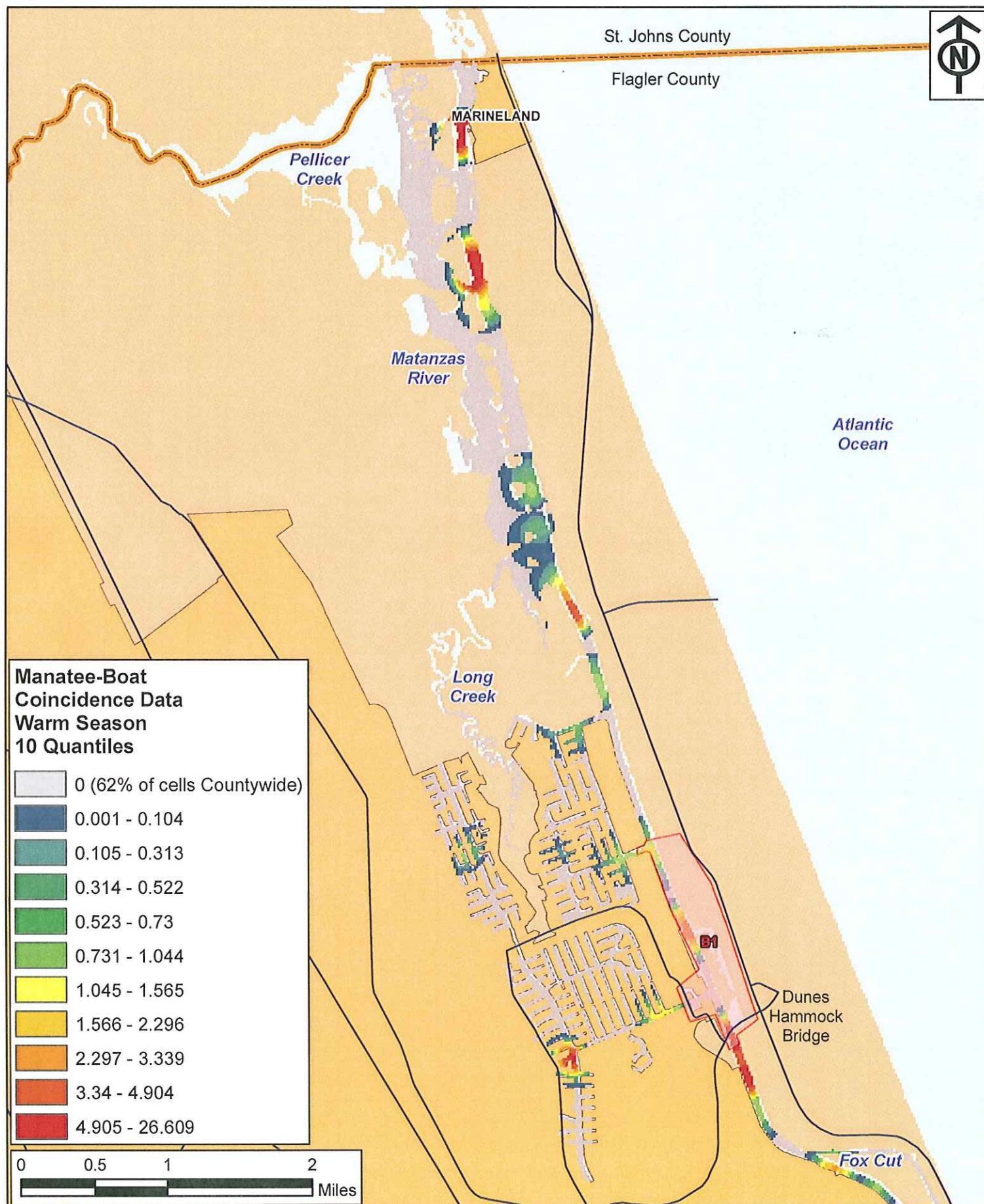


Figure 6: Manatee-Boat Coincidence Data Warm Season
Northern Flagler County: St. Johns County line to Dunes Hammock Bridge

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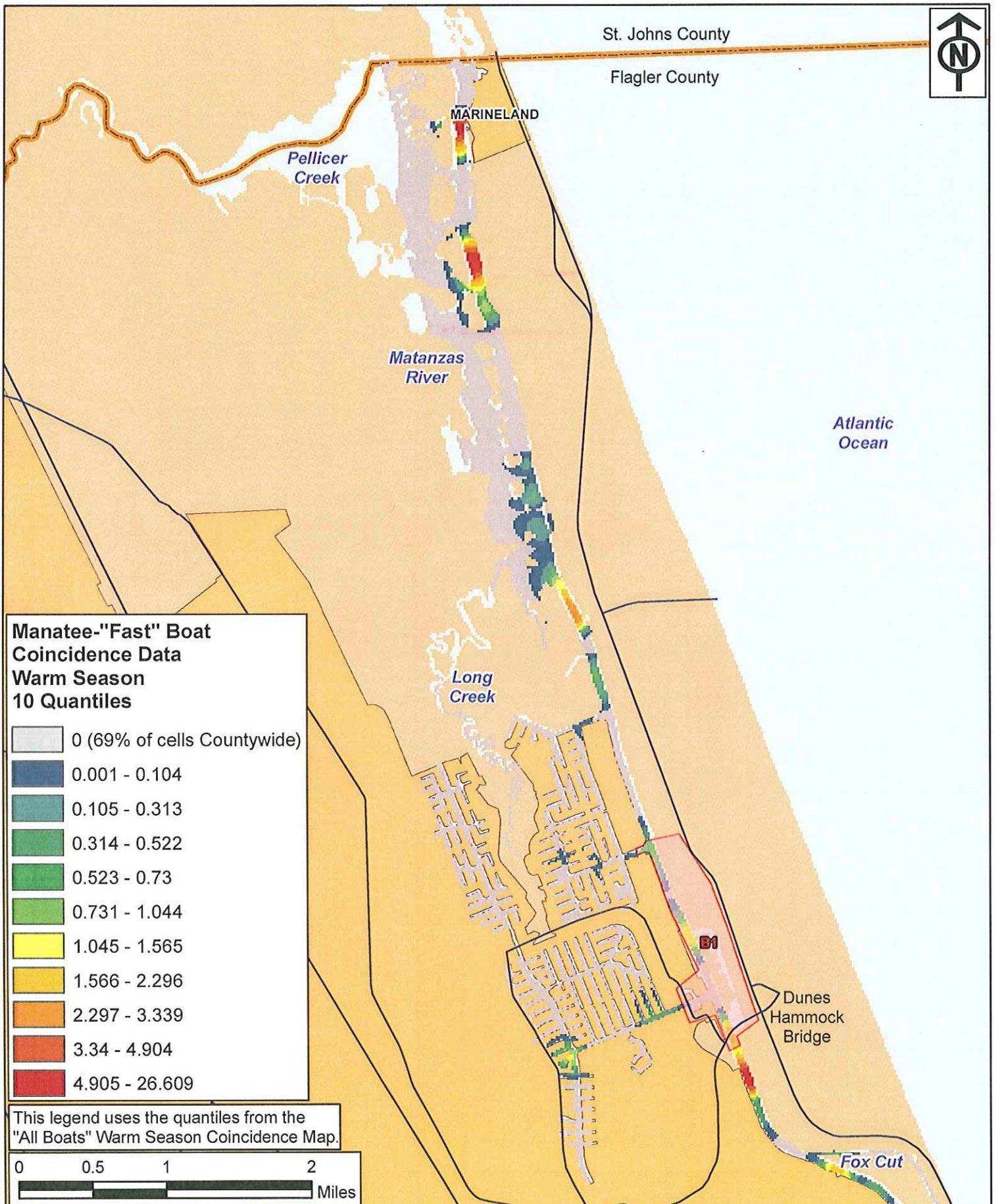


Figure 7: Manatee-"Fast" Boat Coincidence Data Warm Season
Northern Flagler County: St. Johns County line to Dunes Hammock Bridge

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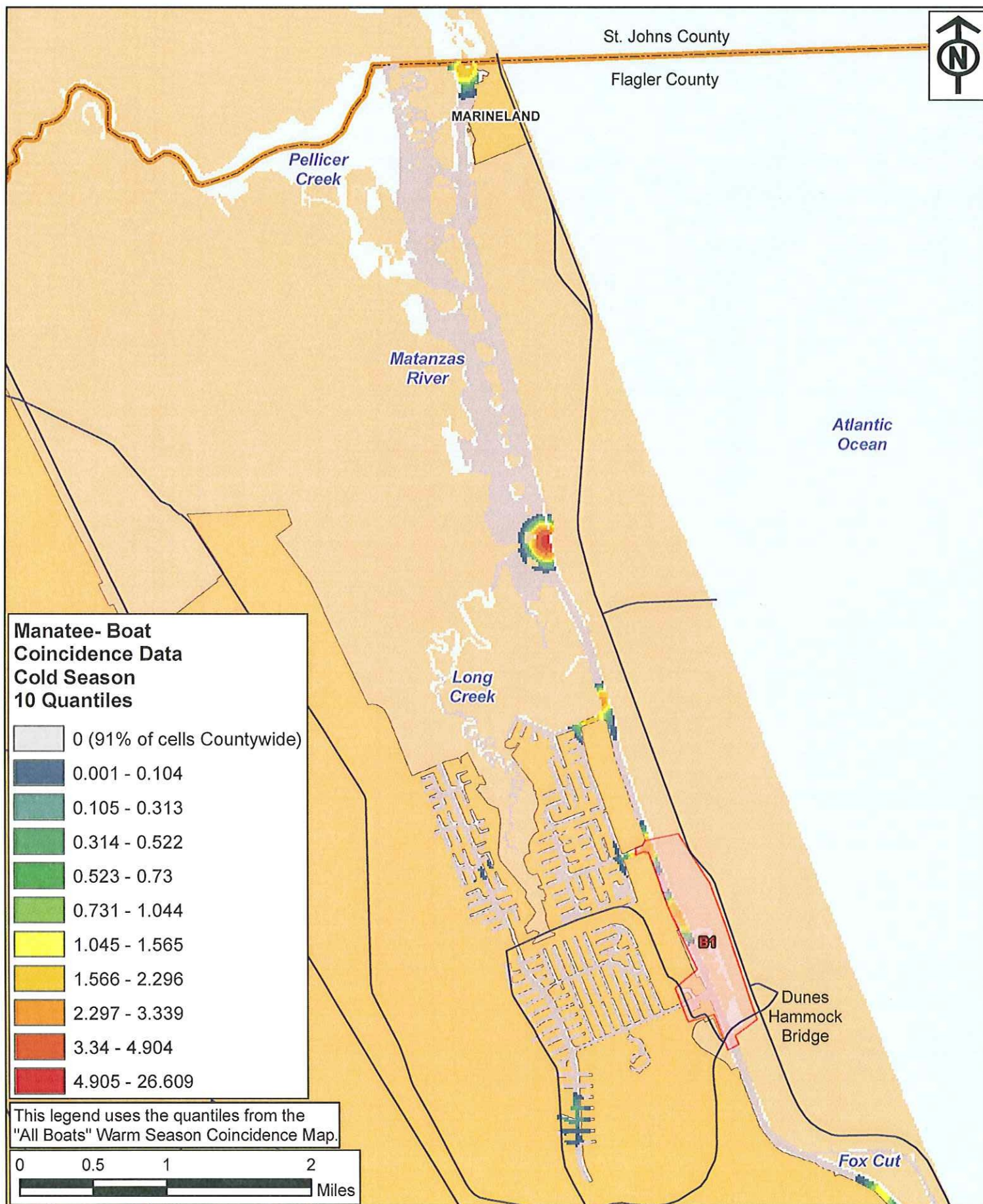


Figure 8: Manatee- Boat Coincidence Data Cold Season
Northern Flagler County: St. Johns County line to Dunes Hammock Bridge

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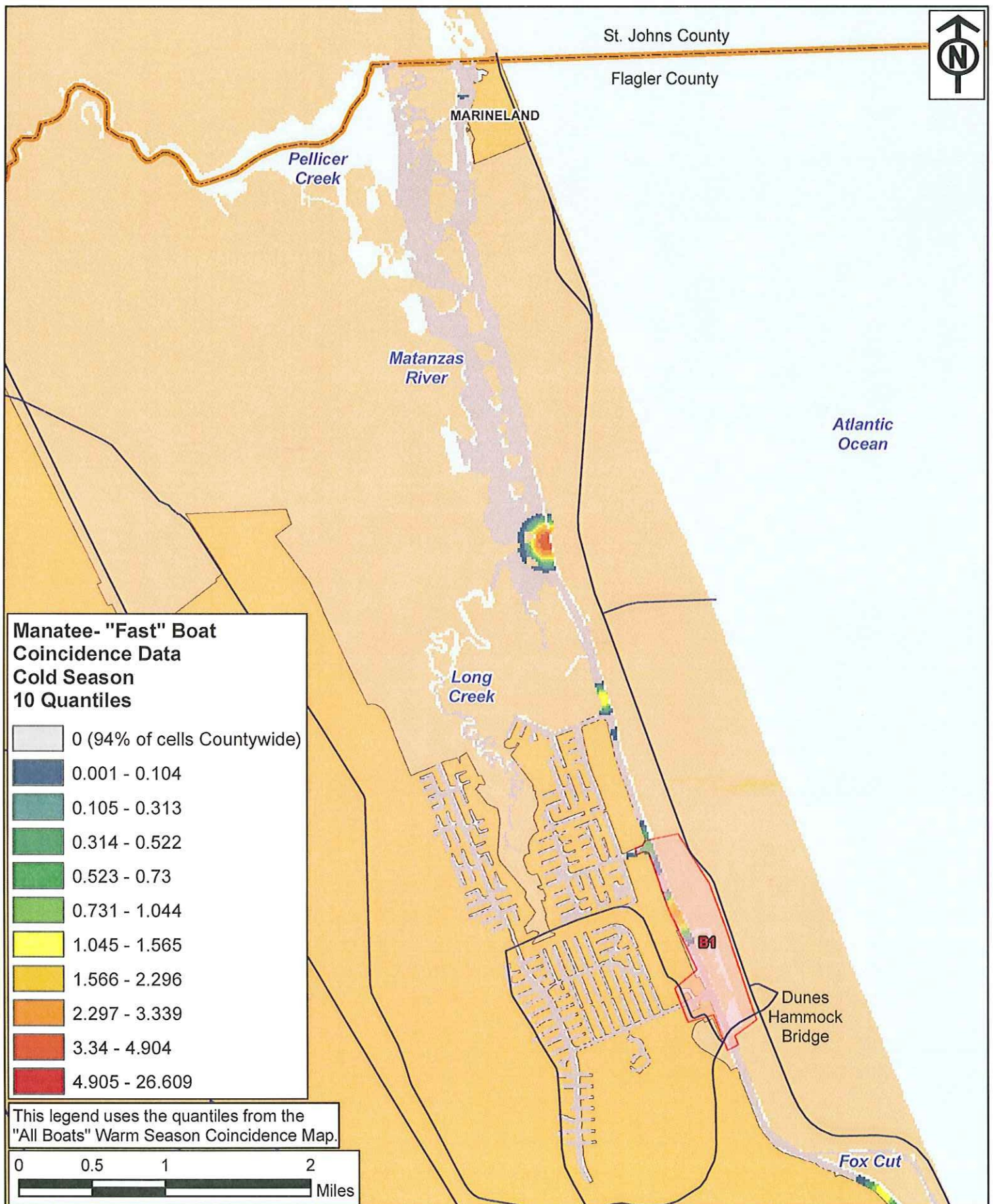
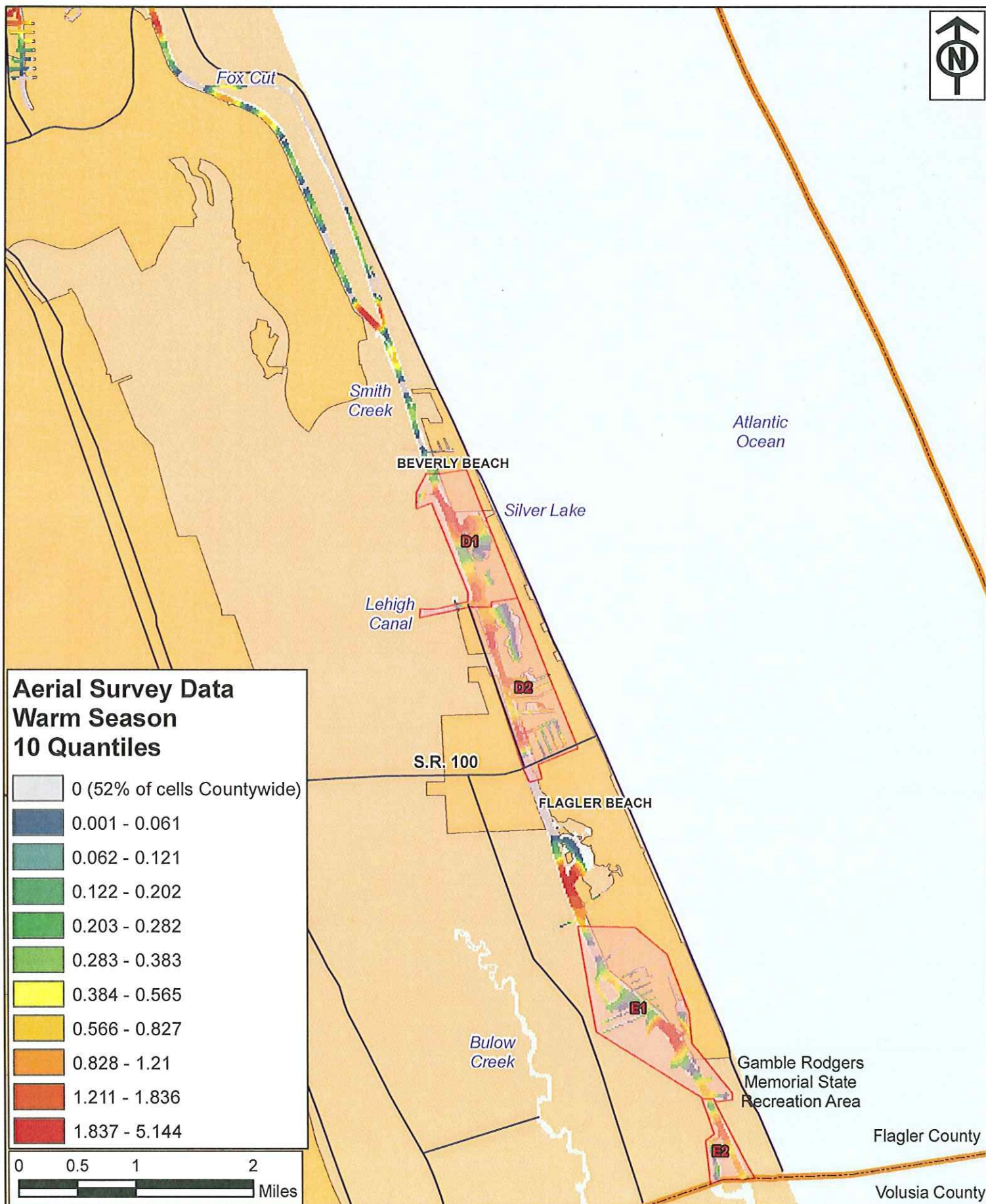


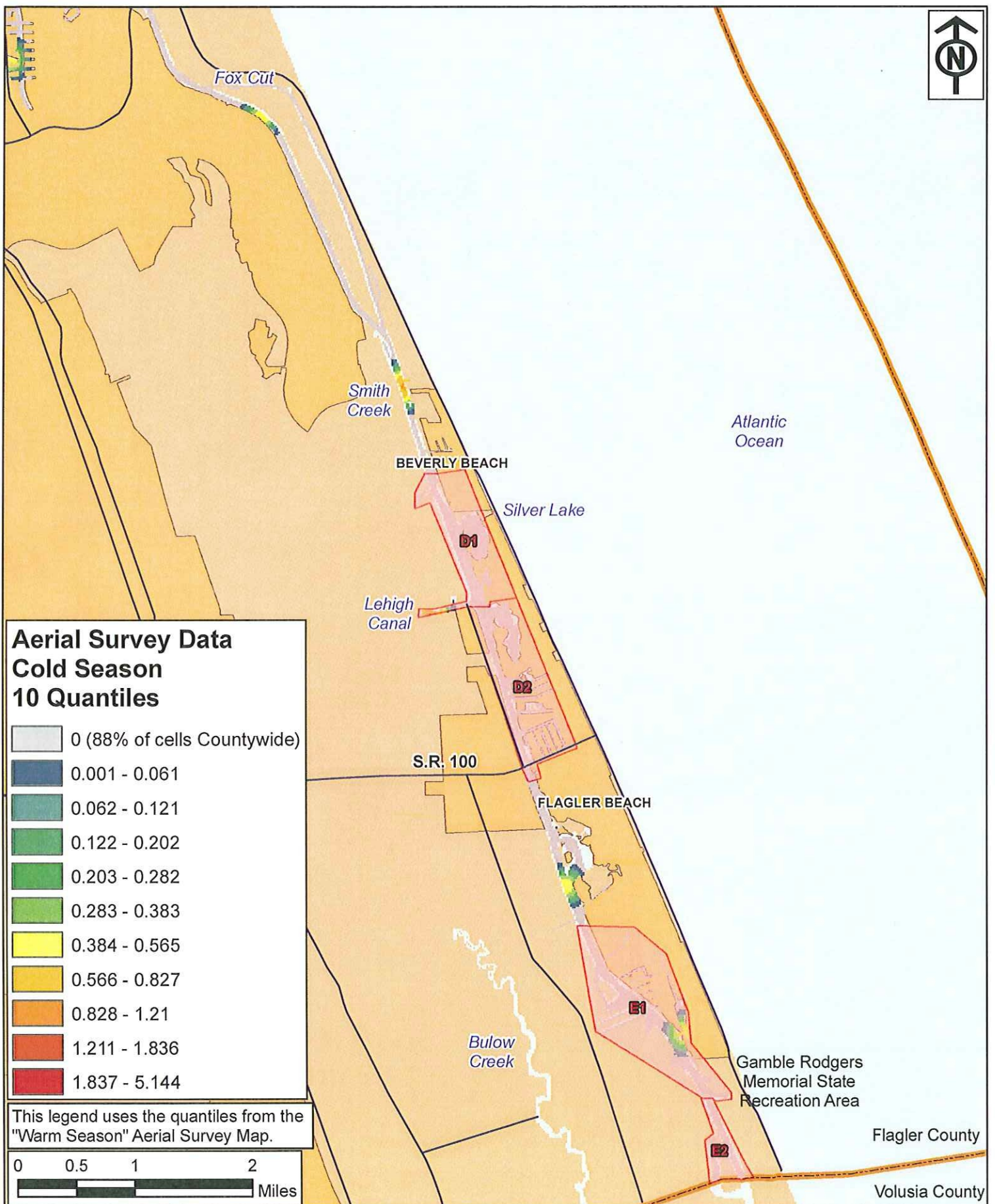
Figure 9: Manatee- "Fast" Boat Coincidence Data Cold Season
Northern Flagler County: St. Johns County line to Dunes Hammock Bridge

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**Figure 10: Manatee- Aerial Survey Data, Warm Season
(Kernel Density; 325 m Radius)
Southern Flagler County: Dunes Hammock Bridge to
Volusia County line**

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**Figure 11: 2005-07 Manatee Aerial Survey Data, Cold Season
(Kernel Density; 325 m Radius)
Southern Flagler County: Dunes Hammock Bridge to
Volusia County line**

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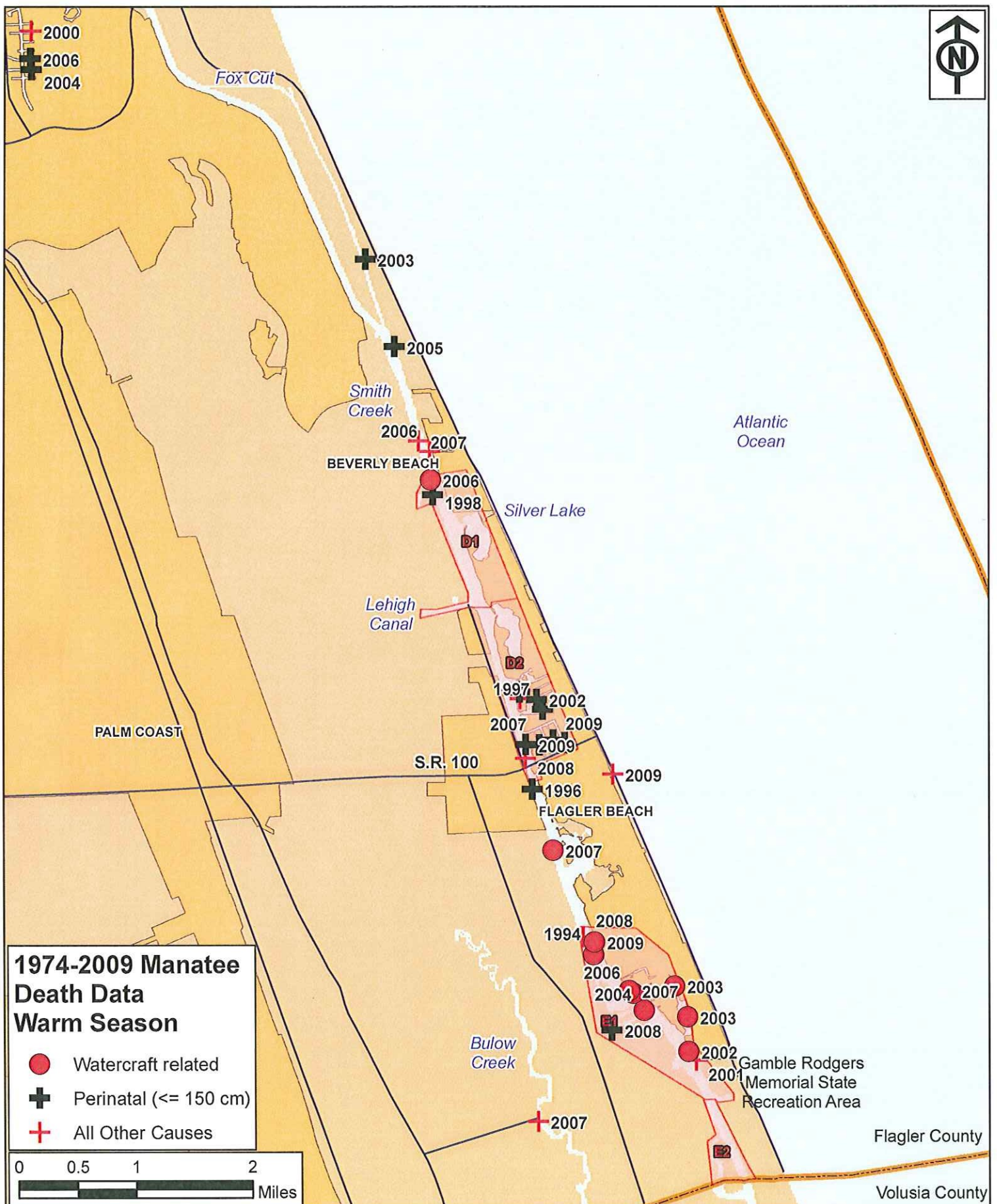
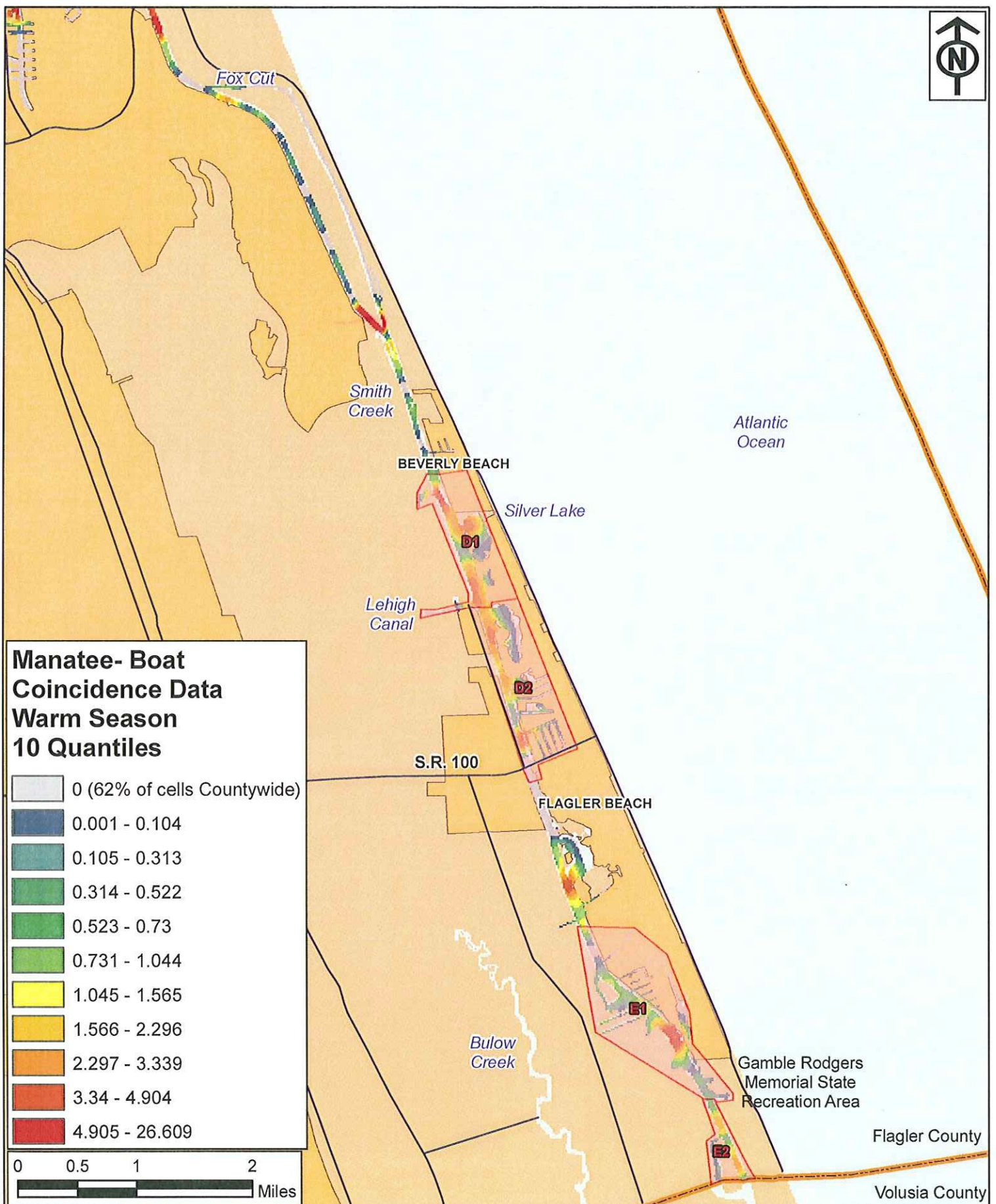


Figure 12: Manatee Death Data (1974- December 2009)
Warm Season
Southern Flagler County: Dunes Hammock Bridge to
Volusia County line

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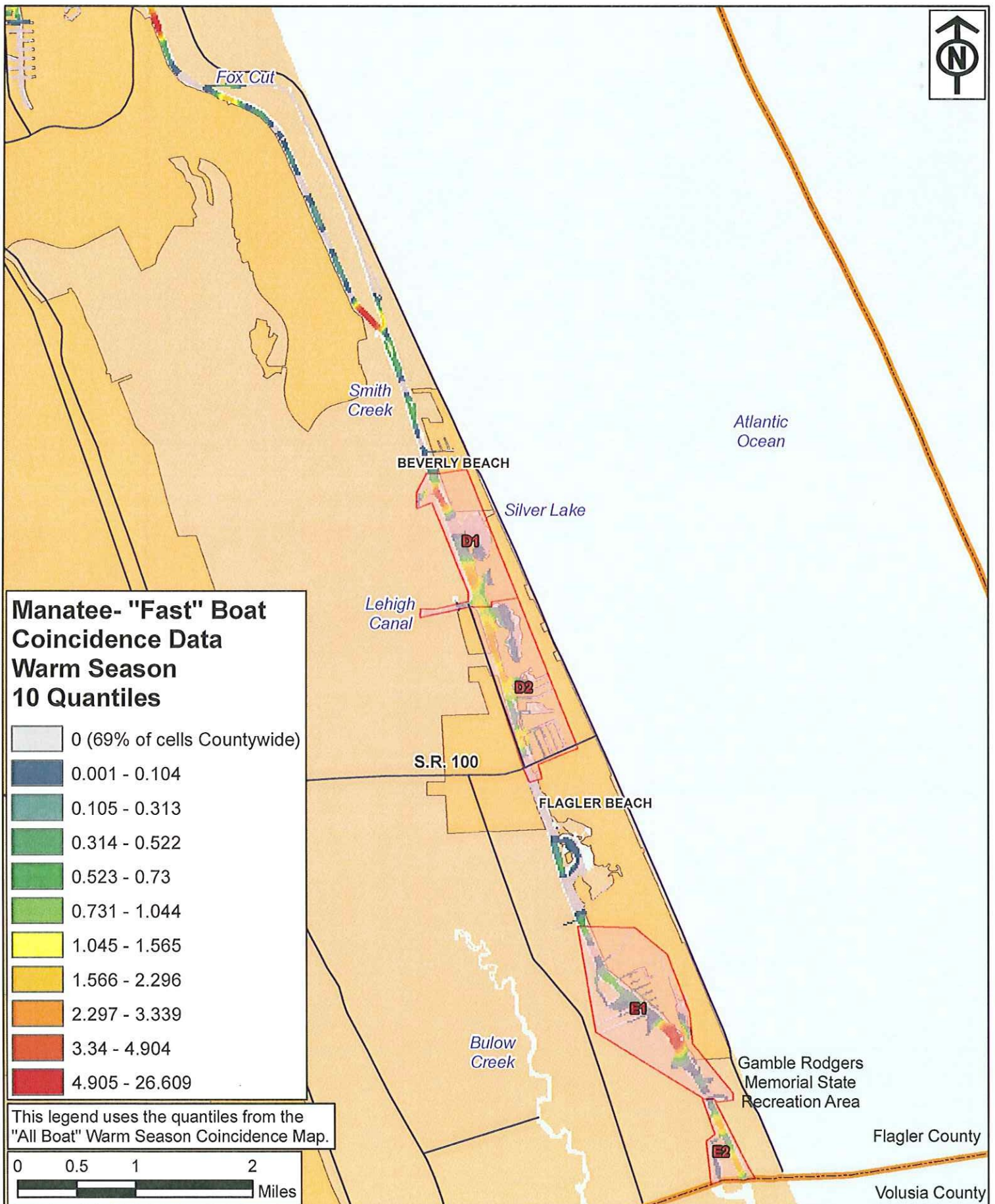


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**Figure 14: Manatee- Boat Coincidence
Warm Season
Southern Flagler County: Dunes Hammock Bridge to
Volusia County line**

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**Figure 15: Manatee- "Fast" Boat Coincidence Data
Warm Season
Southern Flagler County: Dunes Hammock Bridge to
Volusia County line**

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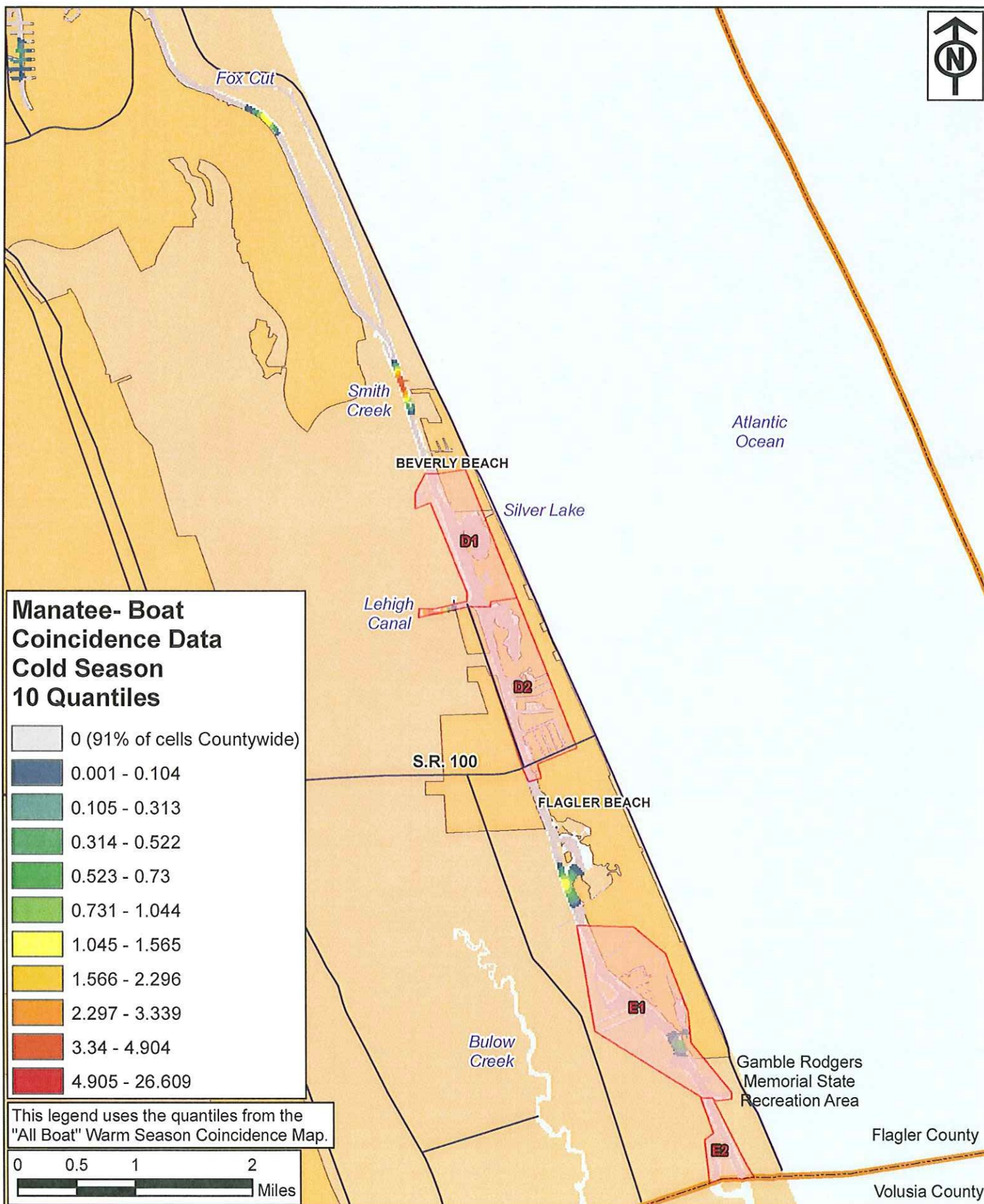
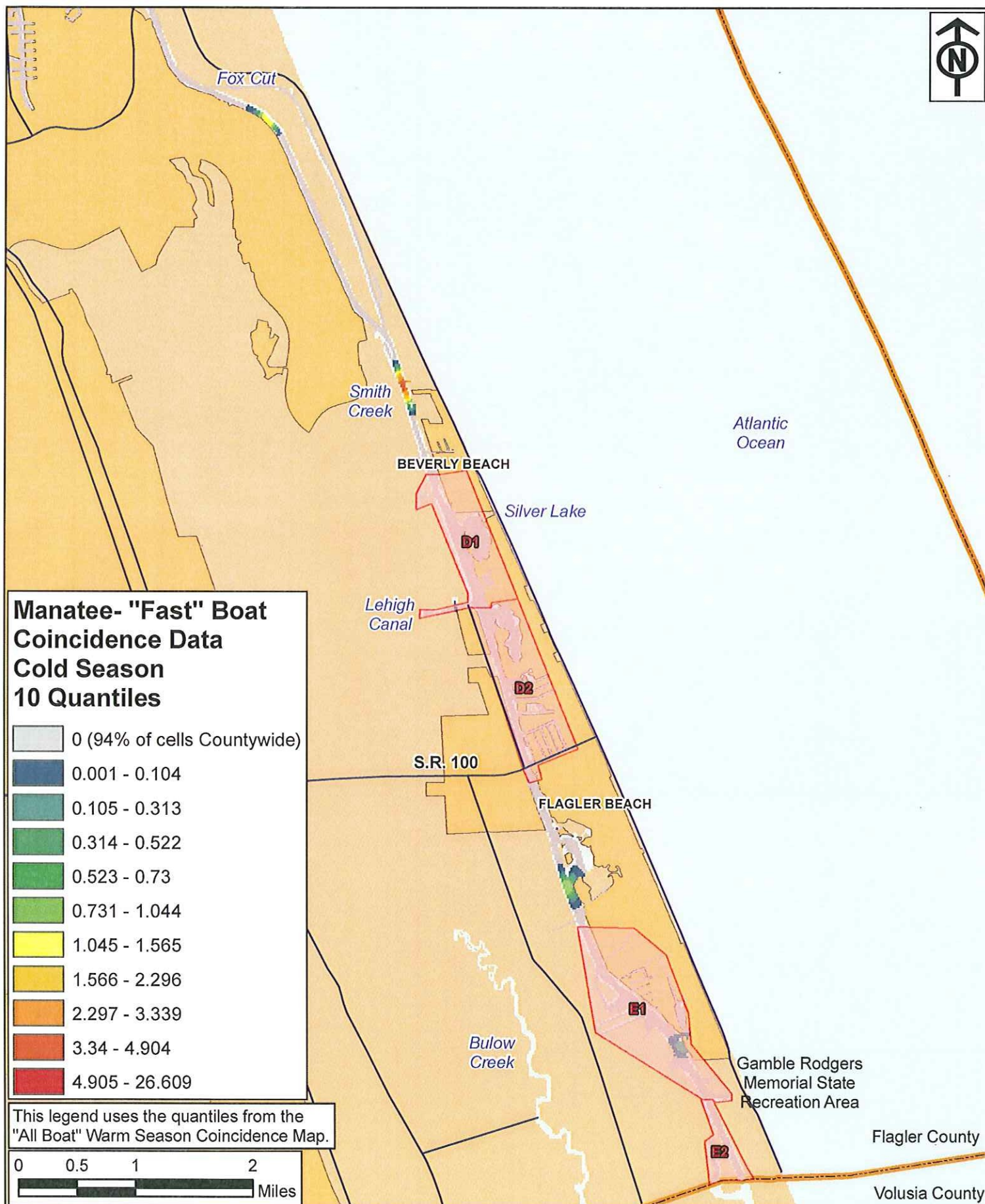


Figure 16: Manatee- Boat Coincidence Data Cold Season
Southern Flagler County: Dunes Hammock Bridge to Volusia County line

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**Figure 17: Manatee- "Fast" Boat Coincidence Data
Cold Season
Southern Flagler County: Dunes Hammock Bridge to
Volusia County line**

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APPENDIX D

Report from the Local Rule Review Committee for Flagler County

MINUTES OF LRRC MEETINGS

May 13, 2010 (organizational meeting)

May 26, 2010

June 9, 2010

June 23, 2010

July 8, 2010

July 19, 2010

**Local Rule Review Committee
Organizational Meeting May 13, 2010
Minutes**

APPROVED BY THE COMMITTEE ON MAY 26, 2010

MEMBERS PRESENT: Ed Caroe, Chris Vorndran, Jon Netts, Stan Ksyniak, Linda Provencher, and Chris Herrera.

MEMBERS ABSENT: Jim Netherton, Richard McCleery, Laureen Kornel and Virginia Tee.

STAFF PRESENT: Tim Telfer, Environmental Planner and Staff Liaison, Christie Mayer, Administrative Assistant.

OTHERS PRESENT: Christopher Boland (FFWCC), Scott Calleson (FFWCC), Hap Cameron, Kevin Peck and Dee Cocchiola.

1. Call to Order – Tim Telfer called the meeting to order at 1:31 p.m.
2. Roll Call – A quorum was obtained with six members present. Mr. Telfer noted that six is the minimum number of members that must be present to have a quorum.

In response to the question, it was noted that in order for a vote on a motion to carry, it would need to have majority of those members present and voting.

3. Welcome: Tim Telfer – Mr. Telfer welcomed and thanked the committee members for volunteering to be a part of this committee. All information relative to the committee will be posted on the county website at: www.flaglercounty.org/Government/BoardofCountyCommissioners/AdvisoryBoards&Councils/LocalRuleReviewCommittee.

Tim mentioned that the committee had already received copies of the following documents and inquired if there were any questions. In addition, the Orientation Packet (Attachment 1) for new advisory board members had been sent to the committee in advance.

- a. Florida Statute 379.2431 which established the Local Rule Review Committee (Attachment 2);
- b. Letter from the Florida Fish & Wildlife Conservation Commission (FFWCC) dated March 8, 2010 (Attachment 3); and
- c. Description of the FWC Manatee Protection Rule Development Process (2010) (Attachment 4).

The committee is currently in Step III of the process; having received notice of the rule making and establishing the committee. The committee will be moving to Step V with the FFWCC sending the proposal to the Local Rule Review Committee.

4. Introductions – All committee members introduced themselves, giving a bit of background of their experience as it relates to the duties of the committee.

5. Overview of Committee Charge: Tim Telfer – The charge of this committee will be to review the proposed rule and respond in writing to the Florida Fish & Wildlife Conservation Commission within the 60-day timeframe established by FFWCC. Along with the majority opinion report, minority comments must also be forwarded to the FFWCC.

Mr. Telfer also reviewed the charge of the committee as outlined in the Florida Statutes.

Mr. Vorndran asked as to the possibility of this committee influencing the position of the FFWCC. Mr. Calleson noted that the FFWCC has been through this process with other counties. Comments made by the county committee are sent to the (7-member) FFWCC Board. Historically, in the end, more times than not, the FWC Board has been in concurrence with the comments made by the LRRC. Typically, there have been more areas of agreement than disagreement. Mr. Calleson noted that both the majority and minority recommendations and the FFWCC response to the LRRC comments are forwarded to the FWC Board.

Mr. Caroe requested to see the approved plans and data used by the FFWCC. In addition, he would like to see the agreements between the FFWCC and other counties. Mr. Calleson will be glad to provide a website link that includes the LRRC recommendations, staff response, etc., relative to other counties.

Mr. Netts inquired as to the number of counties who have adopted manatee plans, how many are generic as opposed to more specific. Mr. Calleson feels none of them are generic. The types of regulations are similar but how they are applied depends on the specific county. The preliminary data looked at will be part of the packet forwarded to this committee for their use.

Mr. Calleson noted that the reason these committees were established was to get input before the FFWCC makes their decisions. The committee is free to make any recommendations they would like to present to the FFWCC.

Mr. Cameron mentioned the past actions of the Flagler County Board of County Commissioners included approval for staff to work with the state and federal agencies to evaluate risks to manatees and make appropriate recommendations for protective measures, including possibly drafting a manatee protection plan study, contingent upon the receipt of state or federal grant funds. In addition, he noted that private money was offered to the county for the manatee protection plan but it was not accepted. Now, a manatee protection plan is being offered by the FFWCC. Mr. Calleson noted that a manatee protection plan involves different things and one is a plan for the construction of docks, which was discussed in 2007. What we are talking about here for this committee are speed zones, which are the FFWCC's authority to establish. These two issues are similar but not the same.

Mr. Netts then inquired if the proposal will include areas for the proposed speeds but does not get into any other issues. Mr. Calleson agreed.

Mr. Calleson noted that they will be in attendance at the next meeting to review the data and the report with the LRRC so the members can better understand how they came to their recommendations. The report is anticipated to be about 10-15 pages.

Mr. Caroe inquired as to who will be responsible for enforcing the new speed zones. Mr. Calleson reported that any law enforcement agency can enforce the speed zones.

Ms. Cocchiola asked if the FFWCC has looked at anything other than speed zones, such as sensors. Mr. Calleson reported that they had reviewed a great number of alternatives but nothing was found to be as effective as the speed zones. They continue to feel that boat speeds are the main reason for the damage to or deaths of the manatees but not the only reason.

Mr. Ksyniak inquired as to the whether there is a timeframe after the LRRC report to the FFWCC for the action of their Board. Mr. Calleson noted that once the FFWCC receives the LRRC report then another clock starts on the time for their response. The Board only meets five times a year, at which time these reports are reviewed. He feels that the Board will probably consider the County recommendations and the response by the FFWCC at their November 2010 meeting.

6. Elections – Mr. Telfer outlined the duties of these positions, noting that the Recording Secretary is more in-line with a Vice-Chair position. Staff will assist with being the official record keeper for all minutes, posting of meeting notices, etc. Mr. Telfer suggested possibly balancing the two positions with one being a “manatee/environmental advocate” and the other a “waterway user”. He then opened the floor for nominations.

- a. Chair – Mr. Caroe expressed the feeling that an employee of a municipality should not be the chair, asking Ms. Provencher if she was employed by the City of Flagler Beach. The following motions were made for the position of Chair:

- Motion by Ed Caroe – nominated Linda Provencher; motion seconded by Jon Netts.

- Motion by Linda Provencher – nominated Jon Netts; motion seconded by Chris Herrera.

- Motion by Chris Herrera – nominated Ed Caroe; motion died for lack of second.

There being no other motions for the position of Chair, nominations were closed. The voting for the position of Chair showed two votes for Linda Provencher and four votes for Jon Netts. Therefore, Mr. Netts will be committee Chair.

- b. Recording Secretary -- Mr. Telfer announced that Mr. Richard McCleery had expressed an interest in the position of Recording Secretary. The following motions were made for the position of Recording Secretary:

- Motion by Chris Herrera – nominated Richard McCleery; motion seconded by Stan Ksyniak.

- Motion by Linda Provencher – nominated Ed Caroe; motion seconded by Jon Netts.

There being no other motions for the position of Recording Secretary, nominations were closed. The voting for the position of Recording Secretary showed one vote for Richard McCleery and five votes for Ed Caroe. Therefore, Mr. Caroe will be committee Recording Secretary.

7. Plan for Future Meetings – Mr. Telfer reminded the committee that their 60-day clock to respond to the FFWCC will begin upon receipt of the report by the County. Mr. Calleson noted that they anticipate the report to be delivered on Monday, May 24th. The reason for the delay in finalizing the Flagler County report is due to their involvement with the oil spill in the Gulf of Mexico which is straining their resources.

The committee expressed the desire to have the report for a day or two prior to the next meeting so they could begin to read and digest the contents. Mr. Telfer informed the committee that staff would transmit the report electronically the same day as it is received from the FFWCC.

After taking into consideration the information provided by committee members not present today and after further discussion, it was the consensus to have the next meeting on Wednesday, May 26, 2010 at 1:00 p.m. The exact room location would be identified and provided to the committee.

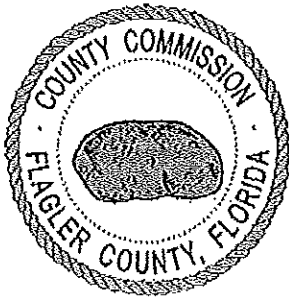
8. Sunshine Law & Public Records Law: Donna Wysong – Ms. Wysong reviewed the importance of the Sunshine Law and Public Records Law as outlined in Attachment 5, answering various questions from the committee members and public in attendance.

Committee members were asked to provide to Tim Telfer or Christie Mayer copies of all correspondence (including emails) they receive in order to maintain them for public record purposes.

Committee members were cautioned that two or more members could not speak to a civic organization on this subject due to the Sunshine Laws and that staff should be notified of any such speaking engagements so it can be publicly noticed.

If any member feels they have a conflict on voting on an issue before this committee, they can excuse themselves from the discussion and vote only by completing Form 8B (Attachment 6). Otherwise, all members present must vote on all motions before the committee.

9. Citizen Comments – None other than those noted in the minutes previously.
10. Adjournment – Upon motion by Mr. Caroe, seconded by Ms. Provencher, the meeting adjourned.



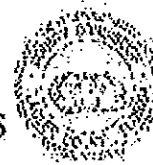
Orientation Packet

Your Role as a Flagler County
Advisory Board Member



Flagler County

Board of County Commissioners



1709 East Moody Boulevard • Bunnell, Florida 32110 • (386) 313-4000 • fax: (386) 313-4100 • www.FlaglerCounty.org

Dear Advisory Board Member,

Congratulations on your appointment to an advisory board of the Flagler County Board of County Commissioners. Citizen participation plays an instrumental role in our decision making process.

As an advisory board member your job is to work, in conjunction with other advisory board members, to make recommendations or suggestions to the County Commission on various topics of public concern.

This orientation guide contains the information you will need to better understand your responsibilities as an advisory board member. It also includes some of the rules which govern most board and committee members, such as parliamentary procedures and Florida's Sunshine and Public Records Laws. Please do not hesitate to contact our staff at any time should you have a question about something in this guide or any other issue related to your advisory board.

The Flagler County Board of County Commissioners extend our best wishes for success and our appreciation for your involvement.

Sincerely,

George Hanns, Chairman

Alan Peterson
District 1

Melissa Holland
District 2

Herbata Revels
District 3

Bob Abbott
District 4

George Hanns
District 5

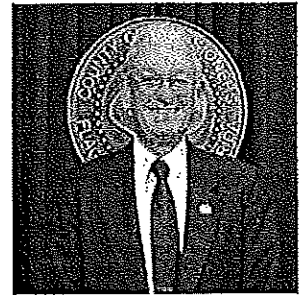
The Flagler County Commission

The Flagler County Board of County Commissioners is comprised of five members. Commissioners are elected at-large, meaning they represent all residents of the county but must reside in the district they represent.

The County Commission is the legislative and policy making body for Flagler County government. The County Administrator is hired by the County Commission to carry out the policies and programs of the Commission. The County Administrator oversees the day to day operations of all County services. The County Commission also appoints the County Attorney, who reports directly to the County Commission, as its chief legal advisor.

The County Commission normally meets on the first Monday of the month at 9 a.m. and on the third Monday of the month at 4:30 p.m. in the Government Services Building in Bunnell (with the exception of holidays). Meetings are also broadcast live and replayed on Flagler County Government Television (FCTV). FCTV is available to Bright House Networks subscribers. Flagler County also streams audio and video of the meetings on its website, FlaglerCounty.org, both live and available on demand.

Alan Peterson
District 1
apeterson@flaglercounty.org



Milissa Holland
District 2
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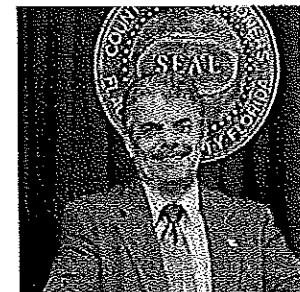
Barbara Revels
District 3
brevels@flaglercounty.org



Bob Abbott, Vice Chairman
District 4
babbott@flaglercounty.org



George Hanns, Chairman
District 5
ghanns@flaglercounty.org



Your Role as an Advisory Board Member

Advisory Board members are appointed by the Flagler County Commission to provide recommendations on diverse matters of public concern. Quasi-judicial boards, such as the Planning Board as well as the County Commission, perform functions in a manner similar to courts, but more informally.

Board Members Should:

- Speak openly and clearly during the meeting. Remember to speak directly into the microphone, if one is present.
- Listen to members of the public who attend the meetings.
- A member must vote on all motions as abstentions are not allowed by rule of law. This includes the advisory board Chair and all board members. Accordingly, you must vote unless you have a perceived conflict of interest. (Learn more in the "Productive Meetings" section of this guide).
- Notify staff of any anticipated absence.
- File a financial disclosure form, if applicable.

Financial Disclosure:

Some board members are required by law to file a Florida financial disclosure forms annually issued by the Florida Commission of Ethics (Section 112.3145, Florida Statutes). If appointed to one of these boards, you must file a Form 1, Statement of Financial Interest, with the Flagler County Supervisor of Elections within 30 days of your appointment. These forms will be provided to you when you are appointed or should be available from the Board Secretary at the time you declare a conflict of interest.



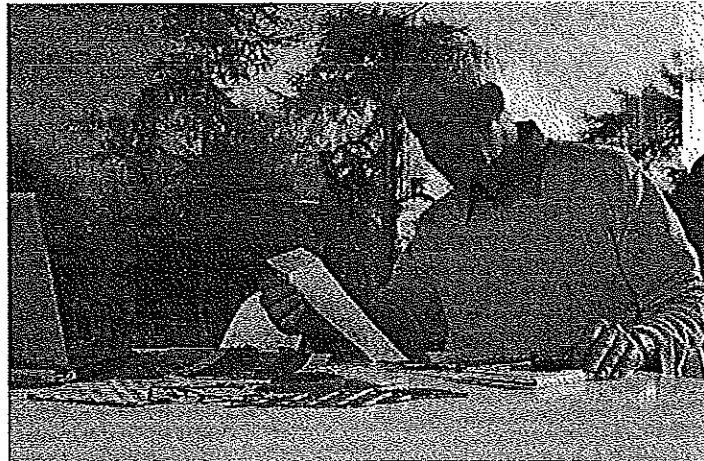
Please Remember...

Recommendations that are made by an advisory board are ***always*** considered. But keep in mind these recommendations may not always be followed by the County Commission, as it must take other factors into consideration before making a policy decision.

Your Advisory Board Staff Liaison

Staff Members Will:

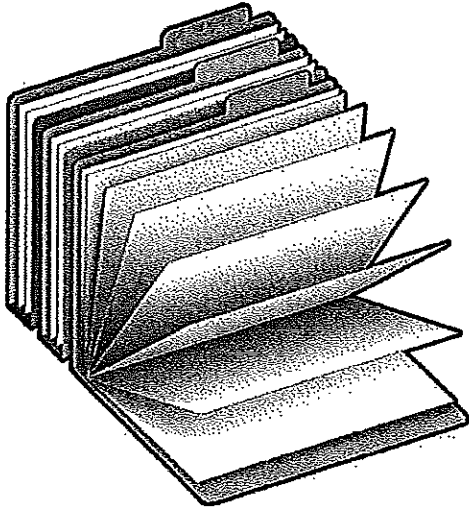
- Provide technical and administrative assistance to the board.
- Provide initial orientation and education for advisory board members.
- Supply background information on agenda items to advisory board members sufficiently in advance of meetings.
- Create the meeting agenda, with help from the board Chair.
- When requested, may make recommendations on agenda items.
- Attend advisory board meetings in a non-voting capacity.
- Inform advisory board members of County Commission actions concerning recommendations and appeals.
- Record attendance.
- Take and distribute meeting minutes.



Shared Responsibilities

Board Members and Staff Should:

- Be on time for meetings.
- Know and practice parliamentary procedure (addressed in this guide).
- Adhere to the Public Records and Sunshine Laws (also in this guide).
- Be familiar with the issues by reviewing background information, the agenda and previous minutes before the meeting.
- Be courteous to each other and to members of the public.
- Be open and responsive to questions and concerns.
- Follow the rule of the Chair during the conduct of meetings including recognition from the Chair prior to speaking except during workshops that are conducted in a more informal manner.



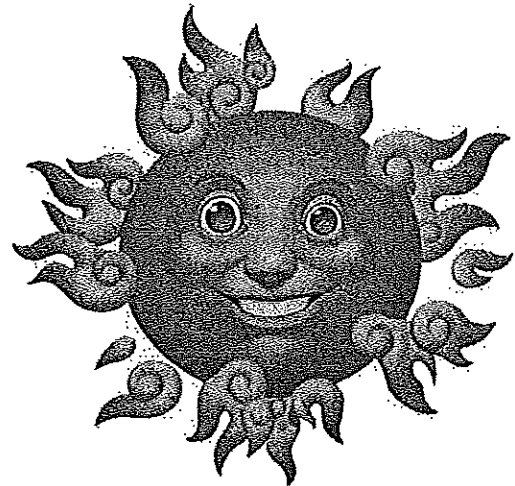
Public Records Law

Public records are defined as all materials made or received by an agency (including you as a member of an advisory board) in connection with official business which are used to perpetuate, communicate or formalize knowledge.

In addition to written documents and personal notes, public records can be tapes, emails, photographs, films, videos or audio recordings. Florida's Public Records Law sets rules for how long these materials must be retained and when they can be destroyed. Your County staff liaison keeps master copies of board agendas, minutes, etc., but you should turn in public records you receive directly from outside the agency to your staff liaison.

Sunshine Law

Florida's Government-in-the-Sunshine Law was enacted in 1967. It establishes a basic right of access to most meetings of boards, committees and other governing bodies of state and local governmental agencies or authorities.



The Sunshine Law requires:

1. Meetings of boards or committees to be open to the public
2. Reasonable notice of meetings
3. Minutes of the meeting be taken

The intent of the Florida Sunshine Law is to ensure that public business is discussed in public at a scheduled meeting. Any discussion by two or more members of the same body outside of a public meeting about committee business or pending issues to come before the committee is a violation of the Sunshine Law. **Discussion is not limited to face to face interactions, but also include telephone, email, electronic communications (chat room, webcast, etc.) and other written correspondence. Using a "go between" or third party communications is also prohibited.**

Productive Meetings

You'll become very familiar with meetings as an advisory board member. You'll quickly learn to appreciate meetings that run smoothly, as opposed to those which drag on endlessly. To keep your meetings productive and on track, here are some handy tips.

- Study any background materials beforehand, but don't make up your mind. Additional information may be presented at the meeting, and you'll want to keep an open mind so you can fairly consider all the facts.
- The advisory board Chair is responsible for moving the meeting along. Members should assist with getting to the heart of the issue so a conclusion may be reached in a reasonable amount of time.
- The advisory board may establish and publicize general guidelines governing the length of presentations and public participation. Fifteen minutes is usually enough time for the main presentation. Three minutes is the usual time limit for members of the public to comment on an item but the board can choose to waive the rules when appropriate. Do not interrupt public speakers but do allow the Chair to consider the appropriateness of your inquiry to the speaker.
- After the presentation and public participation, board members may want to ask questions and discuss the issue. The Chair will rule on allowing such discussion to occur.
- The advisory board Chair should try to keep members focused and moving to a conclusion. One way is for the advisory board Chair to occasionally summarize what is being discussed. When the Chair thinks the debate has been brought to a close, and public comments are heard, he/she should "call the question" or ask the members if they are ready to vote. Other board members can also call the question.
- It is important to attend all meetings to obtain a quorum. In the absence of a quorum, the only business that can be transacted is (1) to adjourn; (2) to recess for a period of time within the same day; and (3) to continue any agenda item to a date and time certain.



Voting Conflicts

Simply put, you can't vote on an issue which may either benefit or cause you loss nor benefit or cause loss to an immediate family member, or the business that employs you (special private gain). Special private gain exists if something were to be affected by the vote or there is an ongoing business relationship with someone whose interests would be affected. If a conflict exists...

- Before the issue is discussed, publicly explain the conflict for the record so the information is reflected in the official meeting minutes.
- Do not vote or participate in the board's discussion of the issue unless otherwise advised by the County Attorney who should be informed about the issue before the meeting.
- Within 15 days of the vote, document your conflict in writing (staff will have the form you need to fill out and return)

Parliamentary Procedure

Imagine a meeting where everyone talks at the same time - not much will get done. Parliamentary procedure promotes the orderly flow of ideas and discussion. Flagler County generally follows *Roberts Rules of Order Newly Revised*, a guide to parliamentary procedure used for more than a century. The rules may be waived by majority vote of the board or by board consensus when there is no member objecting to waiving the rules. Don't worry if at first the process seems confusing. You'll learn the lingo in a short time and, before you know it, the procedures will become second nature.

A key element of parliamentary procedure is the **motion**. There are seven recognized steps in making a motion, as follows:

1. A member asks to be recognized, "Mr. or Madam Chair."
2. The Chair recognizes the member, "Ms. Smith."
3. The member states the motion, "I move the application be approved."
4. Another member (without waiting to be recognized) seconds the motion, "I second the motion," or when the Chair calls for a second, if no second has been volunteered.
5. The Chair repeats the motion and calls for discussion, "It has been moved and seconded that the application be approved. Is there any discussion?"
6. After discussion and public comment, the Chair puts the motion to a vote, "If there is nothing new to be added to the discussion, we are ready to vote. All those in favor of the application being approved say 'aye', followed by the Chair saying "are there any opposed?"
7. The Chair counts the votes and announces the outcome, "The motion passes/fails by a five to four vote" (and states for the official record the names of the members casting the dissenting votes).



Main Motion: Only one motion before the group at a time. It cannot be introduced when any other motion is before the group.

Motion to Amend: Changes a motion before it comes up for final vote and it takes precedence over the motion to which it applies. There is a limit of two amendments to each motion.

Substitute Motion: Amends by substituting another form, changed or additional wording.

Main Motions

These motions are listed in order of precedence. A motion can be introduced if it is higher on the chart than the pending motion.

Purpose	You Say...	Interrupt?	2nd?	Debate?	Amend?	Vote?
Close meeting	I move to adjourn	No	Yes	No	No	Majority
Take break	I move to recess for...	No	Yes	No	Yes	Majority
Register Complaint	I rise to a question of privilege	Yes	No	No	No	None
Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority
Close debate	I move the previous question	No	Yes	No	No	2/3
Limit or extend debate	I move that debate be limited to...	No	Yes	No	No	2/3
Table to a time/date certain	I move to table the motion to...	No	Yes	No	No	Majority
Refer to committee	I move to refer the motion to...	No	Yes	Yes	Yes	Majority
Modify wording of motion	I move to amend the motion by...	No	Yes	Yes	Yes	Majority
Kill main motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority
Add to the agenda	I move that (or "to")...	No	Yes	Yes	No	Majority



Point of Information: Generally applies if information is desired from the speaker. "I would like to ask the (speaker) a question."

Point of Order: Infraction of the rules, or improper decorum in speaking. Must be raised immediately after the error is made.

Incidental Motions

No order of precedence. These motions arise incidentally and are decided Immediately.

Purpose	You Say...	Interrupt?	2nd?	Debate?	Amend?	Vote?
Enforce Rules	Point of Order	Yes	No	No	No	None
Request for Information	Point of Information	Yes	No	No	No	None
Submit matter to your board	I appeal from the decision of the chair	Yes	Yes	Yes	No	Majority
Suspend Rules	I move to suspend the rules	No	Yes	Yes	No	2/3
Divide motion	I move to divide the question	No	Yes	Yes	Yes	Majority
Parliamentary law question	Parliamentary Inquiry	Yes	No	No	No	None

Motions That Bring a Question Again Before the Body

No order of precedence. Introduce only when nothing else is pending.

Purpose	You Say...	Interrupt?	2nd?	Debate?	Amend?	Vote?
Take matter from table	I move to take from the table...	No	Yes	Yes	No	Majority
Reconsider motion (only a member of the prevailing side can make motion)	I move to reconsider...	No	Yes	Yes	No	Majority

Please do not hesitate to discuss with your staff liaison any concerns or suggestions you may have. We are here to help you at any time. *Parliamentary Procedure Information and charts on Roberts Rules Newly Revised motions can be found at www.RobertsRules.org.*

ATTACHMENT 2 TO MINUTES OF
LRRC MEETING MAY 13, 2010

379.2431 Marine animals; regulation.—

(2) PROTECTION OF MANATEES OR SEA COWS.—

(f)1. Except for emergency rules adopted under s. 120.54, all proposed rules of the commission for which a notice of intended agency action is filed proposing to govern the speed and operation of motorboats for purposes of manatee protection shall be submitted to the counties in which the proposed rules will take effect for review by local rule review committees.

2. No less than 60 days prior to filing a notice of rule development in the Florida Administrative Weekly, as provided in s. 120.54(3)(a), the commission shall notify the counties for which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed. A county so notified shall establish a rule review committee or several counties may combine rule review committees.

3. The county commission of each county in which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed shall designate a rule review committee. The designated voting membership of the rule review committee must be comprised of waterway users, such as fishers, boaters, water skiers, other waterway users, as compared to the number of manatee and other environmental advocates. A county commission may designate an existing advisory group as the rule review committee. With regard to each committee, fifty percent of the voting members shall be manatee advocates and other environmental advocates, and fifty percent of the voting members shall be waterway users.

4. The county shall invite other state, federal, county, municipal, or local agency representatives to participate as nonvoting members of the local rule review committee.

5. The county shall provide logistical and administrative staff support to the local rule review committee and may request technical assistance from commission staff.

6. Each local rule review committee shall elect a chair and recording secretary from among its voting members.

7. Commission staff shall submit the proposed rule and supporting data used to develop the rule to the local rule review committees.

8. The local rule review committees shall have 60 days from the date of receipt of the proposed rule to submit a written report to commission members and staff. The local rule review committees may use supporting data supplied by the commission, as well as public testimony which may be collected by the committee, to develop the written report. The report may contain recommended changes to proposed manatee protection zones or speed zones, including a recommendation that no rule be adopted, if that is the decision of the committee.

9. Prior to filing a notice of proposed rulemaking in the Florida Administrative Weekly as provided in s. 120.54(3)(a), the commission staff shall provide a written response to the local rule review committee reports to the appropriate counties, to the commission members, and to the public upon request.

10. In conducting a review of the proposed manatee protection rule, the local rule review committees may address such factors as whether the best available scientific information supports the proposed rule, whether seasonal zones are warranted, and such other factors as may be necessary to balance manatee protection and public access to and use of the waters being regulated under the proposed rule.

11. The written reports submitted by the local rule review committees shall contain a majority opinion. If the majority opinion is not unanimous, a minority opinion shall also be included.

12. The members of the commission shall fully consider any timely submitted written report submitted by a local rule review committee prior to authorizing commission staff to move forward with proposed rulemaking and shall fully consider any timely submitted subsequent reports of the committee prior to adoption of a final rule. The written reports of the local rule review committees and the written responses of the commission staff shall be part of the rulemaking record and may be submitted as evidence regarding the committee's recommendations in any proceeding relating to a rule proposed or adopted pursuant to this subsection.

13. The commission is relieved of any obligations regarding the local rule review committee process created in this paragraph if a timely noticed county commission fails to timely designate the required rule review committee.

ATTACHMENT 3 TO MINUTES OF
LRRC MEETING MAY 13, 2010



**Florida Fish
and Wildlife
Conservation
Commission**

Commissioners
Rodney Barreto
Chairman
Miami

Richard A. Corbett
Vice Chairman
Tampa

Kathy Barco
Jacksonville

Ronald M. Bergeron
Fort Lauderdale

Dwight Stephenson
Delray Beach

Kenneth W. Wright
Winter Park

Brian S. Yablonski
Tallahassee

Executive Staff
Nick Wiley
Executive Director

Greg Holder
Assistant Executive Director

Karen Ventimiglia
Deputy Chief of Staff

Imperiled Species
Management Section
Kipp Frohlich
Section Leader
(850) 922-4330
(850) 922-4338 fax

*Managing fish and wildlife
resources for their long-term
well-being and the benefit
of people.*

620 South Meridian Street
Tallahassee, Florida
32399-1600
Voice: (850) 488-4676

Hearing/speech impaired:
(800) 955-8771 (T)
(800) 955-8770 (V)

MyFWC.com

March 8, 2010

The Honorable George Hanns, Chair
Flagler County Commission
1760 East Moody Boulevard, Suite 301
Bunnell, FL 32110

Dear Chairman Hanns:

The purpose of this letter is three fold. First I want to provide you with some background regarding our state manatee management plan and how it relates to Flagler County. In addition, I will provide you an update on recent activities and progress that we have made related to manatee protection. Lastly, I wanted to let you know about our future plans and also request increased involvement and participation of Flagler County.

The Florida Fish and Wildlife Conservation Commission (FWC) approved a Manatee Management Plan (MMP) in December 2007 to provide a state framework for conserving and managing manatees in Florida. The MMP is complementary to the federal Florida Manatee Recovery Plan, with both plans describing actions that will ensure the manatee's long-term survival. One of the many tasks called for in the MMP is to evaluate areas that currently have little or no manatee protection regulations to determine if new manatee protection zones may be warranted. Flagler County is one of the first areas identified in the MMP for this evaluation. *Flagler*

In recent years we have met with Flagler County staff, the U.S. Fish and Wildlife Service, and stakeholders in regards to a variety of manatee concerns related to state and federal approval of construction of additional marine facilities and potential impacts to manatees. As a part of those meetings it was discussed that there are virtually no state manatee protection zones in Flagler County. The only exception is a small portion of waterway in the southern part of the county which is regulated in the FWC rule for Volusia County (68C-22.012, Fla. Admin. Code). The zones included in the Volusia County rule were adopted in 1991. It was also clear that additional data needed to be collected in this area so that we could better evaluate the potential risks. New manatee distribution data were collected in 2005-07 and aerial surveys were flown in 2007-09 to collect boating data in Flagler County. FWC staff has reviewed these data and other information, and spoken to County staff. Based on our initial review of all information, we believe additional manatee protection zones may be warranted in Flagler County.

Florida Statute § 379.2431(2)(f) prescribes the steps required for the FWC to adopt or amend manatee speed zone rules. While we have informally discussed this with your staff, this letter serves as official notification that we are initiating the next steps of considering manatee protection rules for Flagler County. Pursuant to the statute, Flagler County has 60 days after receipt of this letter to form a Local Rule Review Committee (LRRC) to review the FWC proposal and provide comments and recommendations. Once the LRRC has been formed, we will provide a preliminary rule proposal to the LRRC and the LRRC will then have an additional 60 days to review the proposal and submit its report. (I have enclosed a copy of the statute for your convenience.)

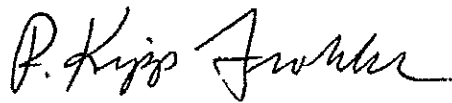
Working through the various issues will take time and it is difficult to predict with certainty a proposed timeline. However, based on our work with other counties, we are

March 8, 2010

hopeful that we could complete the LRRC process by July 2010. If rules are warranted we would hope to present a draft to our Commissioners at the September 2010 FWC meeting, with final presentation and consideration to occur at a subsequent FWC meeting, likely in early 2011. Of course this is a cooperative endeavour and we will work with your staff and the LRRC in regards to scheduling and timing. It should also be noted that there is no predetermined outcome. Working with the LRRC may in fact lead us to develop a draft rule for our Commissioners to consider, but alternatively we may conclude upon further analysis that no additional rules are warranted.

It would be helpful if you could provide us with the name of your designee with whom we should work at a staff-to-staff level as this process moves forward. Mr. Chris Boland on my staff will be taking the lead for the FWC and he can be contacted at Chris.Boland@MyFWC.com. If you have any questions about this letter, the rule making process, or if we could assist you in anyway, please do not hesitate to contact me or Mr. Boland (850 922-4330). We look forward to working with you and Flagler County.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Kipp Frohlich". The signature is fluid and cursive, with the first name "R. Kipp" and the last name "Frohlich" clearly distinguishable.

R. Kipp Frohlich, Section Leader
Imperiled Species Management Section

Enclosure

ATTACHMENT 4 TO MINUTES OF LRRC MEETING MAY 13, 2010

Description of the FWC Manatee Protection Rule Development Process (2010)

The Florida Fish and Wildlife Conservation Commission (FWC) is required to follow the requirements of Chapter 120, Florida Statutes (FS), when performing rule making for manatee protection purposes. The Manatee Sanctuary Act (§379.2431(2), FS) requires several steps in addition to the Chapter 120 process. Rules 68C-22.001 and 68C-22.002, Florida Administrative Code (FAC), provide additional requirements and guidance. The basic steps in the process are described below.

Step 1: Identify the need to consider rule making

The request or direction to consider rule making can come from a wide variety of sources. Parties external to FWC, including organizations and individuals, can informally request rule making or formally petition the FWC under 120.54, FS. Rule making can be authorized or required by the legislature or the judiciary (courts or DOAH). The FWC Commissioners can direct staff to begin the process, and staff can independently identify the need to consider rule making and seek approval to proceed.

Step 2: Assimilate/Compile data and assess the need for rule making

Staff determines what data are available and coordinates with other individuals (both internal and external) to compile data and make an initial assessment of the need to proceed further. If the FWC determines that the available data support the need to consider rule making, the process continues. Otherwise, the process stops and the party that requested rule making is notified. This step would normally require between two weeks and several months to complete. The FWC's authority to establish manatee protection zones (and the limitations on that authority) is provided in §379.2431(2), FS, and further clarified in rules 68C-22.001 and 68C-22.002, FAC.

→ Step 3: Notify the affected county government that a rule is being considered

Whenever the FWC considers proposing a manatee protection rule that would regulate the speed and operation of motorboats, §379.2431(2)(f), FS, requires FWC to notify the affected county (or counties). The county must be notified at least 60 days before the FWC files a Notice of Rule Development for publication in the Florida Administrative Weekly (FAW). The county is then required to form a local rule review committee (LRRC). The make-up of the LRRC and its charge are governed by §379.2431(2)(f), FS.

Step 4: Publish a Notice of Rule Development (NORD)

The Chapter 120 process requires that the FWC publish a NORD in the Florida Administrative Weekly (FAW) before formally proposing to adopt or amend a rule through publication of a Notice of Proposed Rule. A NORD does not have to be published before the LRRC process can begin; it could be published any time after Step 3 (plus 60 days) and before Step 8 (publication of a Notice of Proposed Rule).

NOTE: The FWC may hold rule development workshops; however, workshops are optional. Workshops must be noticed in the FAW at least 14 days before being held.

Step 5: Submit proposed rule and supporting data to LRRC

The FWC is required by §379.2431(2)(f), FS, to submit the proposed rule and supporting data to the LRRC for its use in reviewing the proposed rule. The LRRC then has 60 days to review the proposed rule and submit a written report to the FWC. The LRRC report must contain a majority opinion and may endorse the proposed rule or recommend changes. If the recommendations are not unanimous, the LRRC report must also contain a minority opinion.

WFLA 16:14
2/4/10

Step 6: Review LRRC report and prepare staff response

FWC staff is required by §379.2431(2)(f), FS, to review the LRRC report (including minority opinions if applicable) and to provide a written response to the county and the FWC Commissioners. This step would normally require between two weeks and several months to complete, depending on the size and complexity of the LRRC report.

Step 7: Authorization to publish a Notice of Proposed Rule

Following receipt of the LRRC report and the preparation of the staff response, FWC staff prepares a rule proposal for consideration by the FWC Commissioners. The Commissioners are required by §379.2431(2)(f), FS, to fully consider the LRRC report before authorizing the publication of a Notice of Proposed Rule. The Commissioners make the decision to authorize publication of a proposal at a publicly noticed meeting. This typically occurs at one of the regularly scheduled FWC meetings that are held during the course of the year. If the Commissioners authorize rule making, the process continues. Otherwise, the process stops and the party that requested rule making is notified.

Step 8: Publish a Notice of Proposed Rule

Publication of this notice in the FAW begins the formal Chapter 120 rule making process. The notice must be published in the FAW at least 28 days before the rule is filed for adoption.

Step 9: Accept public comments and conduct one or more public hearings

The Chapter 120 process requires that a public hearing be held if requested by any affected person within 21 days after publication of the Notice of Proposed Rule. Final decisions on manatee protection rules are always made by the FWC Commissioners at a publicly noticed meeting, so at least one public hearing will always be held, even if one is not requested. FWC staff typically conducts an initial public hearing in the affected area within a month after the Notice of Proposed Rule is published. The final public hearing is held by the FWC Commissioners, typically at one of the regularly scheduled FWC meetings that are held during the course of the year. The comment period lasts for 21 days after publication of the notice or through the date of the final public hearing, whichever is longer. As a result, the formal comment period is often open between two and four months.

Step 10: Review public comments and prepare final staff recommendations

FWC staff reviews comments received during the public comment period and then develops final staff recommendations for consideration by the FWC Commissioners.

Step 11: Authorization to adopt rule

The FWC Commissioners decide whether to adopt a proposed rule (with or without changes) at the final public hearing (see Step 9).

Step 12: Publish a Notice of Change (NOC)

The Chapter 120 process requires that a NOC be published if substantive changes are made to the originally published proposed rule. If no changes or only technical changes are made to the proposal, no NOC is needed; however, the Joint Administrative Procedures Committee (JAPC) must be notified in writing at least 7 days before the rule is filed for adoption. Substantive changes must be supported by the record of public hearings, must be in response to written material received on or before the date of the final public

hearing, or must be in response to a proposed objection by JAPC. The NOC must be published in the FAW at least 21 days before the rule is filed for adoption.

Step 13: File the rule for adoption

Rules are considered "adopted" when they are filed with the Dept. of State and generally take effect 20 days after adoption. Rules may be filed for adoption no less than 28 days or more than 90 days after the Notice of Proposed Rule is published in the FAW, unless one or more events occur that extend the 90-day limit. See §120.54, FS, for events that extend the limit. If an administrative challenge is filed against the proposed rule pursuant to 120.56, FS, the 90-day period is tolled until the challenge is resolved. Under no circumstances does an agency have less than 90 days to file a rule for adoption.

NOTE: If areas for which the FWC adopts regulations are also regulated by other governments and/or for other purposes besides manatee protection, the most restrictive regulation applies and is what is posted.

The information provided above is only a summary of the basic rule making process. There are exceptions and alternatives to some of these steps. Chapter 120 and §379.2431(2), FS, should be consulted for a complete description of the required process. Also see Chapter 1B-30, FAC, (for requirements related to publishing in the FAW and filing rules for adoption), and 28-102 and 28-103, FAC, (for processes required by the Uniform Rules of Procedure).

Scott Calleson
FWC Imperiled Species Management Section
2/10/2010

 **FILE**

Sunshine Law and Public Records Law Highlights

Presented by
Donna Wysong, Deputy County Attorney,
May 13, 2010

Sunshine Law

- **What is meant by the “Sunshine Law?”**
 - The Sunshine Law calls for government in the “sunshine” or “out in the open.”
 - **To whom does it apply?**
 - The Sunshine Law applies to all persons appointed or elected to commissions, councils, committees, etc., that carry out the business of government. As an appointed committee member, you must observe these laws.
-

Sunshine Law

- **What is the scope of the Sunshine Law?**

Florida's Government-in-the-Sunshine-Law, commonly referred to as the "Sunshine Law", provides a right of access to governmental proceedings at both the state and local levels. The law is applicable to Flagler County's advisory groups that have been delegated the responsibility to make recommendations on matters which may be acted upon by the Board of County Commissioners.

The law is applied to any gathering of two or more members subject to the Sunshine requirements to discuss some matter which may come before the advisory group for action. There are three basic requirements of the Sunshine Law:

- (1) meetings of public boards or commissions must be open to the public; and
 - (2) reasonable notice of such meetings must be given; and
 - (3) minutes of the meetings must be taken.
-

Sunshine Law

- What types of communications are covered by the Sunshine Law?

Personal or telephone conversations, written communications, and the use of computers or other electronics for communications.

- The Sunshine Law applies to deliberations and discussions between two or more members of an advisory group when those two members are discussing some matter which MAY come before the advisory group. The use of a telephone or a computer to conduct such discussions does not remove the conversation from the requirements of the Sunshine Law. Similarly, members may not utilize anyone as a "go-between" to learn of the views of another member outside the Sunshine.
 - Therefore, members seeking to discuss such business should ensure that the requirements of the Sunshine Law have been satisfied.
-

Sunshine Law

- **Consequences of Failure to Comply with Sunshine Law Requirements**
 - Failure to comply with the provisions of Florida's Sunshine Law can result in civil penalties up to \$500 against each participating member. A knowing or intentional act is not required.
 - Criminal penalties, including incarceration and fines, can be imposed on any board member or other public officer participating on a public committee who knowingly attends such a meeting or has a prohibited contact in violation of the statute.
 - No resolution, rule, or formal action shall be considered binding except as taken or made at a duly noticed meeting. Actions at public meetings tainted by a Sunshine violation are likewise void.
 - Violation may require the board member to hire private counsel either for private suits or for state attorney actions
-

Public Records

- **What is a Public Record?**

The definition of a public record in Chapter 119 is broad and all-inclusive. The statute reads as follows:

- *"Public records" include all documents, papers, letter, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.*

- Stated another way: "If the purpose of a document prepared in connection with the official business of a public agency is to perpetuate, communicate, or formalize knowledge, then it is a public record regardless of whether it is in final form or the ultimate product of an authority." *Government in the Sunshine Manual, p. 61*

Public Records

- **Examples of Public Records include:**
 - Notes and non-final drafts can be public records.
 - Any agency document or document prepared by a member or members of a governing board advisory body, however prepared, if circulated for review, is a public record regardless of whether it is an official expression of policy or marked "preliminary" or "working draft" or similar label.
 - Examples of such materials would include telephone message slips, interoffice memoranda, preliminary draft reports or proposals which have been submitted for review to anyone within or outside the agency, handwritten notes on a printed report, and working drafts of reports which have been furnished for review. *Id.*
-

Public Records

- **Chapter 119, Florida Statutes, Public Records**

Florida's Public Records Law provides for citizens to have virtually unlimited access to the records of government. Chapter 119.07(1)(a) states that:

- Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or his designee.
 - Violations can be prosecuted criminally or in civil court by citizens or companies.
-

Public Records

- **How should public records requests be handled?**
 - Public records requests, along with any information you may have in response to the request, should be forwarded to Flagler County Communications Manager, Carl Landrie (386-313-4039 or 386-931-6316 or clandrie@flaglercounty.org) for documentation purposes. As the official spokesperson for the County, Mr. Landrie will respond to the request.
-

Summary of Sunshine & Public Records Law

- Everything you say, do, or write can be considered a public record.
 - Follow the Sunshine Law to the letter. Do not converse with your colleagues by phone, letter, email, text mail, etc., about any matters related to your committee.
 - All meetings and discussions with two or more elected/appointed officials who serve on the same council or board require public notice.
-

ETHICS FOR PUBLIC APPOINTED OFFICERS

Chapter 112, Part, III, Florida Statutes

Voting Conflicts = A Committee member **MUST ABSTAIN** from voting on a measure which inures to:

1. His or her special private gain or loss; or
2. A relative's special private gain or loss; or
3. The special private gain or loss of a principal by whom he or she is retained; or
4. The special private gain or loss of a business associate.

Fla. Stat. 112.3143

Appointed Officers = Even though you must abstain, you may participate in the discussion if:

1. You disclose the nature of the conflict before participating in the meeting's discussion; and
2. You complete *Form 8B* and file it with the Board clerk within 15 days of the Board's vote.

Voting Requirement at Meetings

You must vote unless you have a conflict; you cannot abstain for convenience. Fla. Stat. 286.012

STANDARDS OF CONDUCT

Gifts – Committee members may not solicit or accept anything of value including a gift, loan, reward, promise of future employment, favor, or service based on the understanding that the vote or official action of the Committee member would be influenced thereby.

Misuse of Public Position – Committee members may not use their public position or any property or recourse within their trust to secure a special privilege, benefit or exemption for themselves or others.

Conflicting Employment or Contractual relationship – No Committee member shall have or hold any employment or contractual relationship with any business entity or agency which is subject to the regulation of the Committee for which he sits.

LRRRC MEETING MAY 13, 2010

**FORM 8B MEMORANDUM OF VOTING CONFLICT FOR
COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS**

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY	<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, _____, hereby disclose that on _____, 20 _____:

(a) A measure came or will come before my agency which (check one)

- ☐ Inured to my special private gain or loss;
- ☐ Inured to the special gain or loss of my business associate, _____;
- ☐ Inured to the special gain or loss of my relative, _____;
- ☐ Inured to the special gain or loss of _____, by whom I am retained; or
- ☐ Inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Local Rule Review Committee (LRRC)
Meeting May 26, 2010
Minutes

MINUTES APPROVED AT JUNE 9, 2010 MEETING.

MEMBERS PRESENT: Ed Caroe, Chris Herrera, Laureen Kornel, Stan Ksyniak, Richard McCleery, Jim Netherton, Jon Netts, Linda Provencher, Virginia Tee and Chris Vorndran

MEMBERS ABSENT: None.

STAFF PRESENT: Tim Telfer, Environmental Planner and Staff Liaison, Christie Mayer, Administrative Assistant.

OTHERS PRESENT: Christopher Boland (FFWCC), Scott Calleson (FFWCC), John Milio (USFWS), and interested citizens.

1. Call to Order – Chair Netts called the meeting to order at 1:00 p.m.
2. Pledge of Allegiance – Was led by Chair Netts.
3. Roll Call – A quorum was obtained with eight members present.

Chair Netts asked all committee members and others at the table to introduce themselves. Mr. Milo is a representative from the Jacksonville office of the US Fish & Wildlife Service. This agency has the authority for manatee protection and recovery in this geographic area. Mr. Boland and Calleson are with the Florida Fish & Wildlife Conservation Commission.

Chair Netts began the meeting by reading from Marine Mammal Regulations, which notes:

“All proposed rules shall be submitted to the county’s in which the proposed rules shall take effect for review by the Local Rule Review Committee. The Local Rule Review Committee shall have 60 days from date of receipt to submit a written report to the commission members and staff. The Local Rule Review Committee may use supporting data supplied by the commission as well as public testimony which may be collected by the committee to develop the written report.

“In conducting review of the proposed manatee protection rules, the Local Rule Review Committee may address such factors as to whether the best scientific data supports the proposed rule, whether seasonal zones are warranted, and such other factors as may be necessary to balance manatee protection and public access to and use of the waters being regulated under the proposed rule.”

4. Approval of Minutes of May 13, 2010 Meeting – Motion to accept the minutes as presented was made by Ed Caroe and seconded by Linda Provencher. The motion was then unanimously carried.

Mr. Ksyniak and Mr. Vorndran joined the meeting.

5. Discussion of Florida Fish and Wildlife Conservation Commission Report – A copy of the proposal, dated May 24, 2010, was distributed to the committee that same afternoon via email. After the committee members carry out their discussion today, Chair Netts noted they will open the meeting up for public comment, which is part of the responsibilities of this committee.

Chair Netts then turned the meeting over to Mr. Boland who began by reviewing the data set portion of the report (pages 1 through 4).

- Everything in this document reflects a preliminary review and not their final proposal.
- Data sources used: (1) relied mostly on the manatee aerial survey collected by the FFW Research Institute from 2005 to 2007; the flights were made twice a month over the entire span of the county; (2) MOTE Marine Lab flew boat aerial surveys from 2007 to 2009, with the data split into five seasons with five flights per season, two on weekdays and two on weekend days; and (3) manatee mortality data from 1974 to the present day was used for their analysis.
- The three basic data sets were then used to create a GIS density cover, spreading out the points for both the manatee and boating point sets. This was then divided by the number of flights during the period. Both sets are then combined to compile the coincidence cover, which is a standard cover showing the potential impact between boats and manatees in the area. They also consider “fast boats” in making the coincidence density.

(All of the data sets used in preparation of the report was provided to staff on a CD at the end of the meeting and subsequently posted on the county website.)

Clarification was made that a “slow speed minimum wake” boat is not a plowing boat.

Mr. Calleson noted that they use the data available on manatee mortality, where the manatees are seen, what they are doing in the county, how often they are seen, etc., to get an indication of the areas that potentially overlap with boats. This data is used to focus in on areas where speed zone regulations may be needed.

Ms. Tee inquired as to the methodology used to determine the mortality rate of the manatees. In some cases the causes were not defined. Mr. Boland explained that the Marine Mammal Lab collects all carcasses and determines the cause of death. Those listed as “undetermined causes” are usually due to the decomposition of the carcass. “Perinatal” refers to mammals who are less than or equal to 150cm in length who have died of what appears to be natural causes. Mr. Calleson noted that the carcasses are identified in the data as to location where they are first found, not at the location where

they are pulled out of the water. There are nine causes of death noted in the report (water control structures, human causes, hunting, perinatal, cold stress, undetermined cause, watercraft, etc.).

"Idle speed" versus "slow speed" is not defined in a numerical way. Slow speed is recognized as a boat that is completely off plane; not plowing nor creating an excessive wake. Typically, idle speed is 3-4 mph, with slow speed being 5-9 mph before waking. Chair Netts commented that there could be an overlap between speed and sailboats due to displacement of the hull of a sailboat.

Mortality collection data goes back to 1974 but the first manatee death in Flagler County due to watercraft was in 1990. All data was considered for this report.

The coincidence data does not mean that a boat and manatee were seen at the same location at the same time. It means that a boat and a manatee were seen at the same location at different times.

Mr. McCleery inquired if the population trends and boat traffic have been correlated during the seasons; i.e., number of boats that were going through the county to another destination versus local boaters. Also, as the population of the area grew did the data show an increase in the manatee mortalities? Mr. Calleson noted that the boat data was taken from a plane so the registration of the boat was not available.

Mr. Netherton noted that 1974 to 1990 reflects the boat parade north to south and could be considered the base line. More recently, it could be more due to the increase in boat usage in the county. Mr. Calleson noted that the population and number of boats registered are available should the committee wish to get that data. Whether it is a direct cause and effect, there does not appear to be any correlation. There has not been a point study done to document registration information on vessels in Flagler County but it has been done in other areas.

Mr. Boland then began to review the five areas where the FFWCC made preliminary rule proposals (pages 4 through 8). Discussion on each section is noted below.

- a) Marineland and Matanzas River: There was a public request for review of the area around Marineland by Mayor Netherton. This request was based on residents being in a possible public safety situation where the resident inquired if the no wake zone could be reestablished. Mayor Netherton noted that due to erosion, public safety and the manatees who reside in the area, they would be interested in having a no wake zone established. He also noted that there are plans to redevelop the marina so the boat traffic will most likely increase in that area. Mr. Boland acknowledged that with the human safety and manatee safety issues being brought forth by the Town of Marineland, they included it on the report.

Chair Netts asked if a boating incident death is distinguished between propeller damage and impact damage. Mr. Calleson noted that if there is evidence of propeller, then it is noted on the report.

Recommendation: FFWCC staff has not identified this as an area where a zone may be warranted, but they are requesting input from the LRRC.

- b) Palm Coast: Overall, the region included in this section is basically where the Matanzas River narrows into the ICW to the Hammock Dunes Bridge.

When the data was summarized, the area where the Matanzas River narrows to the first northern most Palm Coast canal was considered, but was not included in the proposal. It is still open to the LRRC for their input.

The next segment (B1) is the northern most lip of the central canal in Palm Coast to approximately 300' past the Palm Coast Parkway Bridge. Chair Netts clarified that this would roughly be from Rhodes Marine to below the Hammock Dunes Bridge.

Recommendation: FFWCC staff has suggested a warm season zone of slow speed minimum wake (for approximately 1.5 miles) for area B1.

- c) Fox Cut: Recommendation: Currently FFWCC staff has not identified this as an area where a zone may be warranted, but they are requesting input from the LRRC.
- d) Smith Creek North of SR 100: The area extends from the southernmost point of Hershel King Park to SR 100 Bridge. Chair Netts noted that there is already a slow speed minimum wake zone around the SR 100 bridge. The reason for the separation in the two areas is due to the supporting data varying slightly.

Recommendations: Area D1 is being proposed as a warm season slow speed minimum wake zone (for approximately 1.2 miles). Area D2 is being proposed as a warm season slow speed minimum wake zone (for approximately 1.5 miles).

- e) Smith Creek South of SR 100: From SR 100 Bridge to the Volusia County line.

Recommendations: Area E1 is being proposed as a warm season slow speed minimum wake zone (for approximately 1.8 miles). A change to the existing zone for area E2 is being proposed as a warm season slow speed minimum wake zone (for approximately 0.7 miles) and to amend the Volusia County rule to remove the portion of the existing zone that is located within Flagler County.

Chair Netts then opened the floor back up to the committee members for questions and/or comments.

Mr. Caroe noted the FFWCC has not made any recommendations differentiating between in-channel and out-of-channel zones, when they have done this in other counties. Mr. Boland explained this was not done for Flagler County because of the narrowness of the channel in the County. For the most part, the ICW in Flagler County is in the channel, with little option to make a notation otherwise. Mr. Calleson noted that the committee can make the reference to in-channel and/or out-of-channel in their comments, if they so wish.

Mr. Calleson again noted that with a carcass recovery, it is difficult to know exactly where the animal was hit versus where it was recovered. Therefore, the lack of a carcass recovery in a specific area does not have much impact on their recommendations, when the overlay shows the potential is there. The committee can put as much or as little emphasis on that data as they would like.

Mr. Caroe feels there is a big gap between 6 and 20 mph; consideration might be made for areas where boats could be on plane but not speeding. Most boats can get up to plane at 25 mph. More boats are plowing if it is below 25 mph because the haul of the boat is higher, which also hinders the view of the water immediately in front of the vessel.

Jim Netherton asked if they have any information on studies that lead them to feel how easily manatees are recognized from planing boats. Mr. Calleson personally feels it is difficult to see manatees even in the best situation. There are basically three reasons for slower speeds: (1) manatees have more time to react; (2) the boat operator has more time to react; and (3) in the event of a collision, the trauma is much less to the mammal.

Stan Ksyniak expressed two reactions. First, as a resident, he feels the proposals would limit boats to slow or no wake speeds, which may limit his boating career due to the lack of ability to go faster and get to the destination quicker. Second, as a professional (with Sea Ray Boats) it would limit the ability of the company to perform the testing process necessary in the manufacturing of their boats. This will have a direct impact on their ability to stay in business due to the requirements to show performance data for each vessel constructed. This will cause additional time to get a vessel to a location where the planing performance data can be gathered. Most of their vessels require ten hours of water testing, with five of those hours being performance testing at higher speeds. There are contractual requirements for data at certain speeds, at certain haul angles, fuel consumption levels, etc. He noted that Sea Ray Boats has an in-house program that tracks manatees and they train their captains to spot manatees.

Chris Vorndran asked if there is an exception to the rule available to companies such as Sea Ray. Mr. Ksyniak noted that he believes there have been exceptions granted. Mr. Calleson also agreed that there is a permit process available to vessel manufacturers.

Mr. Calleson reiterated that if there are particular issues in specific zones, it should be part of the committee's report. It is just as important for FFWCC to know the impact on operations and public use of the waterway as it is to know the impact on manatees. It is a balancing act but important in the overall decision for each zone.

Mr. Netts mentioned establishing two speed zones (in-channel and out-of-channel) north of the Flagler Beach bridge. This might be a good compromise to protect both the boaters and manatees.

Ms. Tee inquired if the manatee behavior in the area is primarily due to migratory, resting, calving, etc. Mr. Boland noted that our area is thought to be more transient with the Palm Coast area being used for calving grounds and resting. There is no real sea grass areas in Flagler County for nourishment; therefore, it is also felt that the animals go elsewhere for food sources. Mr. Calleson noted that manatees are repetitive animals, doing the

same thing over and over again; i.e., feeding in the same areas, and calving in the same areas.

Mr. Vorndran inquired if "Caution Manatee Area" signs have had any affect as it may be a compromise to setting slower speed limits. Mr. Calleson stated that there are no regulatory consequences attached to those signs but the committee is free to recommend this as an alternative to establishing speed zones.

The recommendations available to the committee might include:

- No recommendation
- Slow speed minimal wake at certain time of year
- Out-of-channel speed
- In-channel speed
- Caution Manatee Area signs

Chair Netts asked Tim to compile a north to south map showing the recommendations of the FFWCC as well as the current regulations.

Mr. Netherton asked if there is a difference between jet skis and boats when it comes to the report. Mr. Boland noted that jet skis are considered boats. There is a distinction in some of the data between personal watercraft and boats, but not in the recommendations.

6. Citizen Comments – Chair Netts then asked if any members of the public wished to speak. (The below named individuals also provided backgrounds on themselves and/or their interest in this subject. All guests at this meeting did not speak before the committee.)
 - a) Diane Cocchiola – Read from a prepared statement and spoke to three main issues (see Attachment 1). She feels the educational approach may be the best way to start because these zones will affect 6.5 miles and all of Palm Coast.
 - b) Richard Garling – He has not been on the ICW in the Palm Coast area where, if you see a manatee, there are not boats around almost escorting them. If boats present a greater problem, why is it that these mammals are found feeding around marinas and off the haul of boats? As to the Marineland request, it seems that the installation of a safe zone along with developing a marina may be counterproductive.
 - c) J. NeJames – He has picked up manatee carcasses along Tomoka State Park area over the last few years, where all of that area is a no wake area. If boating is the number 1 cause of manatee deaths, Mr. NeJames inquired as to what is being done for cause number 2 through number 9, especially the reduction in habitat. Fertilizers are being pumped into the water that is killing off the habitat. Other questions: Do the flights mentioned include any night time flights? Were there flights between 1974 and 1990? He also asked for clarification on the 2007 to 2009 flights. Mr. Boland responded that there were five flights per season, as outlined by MOTE Marine Lab in their studies. Mr. NeJames also asked if any of the deaths between 1974 and 1990 can be attributed to the increase in the number of manatee sightings. He agreed with the need for the public safety issue at Marineland to be addressed. Also, tug boats

“suck” water from the shoreline and then anything along the shoreline, including mammals, are sucked into the wake of the tug. He is concerned about some of the data because the number of the manatees is increasing.

- d) Linda Hanson – Inquired how this study got started. Was it by local complaints of manatee deaths? State regulations? This is a boating community. She feels we lose more boaters than manatees. Why are we trying to cut off something we enjoy doing that is the same as a highway? She can appreciate the concern about boaters going fast. She feels people are looking for excuses to put up a speed zone. Why is her tax dollars being spent to even put up signs?
- e) Debbie Hogan – She feels a more simple solution can be found for this problem. Mentioned the study done several years ago as a result of boat races through the ICW. The final result was that signage was installed but most are now rotted out or gone. Does not know how hard it is to change speeds once established. Suggested started small and then increase the restrictions if there are more manatee deaths. Asked how the restrictions would be enforced. Would like to see county parks be an area where slow speeds are enforced for public safety, mentioning Hershel King and Bing's Landing. She would like to see the Hammock Dunes Bridge and the fuel dock at the Palm Coast Marina as slow speed areas. When asked if there is a problem with wakes at the fuel dock, Ms. Hogan responded in the affirmative.
- f) Dr. Katie Tripp – It is good for the committee to separate the boating concerns as well as the manatee concerns. Referencing Marineland, she feels that if the marina is developed there would automatically be a safety zone stipulated for the marina area. She feels that the maps are important tools that the FFWCC has not always had available. It is important to pay attention to the coincidence data because she has seen injured manatees travel for days away from the initial impact area. Also, she feels slow speeds are one of the best tools to protect manatees. Also, she asked the committee to consider the fact that almost all manatees have been hit more than once so the overall issue is about more than those who are killed. The effects of the strikes on the overall health, longevity, reproduction, etc., of the manatee may also be affected by the multiple strikes. Manatees travelling surfaces more frequently to breathe so the potential for strikes increases. Whereas when they are resting, they surface to breathe less often. The waterway should be considered the same as a highway, and regulated for property protection, human safety, manatee safety, etc.
- g) Dennis Bayer – When this process started in 2006, Sea Ray Boats prepared a report, which he offered to share with this committee if desired, relative to the area and other information that is needed for the boat performance testing. As this process is important economically to the county as well as to their company, he feels that any exception that could be afforded Sea Ray Boats would be appreciated. Mr. Bayer is also the attorney for the Town of Marineland and spoke to the difficulty Marineland has experienced in getting speed zones established for public safety purposes. He inquired as to whether the water quality at waste water sites along the ICW is having any bearing on the perinatal deaths. He believes the permitting data from these waste water sites show high toxicity. Some of this information could possibly be used to clean up some of the inlets.

- h) Paul Wilhelmsen – He asked if there is a way to get more educational materials to the children on manatees and boating safety. In this way, he feels the information would also get to the adults. Additional signs at the landings could also help to educate everyone about manatees.
- i) Jane Culpepper – She has not heard anyone today speaking on behalf of manatees. She thought half of the committee membership was to be manatee advocates; yet most of the speakers have been more concerned about being able to run their boats fast. She would like to see more concern for the manatees. You can see many cuts on most of the manatees in the area. If there is a meeting to discuss protecting the manatees, she would like to be invited.
- j) Kevin Peck – Spoke on behalf of improving the public's education on manatees and boating safety. He feels the smaller boats are the problem because of what he has experienced in performing his job in the waterways.

Mr. Vorndran departed the meeting at 2:50 p.m.

- k) Russell Jones – What he is seeing here today is that manatee protection and boating are mutually exclusive in the ICW. He does not see how both can happen together. If you slow the boat traffic for six miles, you have essentially closed the waterway. Are we still going to have to pay taxes to maintain the ICW if it is shut down?
- l) Michael Duggins – Some of the people want to know why this is being attempted. He feels it goes back to 2006 when the USF&WC felt there were too many dock permits being requested. The USF&WC stopped issuing dock permits at that time until a manatee plan was established for the county. He feels the USF&WC are again concerned with the ICW docks that are waiting for permits for construction by large developers.

Mr. Caroe asked for Mr. Milio's comments. To summarize his comments: He represents the federal interests. The USF&WC does have a vested interest in manatee protection and conservation, which is their duty, responsibility and authority. They manage this through attempts to recover the species and through the regulatory process. He noted that this agency is not responsible for issuing dock permits, as mentioned by a previous speaker. They engage in consultation with federal agencies for potential impact. Docks are permitted through the US Army Corps of Engineers. His agency did express a concern a few years ago about watercraft related manatee mortalities in the most recent decade because it had not been seen in past decades and their concern that this could relate to the increase in dock permit requests. This concern still remains. They have committed to work with other state agencies to find reasonable approaches to protect manatees in Flagler County in a way that does not eliminate the watercraft activities. This is to create a balance between the two issues.

Chair Netts offered the committee an opportunity to review the data, get with staff to produce a map of the area with landmarks, and have that at the next meeting. He reminded committee members that they have only 60 days to prepare the recommendations. During the 60-day period, time will need to be set aside for the response to be drafted and then presented back to the committee for review and

finalization. Mr. Caroe asked for the map to be prepared and presented to the committee a few days prior to the meeting. Mr. Telfer agreed this could be done in a few days time. The map will show the relative width of the ICW, the landmarks, the areas of recommendation, etc. Larger display maps will also be available at the next meeting.

7. Dates of Future Meetings – There was a suggestion that prior to the finalization of the committee's report at least one meeting be held in the evening to allow more public input. Another suggestion was to hold the meetings at the Palm Coast Community Center; however, Chair Netts noted that this is a county committee and should, therefore, be held at a county facility. After further discussion, it was the consensus that the next meeting of the committee would be Wednesday, June 9 at 1:00 p.m. in the GSB. The exact room location will be identified and provided to all interested parties.
8. Adjournment – Upon motion, seconded, the meeting was adjourned at 3:05 p.m.

Local Rule Review Committee (LRRC)
Meeting June 9, 2010
Minutes

APPROVED AT JUNE 23, 2010 LRRC MEETING.

MEMBERS PRESENT: Ed Caroe, Chris Herrera, Laureen Kornel, Stan Ksyniak, Richard McCleery, Jim Netherton, Jon Netts, Linda Provencher, Virginia Tee and Chris Vorndran

MEMBERS ABSENT: None.

STAFF PRESENT: Tim Telfer, Environmental Planner and Staff Liaison, Christie Mayer, Administrative Assistant.

OTHERS PRESENT: Christopher Boland (FFWCC), Scott Calleson (FFWCC), John Milio (USFWS), and interested citizens.

1. Call to Order – Chair Netts called the meeting to order at 1:00 p.m.
2. Pledge of Allegiance – Was led by Chair Netts.
3. Roll Call – A quorum was obtained with all members present.
4. Approval of Minutes of May 26, 2010 Meeting – Motion to accept the minutes as presented was made by Ed Caroe and seconded by Linda Provencher. The motion was then unanimously carried.
5. Continued Discussion of Florida Fish and Wildlife Conservation Commission Report – Chair Netts opened the meeting by distributing his comments on the report (see Attachment 1), which included geographical references to each section of the ICW included in the report.

Ms. Kornel expressed her concern that, after the last meeting, it seems there are two groups divided at opposite ends of the spectrum, with the stage already being set for the two groups to disagree. She also expressed her thoughts that a meaningful discussion has not taken place as well as an adversarial stance being taken against the FFWCC. Ms. Provencher responded that she simply tried to absorb everything from the FFWCC at the last meeting; hoping at this meeting there will be more discussion and the opportunity for additional public input. Mr. Netts responded to the comment that the committee is polarized when in fact by statute the make-up of this committee is 5 members as manatee advocates and 5 members representing the boating community. In response to the inquiry by Ms. Kornel, Mr. Telfer also noted that the task of the committee in the end is to respond to the FFWCC proposed speed zone. If there is not a consensus, the committee is required to not only respond with a majority opinion, but a minority opinion as well. Ms. Tee commented that the committee is not supposed to come up with an overall manatee protection plan (education, signage, water runoff, etc.); the committee is just to comment on the FFWCC recommendations.

In response to a request by Chair Netts, Mr. Calleson reviewed the FFWCC rule process and the position of this committee in the process. This committee's report will go to the FFWCC commissioners at a future meeting (probably November), who will decide whether to go to a public hearing, depending on the recommendations of both entities. After that time, a final decision will be made by the commissioners.

Starting at the northern most area, the committee then reviewed the recommendations.

- A. Area 1 – Marineland and Matanzas River: No recommendations from the FFWCC. Chair Netts feels that a boating safety zone would be warranted because of the public request, but this is separate from the manatee component. This zone would extend a couple hundred yards north of the proposed marina to just south of the proposed marina.

Mr. Netherton suggested that the manatee count was underrepresented for this area because in the summer season especially, manatees are seen daily in this area. Disregarding the fact that the aerial survey did not show this as an area of concentration, it should not be disregarded and the slow speed minimum wake zone should be given consideration.

- B. Area 2 – Palm Coast: The area covered here is from the middle cut Cimarron Basin to just below Hammock Dunes Bridge. Mr. McCleery suggested shortening the area of concern by starting at the first Palm Coast bridge (as opposed to the Cimarron Basin cut) as he does not feel there is enough density north to warrant the restriction. Also, because the channel is narrow the boaters should not be going that fast in this area.

Mr. Ksyniak would like to see this area be looked at strongly (for boating safety as well as the lack of areas for manatees) because it is so narrow.

The committee discussed the number of manatee deaths and number of manatee sightings in this area. The FFWCC staff noted that the recommendation was made for this entire area because there have been a higher number of coincidences with boats and manatees.

Mr. Herrera noted that by shortening the zone, it may just cause the manatees to move, thereby simply moving the area of concern.

- C. Area 3 -- Smith Creek North of SR 100: The area covered is the Lehigh Canal (Sea Ray cut) on the north to the Flagler Beach Bridge on the south. There is an existing slow speed minimum wake boating safety zone surrounding the Flagler Beach Bridge. The recommendation is to extend the slow speed minimum wake zone north 1.2 miles to the Lehigh Canal.

Ms. Tee noted her frustration on the focus on the number of manatee deaths because manatees travel a great distance and could have done so after being struck. It seems a lot more could be done in documenting incidences of manatee injuries. Even though boaters are not reporting all manatee hits, she would like to

see this information because the hits have an impact on the life for the manatee. Focusing on where the carcass was found is not the only information that should be considered. Ms. Kornel agreed with this assessment.

Chair Netts feels that another option might be to parallel what is in Volusia County with separate zones both in and out of the channel.

Mr. McCleery inquired if there have been any efforts to place tracking devices on manatees to know how long they stay in the area and where they go from here. Mr. Calleson mentioned that the report on tagged animals was placed on the county website. He stated it is evident that this is a transient area, with some manatees going north in the warmer months but the majority travelling southward.

Mr. Herrera also spoke about the effects of shortening the zone.

Ms. Provencher inquired as to the frequency of FFWC reviewing the data and zones once they are set in place. Mr. Calleson noted that one of the things the Commission is trying to do now is go back to the zones but this will not occur again for quite a while unless there are various notable incidents to warrant another review. The collection of the data and the surveys will probably not be funded for several years again.

Mr. Vordran spoke about the three boating deaths in Volusia County recently. He feels that a reduction in the number of manatee zones in that area may have had an impact.

- D. Area 5 -- Smith Creek South of SR 100: The first area covered here starts 1.5 miles north of Gamble Rogers Park northward. This area has a high number of manatee deaths and, therefore, Chair Netts sees no problem with the recommendation.

Year round speed zones were recommended by Chair Netts and agreed to by several other committee members.

Ms. Provencher agreed she would like to see the current zone extended as recommended.

From Gamble Rogers south to the Volusia County line is the second area. Chair Netts feels extending the Volusia County rule in this area makes sense.

Mr. Calleson noted the Volusia County zones went into effect a while ago and they have since learned that most boats operate within 25-30 mph. Therefore, it would affect very few boaters by having separate zones in the channel from out of the channel. Their assessment of the waterway in Flagler County is that the channel is the waterway due to the shallow depth and narrow width of the water.

Also Mr. Calleson responded to a question that the universal reaction of manatees is to seek deeper water when they feel threatened. The waterway in Flagler County is only about 12' deep.

Chair Netts noted that all of the information provided to the committee is also available to the public on the county website (<http://www.flaglercounty.org/index.aspx?nid=648>).

In summary, Chair Netts lead the committee in a discussion reviewing the map showing the location and number of manatee deaths (Figure 4 from FFWCC report).

Mr. Ksyniak noted that this committee appears to be data driven and focusing on where the manatees come and go into the canals. He feels like one death in 20 years is enough to be concerned; however, if there has not been one death in a 20-year period then he feels a speed zone would not be warranted.

Ms. Tee inquired why the areas with the highest coincidence are not incorporated in a zone yet the areas with the lowest coincidences are included in the recommendation, referencing Figures 6 and 7 in Palm Coast.

Mr. Herrera and Mr. Ksyniak spoke to the fact that in two hours the data gathered would show the manatees at another location.

Ms. Kornel asked Mr. Netherton if the Town of Marineland would like a speed zone around the Marineland marina area. He reported that the citizens would like to see a speed zone in the area, whether it comes as a result of this committee or it is pursued in the future, they feel it is warranted. Ms. Kornel then noted that their efforts are more proactive than reactive. Mr. Netherton feels the Town of Marineland is more interested in focusing on the areas of coincidence rather than the areas where carcasses were recovered.

Chair Netts then suggested each committee member write down their comments for each area of the FFWCC recommendations and provide them to Mr. Telfer. Mr. Telfer will then combine and distribute the comments to everyone before the next meeting.

6. Citizen Comments – Chair Netts then asked if any members of the public wished to speak. (The below named individuals also provided backgrounds on themselves and/or their interest in this subject. All guests at this meeting did not speak before the committee.)
 - A. Larry Madama – Comment points: minority should not be making rules for the majority; ICW was developed and is being maintained for boat traffic at taxpayer's expense; boaters have made big investments; Palm Coast has a big economic impact to protect for boaters; the impact of speed zones would be significant; he will move his boat out of county if speed zones are instituted; there is no inlet in Palm Coast so only enjoyment is ICW; April 1 to October 1 is too long because it is the entire primary boating season, therefore, he urged a compromise by cutting the season in half; coincidence report is unreasonable.
 - B. Bob Eisman – Mr. Eisman's comments are attached to these minutes as Attachment 2.

- C. Richard Fabian -- Mr. Fabian's comments are attached to these minutes as Attachment 3.
- D. Dr. Katie Tripp -- Comment points: one of the reports spoke about growth of Flagler County with the number of registered vessels expected to increase 60%; has heard a lot of concern from Flagler residents about the quality of life for boaters declining in Flagler County if speed zones are enacted, so she asked boaters who live in other Florida counties with speed zones how these zones have affected them, and the overwhelming sentiment was that the zones actually enhanced their quality of life and boating enjoyment; B1 entire section is important; D1 fast boats are a large component in this area; D2 had relatively high coins; E1 and E2 data speaks for itself.
- E. Dennis Bayer -- Mr. Bayer spoke on behalf of Sea Ray Boats and distributed a copy of the Sea Ray report, dated May 31, 2007, he referenced at the last meeting, (see Attachment 4). Comment points: does not feel the county dropped the ball from three years ago as previously mentioned but growth and number of dock permits requested has brought this out again; main area of concern is D1 where most of the boat testing is done 2-4 miles north of Lehigh Canal; Sea Ray operates mostly in non-peak hours and they will be looking for a permitting process as an option.
- F. Mike Cocchiola -- Comments included: when he looks at the data he does not feel it supports a slow speed zone north of the SR 100 bridge because there is not enough data that would warrant slow speed zones; the data does not indicate if the boats were fast or slow boats; statistics do not say that speed kills; who will enforce these regulations; at what point does the cost outweigh the benefit; educating boaters to be aware of manatees would be more beneficial than slow speed zones.
- G. J. NeJames -- Comments included: he is in agreement that the data does not support slow speed zones; more injuries occur to manatees when the boats are going slower speeds; he would recommend to leaving the zones the same as they are now with signs posted that manatees are in the area.
- H. Mike Rountree -- Comments included: he would like to ask the committee to think outside the box; would like the committee to consider, with FWC backing, a weight/height restriction which has been implemented in other areas in Florida; driving on plane in the ICW cause damage to kayaks, pilings, etc.; try to find a plan that would be satisfactory to both the boaters and manatees.

Ms. Kornel departed the meeting at 3:00 p.m.

- I. Steve Mills -- Comments included: this proposal is driven by economics; the manatee regulations would allow for more permitting for future expansion; the zones being sporadic do not appear to be the answer; more reasonable would be a 25 mph zone; seems the committee is trying to make a decision what the zones would be not deciding whether or not to have the zones; there are other answers besides restricting boat speed.

Ms. Provencher departed the meeting at 3:02 p.m.

- J. Ray Skiler – Comments included: his research shows Flagler County only represents 1.03% of annual manatee deaths caused by watercraft, 1.75% of perinatal deaths, averaging 1.4% of total deaths in State (a very small portion of the overall problem); 11 of 14 manatees killed by boats occurred in Flagler County during months of May, June & July; if the marina is built in Marineland, then go out and get slow speed zone and do it on the basis of public safety, not on the manatee issue.

Mr. Herrera departed the meeting at 3:05 p.m.

- K. Alfred Scott – Comments included: he takes exception to the letter from US Dept. of Interior on the high 10 reasons for the manatee deaths; he is upset that in the last month the EPA and now the FFWCC have decided there is a need for additional regulations in Flagler County; agrees with speed zone coming out of the main Palm Coast canal; he would agree to 25 mph down center of the channel.
 - L. Honey Moresco – Comments included: the committee is talking about a relatively small area and small number of problems; why should speed zones be extended for larger area; does not make sense statistically or in common sense to extend the zones six miles.
- 7. Date of Next Meeting – Ms. Kornel and Ms. Provencher both spoke to hosting one evening meeting. Mr. Telfer reminded the committee that the deadline for their report to FFWCC is July 23rd, 44 days from today. It was then decided the next committee meeting would be Wednesday, June 23, 2010 at 5:30 p.m. The exact room location will be identified and provided to all interested parties.
 - 8. Adjournment – Upon motion, seconded, the meeting was adjourned at 3:15 p.m.

ATTACHMENT 1 TO LRRC

MINUTES OF JUNE 9, 2010

Marineland and Matanzas River:

While the FWC staff has not identified the area adjacent to Marineland as an area where a "zone" might be warranted, the pending redevelopment of a Marina at Marineland suggests that this area may become congested with boater traffic. For this reason I could support creating a year-round "Boating Safety Zone" in this area. I would request that FWC convey this suggestion/request to the appropriate agency for consideration.

B1: Palm Coast:

In this area, only three (3) manatee deaths (1990, 1995 and 1998) were attributed to watercraft. While there has been an almost exponential growth in population and in boat registrations in Palm Coast during the period from 1990 to 2009 there has been no corresponding increase in manatee deaths. It is difficult for me to see a causal relation between boating activity and manatee deaths that would warrant the creation of slow speed zones.

On the other hand, there is a narrowed channel in this area due to the Hammock Dunes Bridge. In addition, the presence of two (2) marinas – The Palm Coast Marina and the Hammock Beach Marina, suggest that there will continue to be boating congestion and significant "cross-channel" boating activity in this area. Further, data supplied by FWC indicates a significant number of manatees in the extension of the southern-most palm Coast residential salt water canal. The only way manatees can access this area is through this main canal. For this reason I support creation of a "Slow Speed, Minimum Wake" zone from approximately three hundred feet (300') South of the Hammock Dunes Bridge to approximately half-way from the bridge to the middle Palm Coast "cut" (Cimarron Basin). This would correspond roughly to the northernmost seawall of the Hammock Beach / Yacht Harbor development.

Foxes Cut:

While the FWC staff has not identified the area roughly identified as "Foxes Cut" as an area where a "zone" might be warranted, the presence of Herschel King Park with its associated boat ramps, the confluence of the old intracoastal waterway east of Island Estates, and the relatively narrow "constrained by coquina rock" channel suggest that this is also an area that might benefit from a "slow speed, minimum wake" designation from the "Aid to Navigation" day mark #2 to approximately five hundred feet (500') south of Herschel King Park. As with the Marineland recommendation (above) I would ask FWC to bring this suggestion/request to the attention of the appropriate agency.

Smith Creek North of S.R. 100

D1: Silver Lake south to the Lehigh (Sea Ray) Canal: Only a single manatee death attributable to watercraft-related injury has been recorded in this area. In my mind, this does not warrant the creation of a "slow speed, minimum wake zone." Further, this is the area in which Sea Ray initiates most, if not all of its water testing. I might support creation of a "slow speed, out-of-channel" zone in this area as an alternative.

D2: Lehigh (Sea Ray) Canal south to approximately three hundred feet (300') of the S.R. 100 Bridge: This area overlaps a shorter segment of a "Boating Safety Zone" that extends from approximately three hundred feet (300') south of the bridge to just north of the unoccupied marina. FWC staff reports that there have been NO watercraft-related manatee deaths in this area. I might support a "slow speed, minimum wake" zone east of the Channel in this area.

E1: From Gamble Rogers Park to approximately 1.8 miles northward: Here the data suggests a significant correlation between boating activity and manatee deaths. FWC recommendations for this area seem reasonable.

E2: From essentially the Volusia County line northward to Gamble Rogers Park: FWC reports NO manatee deaths in this area attributable to watercraft. I might support an extension of the Volusia County rule that provides for a "daytime speed limit of 30 mph and nighttime speed limit of 25 mph within the channel, and a "slow speed" zone outside the channel.

Jon Netts
06-10-10

ATTACHMENT 2 TO LRRC
MINUTES OF JUNE 9, 2010

The goal of these proposals is suppose to be to save the manatees. But these proposals seem to be more than an extreme method of accomplishing this goal.

There seems to be conflicting evidence as to whether 'speed kills' in reference to manatees. Some researchers indicate that with the sound frequencies of slow moving boats, the manatees have less time to react. This may have some substance as the number of manatees killed in Volusia County seems to indicate. 34 manatees were killed by water craft in the **22 years prior to 1998, 61 have been killed in the 11 years since.** There is no scientific data to support these speed zones and anything that is contrary to speed zones seems to be ignored.

We should also look at the effects of implementing these go slow speeds.

Boating congestion. Do to the manatees speed zones, boat congestion increases dramatically, similar to lane closures on the interstate. It would be interesting to know how many boating accidents, human injuries and deaths have occurred adjacent to these areas. Boats are trying to get back up to speed as soon as possible, others other trying to hold speed to the last minute prior to entering a zone. Wakes are going every which way. Just last week there were 2 fatalities in Volusia County right after exiting a zone.

In Volusia these speed zones are destroying a significant portion of the tourism industry in a county that is heavily dependent upon tourism for its economic survival.

The proposed zones for Flagler County will likewise be devastating. A boat trip from Hershel King to High Bridge would take well over an hour just put put putting along. There is only one short area where a boat could get up to any speed at all. These zones would pretty much put an end to boating in Palm Coast and most of Flagler County.

The effect on tourism, charter fishing and transit boats would be drastic. 3 – 6 mph for most of the county !

Why would we do this when it would cause so much hardship. In the last **20 years there have been 15 manatees** kill by watercraft in Flagler County. So these drastic measures have the potential of **saving one manatee a year, but there is no guarantee.**

Using the same logic as used in theses proposals we should reduce all the Florida interstate speed limits to 20 mph, I believe humans are more valuable than manatees. We could apply same logic for bears, deer, and the like and really bring Florida to it's knees, not just the boaters.

It appears that there are some groups that will not be happy until the ICW is closed to boaters and becomes a manatees aquarium. Common sense indicates that there is no justification for creating additional restrictions in Flagler County.



Fish & Wild Life.

Where do they go?

ATTACHMENT 3 TO LRRC
MINUTES OF JUNE 9, 2010

June 23

- My name is Richard Fabian. I am a resident of Palm Coast, a boater and a member of the ABC boat club.
- I would like to briefly comment on the data and data analysis related to specific Flagler areas being considered as new Manatee protection zones.
- These designated zones are listed in Figure 1, as (B) Palm Coast and (D) Smith Creek North of SR 100.
- Figure 4, Manatee Mortality Palm Coast 74 - 2009 during the Warm season.
- Total fatalities reported were 30.
- Of 23 perinatal deaths 16 occurred deep within the residential canals. The location of the carcasses correlates with the known behavior of mother Manatees seeking quiet back water areas during the perinatal maturation period. By definition all perinatal deaths exclude human interaction. The residential canals where mothers and calves have been identified are already excluded from fast boat zones.
- During this same period of 3 boat related fatalities, only one occurred in the ICW. 1990, 1995, 1998.

As manatee
nursing
areas.

-
- I call your attention to figure 12, Focusing on Area D, Smith Creek North of SR 100.
 - Of 17 Manatee deaths recorded 10 were due to perinatal causes. Most carcasses were recovered in residential canals away from fast boat traffic.
 - Only one death was attributed to human intervention in this area. (boat related)

D1 + D2

Based on the data presented by the FWC, Manatee death by boat injury in areas B and D was 10% and 5.8% for a 35 year period. This is well below the state average of 25% of Manatee deaths due to boat injury.

THE DATA DOES NOT SUPPORT

I respectfully submit that ~~there is no data to support~~ restricted speed zones in areas B, Palm Coast and D, Smith Creek North.

TO BACK.

Because there is a high concentration of perinatal deaths occurring in residential canals where speed is already restricted, I propose that the FWC and their marine biologists' consider targeted studies to determine specific causes for the high and unacceptable infant Manatee mortality that appears to plague the Manatee population.

no evidence coincidence note correlates IF INDICATED
only as good (Manatee nursing areas) of manatee death
if it correlates
to mortal data.

Finally, areas A and B with a low boat manatee death rate stand in contrast to area E, Smith Creek South-

(specifically the Gamble Rogers Memorial State Recreation Area) where a total of 15 Manatee deaths were documented, 10 that were boat related. A 65% boat kill is unacceptable and a speed zone may well be the appropriate course of action in area E.

Sincerely, Richard L Fabian MD

Palm Coast Manufacturing Vessel Water Testing Information 5/31/2007

All Vessels Built:

Each vessel built at Palm Coast is water tested on the Intracoastal Waterway.

Start time of testing is dependent on the roll time of the production line that the vessel is built upon. (Typically, we are testing vessels anytime between 7:00AM and 4:30PM, Monday through Thursday)

We usually have a maximum of three (3) vessels being operated at the same period of time on the water.

Vessels are operated according to the Coast Guard "Rules of the Road." We observe all no wake zones and throttle down for all on coming traffic, all boats floating at docks and all small personal water craft. We must stay in the channel as our size vessels draft approximately 48".

The water test captains have a full time position within the plant and our captains are extremely experienced individuals. The average tenure of our water test captains is 15 years with a range of 13 to 16 years. They are very conscientious and cautious while operating the vessels. They watch for wildlife just as they watch out for vessels. They protect the waterways and are HAZWOPER trained. They practice environmentally safe boating practices.

Initial runs from the plant are between the barge canal (Channel marker - Green 11) north to Herschel King Sr Park boat ramp (Channel markers - Green 3, Red 4). This is a distance of approximately 2.4 miles. During these initial sea trial runs we have the engines hooked-up to laptop computers and are running through a series of RPM's and speeds to gather engine performance data with the engine manufacturer's representative. Multiple passes are required within this area as we gather data through the full RPM range of the engine package installed. Speeds range from 5.5 miles per hour to max posted speed within the area of run.

Approximately 90 minutes of run time for this step per vessel.

See Yellow Highlighted Area on Map

Systems runs are the second phase of water testing and these runs are usually between the barge canal (Channel marker - Green 11) north to the Palm Coast Marina (Channel Marker - Green 1). This is a distance of approximately 6.1 miles. Occasionally, we extend this run (Especially for larger vessels with more systems requiring verification) to Matanzas Inlet (Channel Marker - Green 83). Distance traveled during the extended run is approximately 15.1 miles. During the systems run we are checking the operation of all

on-board systems. Some of these must be checked with the vessel in the water such as generator operation (voltage delivery to panel & exhaust system), air conditioning systems, bow and stern thrusters etc. We also test full steering capability of the vessel with hard over turns to port and starboard and the effect of trim tabs on the vessel's attitude during operation. A full range of RPM and speed are utilized during this test. Approximately 180 minutes of run time for this step per vessel.

~~See Blue Highlighted Area on Map~~

Verification runs are the last phase of water testing and these runs are between the barge canal (Channel marker - Green 11) north to Herschel King Sr Park boat ramp (Channel markers - Green 3, Red 4). This is a distance of approximately 2.4 miles. During these runs we are verifying that any system found defective or out of specification during the initial run or systems runs have been repaired and are in specification for the final customer. A full range of RPM and speed are utilized during this test.

Approximately 45 minutes of run time for this step per vessel.

See Yellow Highlighted Area on Map

Water Delivery Vessels:

Approximately 30% of all vessels built at the Palm Coast facility deliver by water. (A captain picks up the vessel at our dock and departs for his/her final destination. This is usually a dealer's marina slip but occasionally it is delivered to a customer's slip.

Water delivery runs from the plant are between the barge canal (Channel marker - Green 11) north to Herschel King Sr Park boat ramp (Channel markers - Green 3, Red 4). This is a distance of approximately 2.4 miles. This run is a secondary check to verify complete system operation of the vessel. This run ensures the vessel is water ready for pickup by a captain. A single pass is required within this area as we compare data through the full RPM range of the engine package installed. Speeds range from 5.5 miles per hour to 35 miles per hour.

Approximately 45 minutes of run time for this step per water delivery vessel.

See Yellow Highlighted Area on Map

Course Deviations from Above:

Occasionally we deviate from the above courses due to things such as boat traffic, anchored vessels, dock building in progress etc. In this event we will travel from the barge canal (Channel marker - Green 11) south to high bridge in Ormond by the Sea (Channel marker - Red 24). Any of the activities above may be performed.

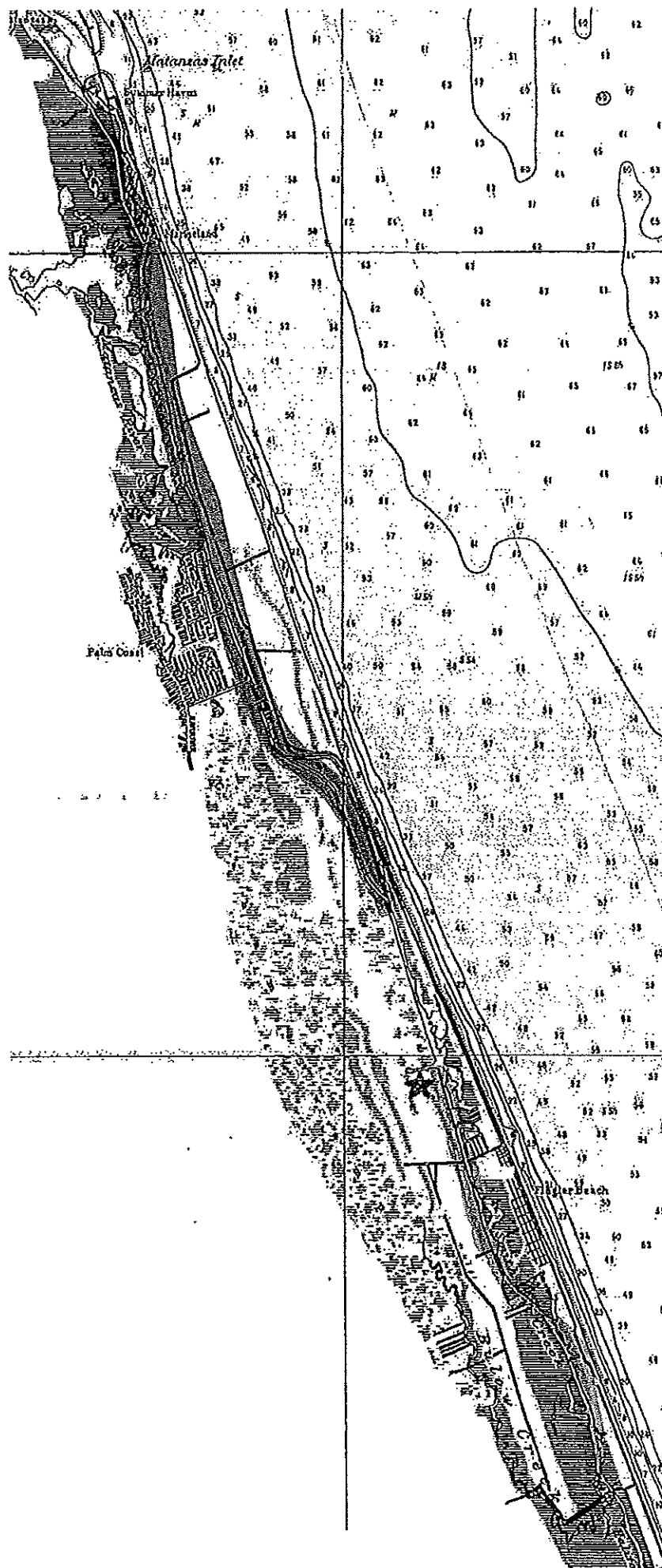
~~See Blue Highlighted Area on Map~~

Ocean Runs:

Once a week we select a vessel at random for an ocean run test. This allows us to test a vessel in full sea conditions. We typically extend the system run noted above and travel farther north to St. Augustine Inlet where we have access the ocean.

Validation Runs:

These runs are performed on an as required basis due to new product or product modifications initiated by engineering or product development. During these runs we are logging hours to ensure functionality and reliability of the product. These are usually long runs and we try to run in the Intracoastal Waterway to the north to St. Augustine Inlet and then run in the ocean to Ponce Inlet returning to the facility via the Intracoastal Waterway from the south. This is also known as a "Loop" run. This run usually results in a return to the plant beyond the normal 4:30PM time.





U.S. Fish & Wildlife Service



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
FISH AND WILDLIFE RESEARCH INSTITUTE



PALM COAST, FLORIDA

Here is our part.....your responsibilities.....

Whenever you are at the dock AND before you begin a test run.....

1. Survey the channel and look for manatees or their signs, footprints, etc.
2. Complete the sighting log immediately with as much information as possible.
3. Only place a boat in the water, start the engines or leave IF you are positive that you can do it without endangering the manatee(s).
4. If you cannot do this comfortably, communicate the spotting and condition to your immediate supervisor.
5. If boat testing is delayed due to manatees in the dock area, make sure that this is documented in the sighting log. Manatee (s) behavior, any information that would allow us to determine if this spotting is related to normal or abnormal behavior.
6. If any distinguishing marks are seen or injuries spotted, contact the FWC immediately without leaving the sight.



U.S. Fish & Wildlife Service



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
FISH AND WILDLIFE RESEARCH INSTITUTE



PALM COAST, FLORIDA

Here is our part.....your responsibilities.....while on a run....

If you see a manatee,

1. Stop, avoid it, do not disturb or harass it in anyway.
2. Complete the sighting log immediately with as much information as possible and cautiously leave the area. There may be more!

If you see an injured manatee in the water or witness a manatee get hit...

1. Stop and call the water patrol / FWC immediately!
2. Complete the sighting log and any related information, i.e. description of boat, tag number, etc.
3. Wait until the authorities arrive.

If you accidentally hit a manatee.....

1. STOP!!
2. Monitor the manatee but do not attempt to help it!
3. Do NOT jump in the water!
4. Call the water patrol / FWC immediately!
5. Complete the sighting log with as much information as possible
6. Wait until the authorities arrive.
7. Report the incident immediately to your supervisor.



U.S. Fish & Wildlife Service



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
FISH AND WILDLIFE RESEARCH INSTITUTE



PALM COAST, FLORIDA

The Sighting log requires.....

Captains Name & Clock Number

Date

Time of Day

Location – GPS coordinates (Longitude & Latitude)

Number of Manatees spotted

Description of location within waterway – middle, east shoreline, etc.

ONTARIO FISH AND WILDLIFE CONSERVATION COMMISSION
FISH AND WILDLIFE RESEARCH INSTITUTE



PALM COAST, FLORIDA

Sea Ray Boats, Palm Coast – Captain's Manatee Sighting Log

Sea Ray Boats: Palm Coast - Captain's Manatee Sighting Log

¹See Reverse Side for Manufacturer Injury Loss Incident Log!

Pr. 1

7. 09. 2015

[illegible]



U.S. Fish & Wildlife Service



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
FISH AND WILDLIFE RESEARCH INSTITUTE



DADE COUNTY, FLORIDA

Captain's Name & Clock Number

Date

Time of Day

Location -- GPS coordinates (Longitude & Latitude)

Number of Manatees spotted

Description of location within waterway -- middle, east shoreline, etc.



U.S. Fish & Wildlife Service



FISH AND WILDLIFE RESEARCH INSTITUTE



PALM COAST, FLORIDA

Sea Ray Boats, Palm Coast - Captain's Manatee Incident Log - for reporting injured Manatees or Manatee strikes ONLY!!!

Remember!!! STOP!! Call Fish & Wildlife Conservation Commission immediately 1-888-404-3921!!

Page 1

7/15/2005

Incident #	Date	Captain	Employee ID	Time of Day	Latitude			Longitude			Injured Manatee Spotted?	Description of location within waterway, i.e. middle, east shoreline, west shoreline, out of Manatee HR? traffic lanes, etc.
					Degrees	Mins	Secs	Degrees	Mins	Secs		
1												

Description of exactly what happened or what was witnessed: Include actions of the captain at the time of incident, description of vessel that was involved in manatee incident.

Responding Authority information: Officer Name, badge number, description of direction of travel, date, time, location of incident, etc.

Local Rule Review Committee (LRRC)
Meeting June 23, 2010
Minutes

APPROVED AT JULY 8, 2010 LRRC MEETING.

MEMBERS PRESENT: Ed Caroe, Chris Herrera, Laureen Kornel, Stan Ksyniak, Richard McCleery, Jim Netherton, Jon Netts, Linda Provencher, Virginia Tee and Chris Vorndran

MEMBERS ABSENT: None.

STAFF PRESENT: Tim Telfer, Environmental Planner and Staff Liaison, Christie Mayer, Administrative Assistant.

OTHERS PRESENT: Christopher Boland (FFWCC) and interested citizens.

1. Call to Order – Chairman Netts called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance – Was led by Chairman Netts.
3. Roll Call – A quorum was obtained with all members present.
4. Approval of Minutes of June 9, 2010 Meeting – Motion to accept the minutes reflecting the correction previously distributed was made and seconded. The motion was then unanimously carried.

Chairman Netts announced he will be leaving the meeting today at 6:15 p.m.

5. Continued Discussion of Florida Fish and Wildlife Conservation Commission Report – Chairman Netts reminded the committee that the ultimate work product of this committee is a report on the recommendations made by the FFWCC. This can include a majority as well as minority report. The three options for each area are: (1) accept the recommendation in total; (2) reject the recommendation in total; and (3) suggest modification to the recommendation. In response to a question by Ms. Kornel, Mr. Boland noted that reports they have received from other counties have been in just that format.

Mr. Ksyniak asked if there is specific criteria or definitions for zones in relation to speed. Mr. Boland noted there are 4 zones: (1) no entry zone; (2) idle speed no wake zone (about 3 mph); (3) slow speed minimum wake zone; and (4) numerical values (ex: 25 mph).

Chairman Netts has spoken to the FWC and he has expressed his opinion previously that he would be strongly in favor of a boating safety zone in certain areas (ex: Hershel King Park) but this is not an appropriate recommendation of this committee. He will, therefore, obtain the information as a private citizen to make application to the Boating & Safety Law Enforcement Division of FFWCC.

Chairman then began a discussion of each recommended area to get an idea of those committee members in favor, opposed to, or in favor with some modification.

- A. Zone 1, Marineland – FFWCC recommendation: no speed zone be established. Mayor Netherton talked about accepting the FFWCC recommendation until the marina is developed but, in the future, the Town of Marineland will be asking for reconsideration.

After discussion, there were 4 members in favor of a slow speed out of channel or in a buffer zone; and 6 members were in favor of accepting the FFWCC recommendation that no zone be established.

- B. Zone 2, Palm Coast – Section B2 FFWCC recommendation: add a warm season slow speed minimum wake zone. One member is in favor of the recommendation in its entirety; 7 members were in favor of weekends only zoning; no one opposing it in its entirety.

After further discussion, two additional options were brought forth: one option was to shorten the zone to 300' south of the bridge (for approximately ½ of distance) for weekends only, where 8 members were in concurrence. The second option had only 1 member in favor of shortening the distance but make it all week long.

Mr. McCleery mentioned putting the recommendations in a chart format. The committee agreed to his offer to compile the data.

Section B1 – FFWCC had no recommendation for this area. There were no further comments from the committee on this area.

- C. Zone 3, Fox Cut – FFWCC recommendation: no speed zone be established. There were 8 members in support of the FFWCC recommendation with 2 members opposed, suggesting a weekend only zone.
- D. Zone 4, Smith Creek North of SR 100 – Area D1 -- FFWCC recommendation in: add a warm season slow speed minimum wake zone. Three members were in support of the recommendation and 7 members opposed to the recommendation in total.

Mr. Netts was opposed to an exception being granted for Sea Ray because he feels that boaters seeing Sea Ray boats going fast would have a tendency to also go faster, no matter what the posted signs reflected.

Ms. Kornel asked for an opinion from the County Attorney regarding a possible conflict of interest for Mr. Ksyniak as he is employed by Sea Ray and they would have a financial interest in the outcome of the FFWCC recommendations. Mr. Ksyniak then asked the FFWCC to get the cost and information needed for Sea Ray to apply for a permit exception. Mr. Boland provided him with the contact information.

Area D2 -- FFWCC recommendation in: add a warm season slow speed minimum wake zone. One member was in total agreement with the recommendation; 2

members were opposed to the recommendation in total; and 7 members would be in support with modification.

- E. Zone 5, Smith Creek South of SR 100 – FFWCC recommendation in area E1: add a warm season slow speed minimum wake zone. Eight members were in total agreement with the recommendation; and 2 member was in support but questioned the distance (may be shorter).

FFWCC recommendation in area E2: change existing zone to a warm season slow speed minimum wake zone and remove the component of the existing zones that are in effect during the cold season, and amend the Volusia County rule to remove the portion of the existing zone that is located within Flagler County. Two members were in total agreement with the recommendation; and 8 members opposed the recommendation in its entirety (to stay with the current zoning).

Going back to the discussion of Sea Ray making an application for a permit for exception to the FFWCC recommendations, Ms. Tee asked if it is appropriate for this committee to make a recommendation for a permit for Sea Ray. Mr. Herrera asked how long the permit process takes, in response to which Mr. Boland noted about 30 days.

Chairman Netts then turned the meeting over to the Secretary, Ed Caroe, as he departed.

Ms. Tee asked if it was necessary to also have a discussion of "warm season" months. It was the consensus of the committee that Mr. McCleery include in the recommendations the thought to shorten the warm weather season to just May, June and July as this appears to be the months when most of the data shows the possibility of incidents.

6. Citizen Comments – Chairman Netts then asked if any members of the public wished to speak. (All guests at this meeting did not speak before the committee.)
- A. Hap Cameron – He is disappointed that prior to the committee taking a count, that it would take into consideration the thoughts of the public. There has to be an attractor for manatees such as a food source or fresh water source. Would like to propose there are three fresh water sources in area B2 and should be considered.
 - B. Dennis Cross – Lives in area D1 and he is opposed to slow speed minimum wake in this area. He does not think the committee's efforts are starting off at a level playing field. There should be a 2-step process: step 1 should be the question of whether the speed zone is necessary; step 2 would be what the speed limit should be. This committee is starting at step 2.
 - C. Dave McDonald – Who is in charge of looking at the financial impact of the recommendations? The FFWCC recommendations would put in place an impact on boaters that would equate to a lot of money due to the fuel economy for boats going slower rather than on plane.
 - D. Celena Chalkley (last name verified at July 8 meeting) – Spoke about benefits of manatees to ecotourism. Also by providing slower speeds the benefits of living in

Flagler County could become more known to the people passing through the area, thereby providing economic benefits.

- E. Richard Fabian – See Attachment 1 for his comments, which predominately relate to the proposed no wake zone for Palm Coast. Also, he would hope there will be a study as to why the young manatees are dying.
 - F. Sara Lockhart – Spoke in favor of FFWCC recommendations.
 - G. J. NeJame – The numbers from the FFWCC are suppositions/guesses. Flyovers and other data should have been gathered more frequently to get a better sense of incidents. The damage to the manatees do not have to be from boats. Need to concentrate on 80% deaths from sources other than boat impacts.
 - H. Jayce Ramage – If the entire proposal is adopted, the financial impact would be devastating. Boating is one of the main reasons why a lot of people moved to Flagler County. Why cannot there be a compromise?
 - I. Ray Staba – Going slow is not necessary to avoid manatees. Why didn't Gamble Rogers State Park offer to limit boating during the manatee season since the majority of the manatee deaths were in their area? He also spoke of cost of 8 of 13 miles having no wake zone; there would be a loss in real estate revenue and taxes.
 - J. Dr. Katie Tripp – Spoke in support of FFWCC recommendations in their entirety. Perinatal mortality is a very important issue as well. Proactive education measures would also be helpful.
 - K. Debbie Hogan – Spoke about lack of enforcement abilities. Committee members were urged to take small steps and possibly increase the zones in the future after more study done.
 - L. Mike Cocchiola – Statistically we are looking at ½ manatee death per year. To arrive at "0" manatee deaths per year, the only way to statistically arrive at this would be to either remove all manatees or remove all boats. This is not possible.
 - M. Michael Duggins – Spoke in favor of the FFWCC recommendations.
 - N. Don White -- Please keep in mind the human safety aspect. The slower speeds would help that as well.
- 7. Date of Next Meeting – It was suggested that the next meeting again by an evening meeting. The date of July 6 was chosen, pending the availability of Chairman Netts and a meeting room. The exact location and date to be confirmed at a later date.
 - 8. Adjournment – Upon motion, seconded, the meeting was adjourned at 7:02 p.m.

ATTACHMENT 1 TO THE LRRC
MINUTES OF JUNE 23, 2010

June 23, 2010

My name is Richard Fabian. I am a retired surgeon, a resident of Palm Coast living in the C-section, and a person who enjoys fishing, boating and watching Manatees.

My comments will predominantly relate to the proposed NO Wake Zone proposed for the Palm Coast Zone.

- **Fact:** assuming all boat/manatee deaths occurred in the ICW, only 3 deaths occurred over a 35 year period.
- **Fact:** C-section residential canals were the site of 16 plus perinatal deaths. By definition this classification excludes human interaction as a cause of death.
- **Fact:** The first section of the Palm Coast Marina Canal from the ICW to the Palm Coast Parkway Bridge already has a NO Wake Zone already ~~protection~~ ^{protecting} moored boats and manatee traffic.
- **Fact:** There is no evidence of Manatee injury as they enter the C-section canal system to give birth and raise their young during the perinatal period.

Comment: Putting a no wake zone in the ICW Palm Coast zone is analogous to lowering the speed on route 95 because there are accidents on Palm Coast Parkway.

My hope is that the FWC AND THE TOWN OF Palm Coast would concentrate on conducting studies in section C to determine why young manatees are dying there. This degree of perinatal mortality in a narrow geographic area should concern everyone and is totally unacceptable.

- **Fact:** There is no data or study to support the notion that there is "congestion" in the ICW due to the presence of two marinas.
- There has been no data or formal study to substantiate the statement that the majority of Palm Coast Residents,(canal or otherwise), prefer a No Wake Zone in zone 2.
- **Fact:** There is a world of difference between a speed zone and a No Wake Zone. This difference should be clearly defined to all residents.

Questions:

- **Who will enforce the proposed No Wake Zones in all areas? Who pays for this service?**
- **What are the economic effects (business, residential, boating public) on the city of Palm Coast area if the FWC imposes and the town accepts the proposed No Wake Zones? Thank you, RLFabian MD**

Local Rule Review Committee (LRRC)
Meeting July 8, 2010
Minutes

APPROVED AT JULY 19, 2010 LRRC MEETING.

MEMBERS PRESENT: Ed Caroe, Chris Herrera, Laureen Kornel, Stan Ksyniak, Richard McCleery, Jim Netherton, Jon Netts, Linda Provencher and Virginia Tee.

MEMBERS ABSENT: Chris Vorndran.

STAFF PRESENT: Tim Telfer, Environmental Planner and Staff Liaison, Christie Mayer, Administrative Assistant.

OTHERS PRESENT: Interested citizens.

1. Call to Order – Chairman Netts called the meeting to order at 5:31 p.m.
2. Pledge of Allegiance – Was led by Chairman Netts.
3. Roll Call – A quorum was obtained with all but one member present.
4. Approval of Minutes of June 23, 2010 Meeting – Motion to accept the minutes was made by Mr. Herrera and seconded by Ms. Tee. The motion was then unanimously carried.
5. Continued Discussion of Florida Fish and Wildlife Conservation Commission Report – Any further review of the FFWCC report took place along with discussion of committee findings.
6. Continued Discussion of Committee Findings – Chairman Netts suggested the committee review the data compiled by Mr. McCleery and then solicit two individuals to prepare the majority and minority opinions. He feels that the next meeting could be a review the written opinions and make any final comments before being submitted to FFWCC. Mr. Netherton stated the report from Sarasota County was noted by FFWCC as a good template. He would be willing to write one of the reports using that format.

Ms. Kornel thanked County Attorney Al Hadeed for supplying the information on her question about possible conflicts of interest for members of the committee. Mr. Ksyniak fees he was appointed to this committee as a waterway user and not as a representative of Sea Ray Boats. If there are questions about a possible conflict, he does not want it to be a problem for the committee. He offered to be a participant but not vote in order to avoid a question of ethics. Chairman Netts reminded the members that they could not abstain from voting if they are present and he feels that only one zone (near the Sea Ray plant) would be directly impacted by the committee's recommendations. Again, Mr. Ksyniak noted that he does not have a vested interest in the outcome of the recommendations.

As he was not present, Mr. Vondran may be able to add his vote at a later date.

All Zones: There was a discussion that the "warm weather" season should be shortened. The vote on the suggestion to modify the season to be May through July was: **6 in favor; 2 opposed**. The vote on the suggestion to modify the season to be May through September was **1 in favor**.

A. Area 1, Marineland – FFWCC recommendation: no speed zone be established.

Further discussion: There was a general consensus that there is a public safety issue versus a manatee issue in this area.

VOTE:

Option 1 to accept fully the recommendation of the FFWCC: **7 members**.

Option 2 to reject completely the recommendation of the FFWCC: **1 member**.

Option 3 suggest the modification to the recommendation by FFWCC: slow speed out of channel recommendation was made by **1 member**.

B. Area 2, Palm Coast, Zone B1 -- FFWCC recommendation: add a warm season slow speed minimum wake zone.

VOTE:

Option 1 to accept fully the recommendation of the FFWCC: **1 member**.

Option 2 to reject completely the recommendation of the FFWCC: **none**.

Option 3 suggest the modification to the recommendation by FFWCC: shorten the distance to include only 300' south of Hammock Dunes to 100' north of first Palm Coast canal: **7 members**.

Option 4 suggest the modification to the recommendation by the FFWCC: add a speed zone to protect the entry ways of the three main Palm Coast canals: **1 member**.

Option 5 suggest the modification to the recommendation by FFWCC: the speed zone apply on weekends only: **1 member**.

C. Area 3, Fox Cut – FFWCC recommendation: no speed zone be established.

VOTE:

Option 1 to accept fully the recommendation of the FFWCC: **7 members**.

Option 2 to reject completely the recommendation of the FFWCC: **1 member**.

Option 3 suggest the modification to the recommendation by FFWCC: the recommendation apply to weekends only: **1 member**.

D. Area 4, Smith Creek North of SR 100, Zone D1 -- FFWCC recommendation in: add a warm season slow speed minimum wake zone.

VOTE:

Option 1 to accept fully the recommendation of the FFWCC: **3 members**.

Option 2 to reject completely the recommendation of the FFWCC: **6 members**.

Zone D2 -- FFWCC recommendation in: add a warm season slow speed minimum wake zone.

Further discussion: Committee also considered adding a value (25 mph) in the channel and slow speed minimum wake out of the channel.

VOTE:

Option 1 to accept fully the recommendation of the FFWCC: **1 member**.

Option 2 to reject completely the recommendation of the FFWCC: **none**.
Option 3 suggest the modification to the recommendation by FFWCC: **8 members** recommended slow speed out of channel.

E. Area 5, Smith Creek South of SR 100, Zone E1 – FFWCC recommendation: add a warm season slow speed minimum wake zone.

Further discussion: Committee also considered (a) shortening the distance of the zone; and (b) add a value (25 mph) in the channel and slow speed minimum wake out of channel. The committee also took into affect the outcome of the zones as it may relate to water activities such as water skiing where the boating activity may result in being more compressed.

VOTE:

Option 1 to accept fully the recommendation of the FFWCC: **4 members**.

Option 2 to reject completely the recommendation of the FFWCC: **none**.

Option 3 suggest the modification to the recommendation by FFWCC: there be a no wake zone on either side of entrance to Gamble Rogers State Park: **5 members**.

Zone E2 -- FFWCC recommendation: change existing zone to a warm season slow speed minimum wake zone and remove the component of the existing zones that are in effect during the cold season, and amend the Volusia County rule to remove the portion of the existing zone that is located within Flagler County.

VOTE:

Option 1 to accept fully the recommendation of the FFWCC: **4 members**.

Option 2 to reject completely the recommendation of the FFWCC: **none**.

Option 3 suggest the modification to the recommendation by FFWCC: extend Volusia County rules for slow speed minimum wake out of channel: **5 members**.

Ms. Provencher departed the meeting at 6:30 p.m.

7. Citizen Comments – Chairman Netts then asked if any members of the public wished to speak. (All guests at this meeting did not speak before the committee.)
 - A. Debbie Hogan – inquired how many members have actually been in a boat and looked at the areas in question (response was unanimous); concerned how the regulations will be enforced.
 - B. Bill Praus – feels there is definitely a need for the zones in order to protect the manatees; these zones may be compressing the jet skiers to a shorter zone.
 - C. Dr. Katie Tripp – enforcement is important; zones will be the first step, with a manatee protection plan being just as important.
 - D. Celena Chalkley – she appreciates recreational needs but reminded the committee they are talking about manatee habitation.
 - E. Richard Fabian – he is amazed at the confusion of not understanding the difference between Perinatal injuries/deaths and deaths by boats; he feels there is more to the deaths than the boaters, possibly environmental factors, especially in the C section of the city.

F. Jane Culpepper – the point of the committee is to protect the manatees.

G. Paul Wilhelmsen – when boaters see the manatees, they mostly slow down to enjoy them; more boating education is important and would be better served.

8. Date of Next Meeting – The date of July 19 at 4:00 p.m. was chosen, pending the availability of a meeting room. The exact location and date to be confirmed at a later date.

Mr. McCleery will make modifications to his chart to reflect the decisions and comments of today's meeting.

Again, Mr. Netherton agreed to compile part of the report with Ms. Tee compiling the remainder. All members were encouraged to have their written comments as to the rationale for their votes to Mr. Telfer by July 14 in order to give the writers an opportunity to compile the report prior to the July 19th meeting.

It was the consensus of the committee to include the minutes of the LRRC meetings as an appendix to the report for recording of all public comments.

Chairman Netts suggested/encouraged FFWCC to provide educational signage at all launch areas in Flagler County.

9. Adjournment – Upon motion, seconded, the meeting was adjourned at 7:00 p.m.

Local Rule Review Committee (LRRC)
Meeting July 19, 2010
Minutes

APPROVED BY CHAIRMAN NETTS ON JULY 20, 2010

MEMBERS PRESENT: Ed Caroe, Chris Herrera, Richard McCleery, Jim Netherton, Jon Netts, Linda Provencher and Chris Vorndran.

MEMBERS ABSENT: Laureen Kornel, Stan Ksyniak and Virginia Tee.

STAFF PRESENT: Tim Telfer, Environmental Planner and Staff Liaison, Christie Mayer, Administrative Assistant.

OTHERS PRESENT: Chris Boland (FFWCC) and interested citizens.

1. Call to Order – Chairman Netts called the meeting to order at 4:00 p.m.
2. Pledge of Allegiance – Was led by Chairman Netts.
3. Roll Call – A quorum was obtained with seven members present.
4. Approval of Minutes of July 8, 2010 Meeting – Motion to accept the minutes was made by Mr. Caroe and seconded by Mr. McCleery. The motion was then unanimously carried.
5. Review of Draft Report – At the beginning of the discussion, Chairman Netts congratulated the two authors of the report, Ms. Tee and Mr. Netherton for the great job in gathering the comments from the committee and putting it together in a clear and concise report (see Attachment 1).

The report was available on an overhead projector at this meeting in order for any edits to be made easily and approved by the committee immediately. Upon review page by page, minor corrections were made to the document.

6. Citizen Comments – Chairman Netts then asked if any members of the public wished to speak. (All guests at this meeting did not speak before the committee.)
 - A. Jerry Full – Mr. Full inquired as to the process in the event of an injury to a manatee, who picks up the animal, and who pays for this service. Mr. Boland responded that a FFWCC law enforcement officer responds to capture or verify the injury. Their research institute is in St. Petersburg or other rehabilitation sites throughout the state are used to assist injured animals for potential release in the future. The necropsy is done in the field. Mr. Full also asked how far into Longs Creek the FFWCC would go to recover a manatee. The response was the full length of the creek.

- B. Dennis Bayer – Expressed appreciation to the committee. He then asked for clarification on page 14 of the draft report, second paragraph to more fully explain the exemption from slow speed requirements for Sea Ray boat captains.
- C. Dee Cocchiola – Thanked the committee and feels the comments of the committee are such that most boaters can abide by them.

At the conclusion of public comment, upon motion by Mr. Caroe, seconded by Mr. Herrera, the draft report was approved as amended for distribution to the FFWCC.

At the request of Chairman Netts, Mr. Boland restated the process once they receive the report from this committee. This includes their office review and comments back to the LRRC on the report (in approximately one month) and forwarding both to the FFWCC Board. At the November FFWCC Board meeting, they will ask for public hearings to be scheduled. There will be two public hearings; one in Palm Coast probably in April 2011.

Upon receipt of comments from FFWCC on the LRRC report, copies will be distributed to this committee and all interested parties. In addition, Mr. Telfer noted that the FFWCCC comments and all future correspondence regarding the public hearings and future regulations will be placed on the Flagler County website.

Date of Next Meeting – It was determined that there was not a need to have another meeting of this committee. Recording Secretary, Ms. Mayer, asked and received unanimous approval from the committee to authorize Chairman Netts to approve the minutes of today's meeting in order for them to be included as an official part of the report from the committee.

- 7. Adjournment – Upon motion, seconded, the meeting was adjourned at 4:35 p.m.

Report from the Local Rule Review Committee for Flagler County

**Final Report
July 2010**

DRAFT

Report from the Local Rule Review Committee for Flagler County

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Acknowledgements

This report was prepared by the Flagler County LRRC, whose members include:

Chris J. Vondran
Mayor James C. Netherton
Linda Provencher
Chris Herrera
S. Laureen Kornel

Edward H. Caroe
Stan Ksyniak
Richard McCleery
Mayor Jonathan S. Netts
Virginia Tee

This report was written by Virginia Tee and Jim Netherton, and endorsed by the entire Local Rule Review Committee (LRRC) for submittal to the Florida Fish and Wildlife Conservation Commission. Flagler County staff provided support during the term of the committee. This report is submitted on behalf of the LRRC to fulfill their obligations under the Florida Manatee Sanctuary Act to review and provide recommendations on proposed speed zones in the Flagler County section of the Intracoastal Waterway.

The LRRC would like to thank the following individuals who attended one or more meetings and provided valuable assistance and information to the committee:

Chris Boland, Florida Fish and Wildlife Conservation Commission
Scott Calleson, Florida Fish and Wildlife Conservation Commission
John Milo, United States Fish and Wildlife Service
Interested citizens advocating for manatees and for boating activities

Background

On May 10, 2007 Flagler County Staff held a meeting for city representatives as well as other interested parties to discuss the current manatee situation, outline manatee protection measures, and facilitate a discussion of resources available to accomplish the appropriate goals. The presentation described manatee sighting and mortality information, potential protection measures via reduced speed zones, ongoing data collection programs to identify manatee usage areas and county-wide boating facility sites, and education and awareness programs. No specific manatee protection plan for Flagler County resulted from this meeting.

On March 8, 2010 Mr. Kip Frohlich, Section Leader of the Imperiled Species Management Section of the Florida Fish and Wildlife Conservation Commission (FWC) sent a letter (Appendix A) to the Flagler County Commission describing the current situation regarding statewide manatee protection. In this instance the state is not establishing a manatee protection plan for Flagler County, which is beyond their authority. Their authority does, however, extend to establishing speed zones in the Intracoastal Waterway. This is a form of protection that is more limited than a complete manatee protection plan, but is often a component in such a plan.

His letter states in part:

“The Florida Fish and Wildlife Conservation Commission (FWC) approved a Manatee Management Plan (MMP) in December 2007 to provide a state framework for conserving and managing manatees in Florida. The MMP is complementary to the federal Florida Manatee Recovery Plan, with both plans describing actions that will ensure the manatee’s long-term survival. One of the many tasks called for in the MMP is to evaluate areas that currently have little or no manatee protection regulations to determine if new manatee protection zones may be warranted. Flagler County is one of the first areas identified in the MMP for this evaluation.”

“In recent years we have met with Flagler County staff, the U.S. Fish and Wildlife Service, and stakeholders in regards to a variety of manatee concerns related to state and federal approval of construction of additional marine facilities and potential impacts to manatees. As a part of those meetings it was discussed that there are virtually no state manatee protection zones in Flagler County. The only exception is a small portion of waterway in the southern part of the county which is regulated in the FWC rule for Volusia County (68C-22.012, Fla. Admin. Code). The zones included in the Volusia County rule were adopted in 1991. It was also clear that additional data needed to be collected in this area so that we could better evaluate the potential risks. New manatee distribution data were collected in 2005-2007 and aerial surveys were flown in 2007-2009 to collect boating data in Flagler County. FWC staff has reviewed these

data and other information, and spoken to County staff. Based on our initial review of all information, we believe additional manatee protection zones may be warranted in Flagler County.”

In summary, FWC analyzed manatee sighting data, watercraft-related manatee mortality, boating data, coincidence of manatees and motorboats and identified five segments of the Intracoastal Waterway in Flagler County where a manatee protection speed zone rule change may be warranted. (The FWC divided three of those segments into two subparts each.) Each zone was proposed and reviewed as follows:

- A. Marineland and Matanzas River
- B. Palm Coast (B and B1)
- C. Fox Cut
- D. Smith Creek North of SR 100 (D1 and D2)
- E. Smith Creek South of SR 100 (E1 and E2)

In order to adopt or amend manatee speed zone rules FWC must follow the process outlined in Florida Statute 379.2431(2)(f). FWC therefore notified the Flagler County Board of County Commissioners that the process had been initiated and that the county must appoint a Local Rule Review Committee (LRRC) within 60 days. The purpose of the committee is to review the FWC proposal for new speed zone rules and provide comments and recommendations. The LRRC has 60 days from formation to accomplish its task and report to the FWC.

Another factor influencing the process is a concern by the US Fish and Wildlife Service with watercraft related manatee mortalities in Flagler County that have occurred during the past decade. They are greater than in previous decades and, in the view of USF&WS, may be related to the increase in dock permit requests processed by the US Army Corps of Engineers. The agency wants to work with other state agencies to find reasonable approaches to protect manatees in Flagler County in a way that does not eliminate the watercraft activities. (See comments by John Milio (USF&WS) in the minutes for the May 26, 2010 meeting).

On May 3, 2010 Flagler County responded by appointing a ten member Local Rule Review Committee (Appendix B). Members were:

Chris J. Vondran representing the City of Palm Coast/waterway user
Edward H. Caroe representing the City of Palm Coast/manatee/environmental advocate
Mayor James C. Netherton representing the Town of Marineland/manatee/environmental advocate
Stan Ksyaniak representing the City of Flagler Beach/waterway user
Linda Provencher representing the City of Flagler Beach/manatee/environmental advocate
Richard McCleery representing waterway users
Chris Herrera representing waterway users
Mayor Jon S. Netts representing waterway users

S. Lauren Kornel representing manatee/environmental advocates
Virginia Tee representing manatee/environmental advocates

The LRRC committee held its organizational meeting on May 13, 2010 and elected Mayor Jon Netts chair and Mr. Ed Caroe recording secretary.

Other meetings were held on:

May 26, 2010

June 9, 2010

June 23, 2010

July 8, 2010

July 19, 2010

Meeting minutes are attached as Appendices D through I.

The FWC proposal for new speed rules (Appendix C)

The FWC proposal for rule making is critically dependent on 3 factors: (1) manatee fatalities due to watercraft injuries; (2) the number of manatees in the area; and (3) the number of boats in the area.

Item (1) is addressed by the statewide mortality data collected by the Fish and Wildlife Research Institute (http://research.myfwc.com/features/category_sub.asp?id=2241) and begins in 1974. Watercraft related injuries are a subset of overall fatalities and can be extracted for Flagler County from the dataset. From 1974 to 2009 there have been 14 watercraft related deaths, 9 of which have occurred since 2002. Of these 9, 7 have occurred around the Gamble Rogers State Park area.

Item (2) is addressed by aerial surveys. These were flown by FWC staff twice a month for two years, from November 2005 through September 2007. A total of 47 survey flights were flown. Each flight surveyed approximately 8.7 square kilometers of Flagler County coastal waters. Observations were entirely visual, subject to the counting biases inherent in the method, and are not considered indicative of the absolute number of manatees that can be found in county waters. Instead they are taken to represent the relative abundance and distribution of manatees at the time of the survey.

Item (3) is also addressed by aerial surveys. Mote Marine Laboratory flew 20 surveys from August 2007 through February 2009 such that 5 flights were carried out in each of the Winter (Dec – Feb), Spring (Mar – May), Summer (Jun – Aug), and Fall (Sep – Nov) quarters to observe both weekday and weekend traffic. Boats observed operating under human or sail power were not included. There were 732 observed powered boats, which were further sorted into plowing, cruising or planing classes. The planing “fast boat” subset included 277 boats (38% of the total).

Finally, conclusions were drawn based on attempts to see where manatees and boats might coincide, since a watercraft related manatee injury requires that a boat and a manatee coincide in time and space. GIS mapping was used to put circles of activity around sighted boats and manatees, and the places where these circles overlap (are

“coincident”) are considered to have the greatest potential for harmful interactions. Table 3 of the FWC report lists the various coincidence (COIN) levels determined in the 5 sections under discussion.

The LRRC committee reviewed this report, considered the FWC recommendations for warm season manatee protection speed zones and also considered the duration of the warm season as proposed by FWC.

The LRRC offers the following recommendations:

DRAFT

Summary of Local Rule Review Committee (LRRC) Recommendations, Including Majority and Minority Opinions

A. Marineland and Long Creek (4 miles). Starting from the Flagler/St Johns county line and extending 4 miles south.

FWC has not identified this as an area where a zone may be warranted, but requested input from the LRRC.

Majority opinion agrees with the FWC recommendation for no speed zone (7 votes).

Minority opinion (s). One member disagreed with the FWC recommendation (1 vote). Another member suggested a modification of the FWC recommendation; namely, a slow, minimum wake outside the channel (1 vote).

B. Palm Coast

FWC recommendation.

(1). The area from south of the Marineland zone to north of the Palm Coast residential canals had one watercraft related fatality in 1990. FWC has not identified this as an area where a zone may be warranted, but is requesting input from the LRRC,

Majority opinion did not see a need for a speed zone in this area.

Minority opinion. None.

FWC recommendation

(2). Zone B1. The area from the northern shoreline of the central Palm Coast residential canal to approximately 300 feet south of the Dunes Hammock Bridge should have a warm weather (April through October) Slow Speed Minimum Wake zone throughout its 1.5 mile length.

Majority opinion felt that the area should extend from 300 feet south of the Dunes Hammock Bridge to 100 feet north of the most southerly Palm Coast canal entrance and should be in effect during the warm season only (see the LRRC recommendation regarding warm season duration for all affected areas below) (7 votes).

Minority opinion(s) suggested that: (1) the FWC recommendation be accepted (1 vote); (2) that the speed zone apply weekends only (1 vote); (3) a ¼ mile slow speed zone be put in place at the mouth of each of the three entrances to the Palm Coast canals (1 vote).

C. Fox Cut

FWC has not identified this as an area where a zone may be warranted, but requested input from the LRRC.

Majority opinion did not see a need for a speed zone in this area (7 votes).

Minority opinion(s).

One member recommended that there be manatee caution signs at the north and south entrances to Fox Cut (1 vote). Another member recommended a modification; namely, a warm season Slow Speed Minimum Wake zone on weekends only (1 vote). A third member of the minority disagreed with the FWC recommendation (1 vote).

D. Smith Creek North of S.R. 100

FWC Recommendation.

(1) Zone D1: Add a warm season (April through October) Slow Speed Minimum Wake zone starting just north of the Silver Lake Marina extending to the south lip of LeHigh Canal (total linear distance: 1.2 miles).

Majority opinion did not see a need for a speed zone in this area (6 votes).

Minority opinion agreed with the FWC recommendation (3 votes).

FWC Recommendation.

(2) Zone D2: Add a warm season (April through October) Slow Speed Minimum Wake zone starting at the south lip of LeHigh Canal extending to approximately 300 feet south of the State Route 100 bridge (total linear distance: 1.5 miles).

Majority opinion recommended a modification to the FWC proposal, recommending that a slow speed out of channel zone be adopted for this area (8 votes).

Minority opinion agreed with the FWC recommendation (1 vote).

E. Smith Creek South of S.R. 100

FWC Recommendation

(1) Zone E1: Add a warm season (April through October) Slow Speed Minimum Wake zone starting at the Gamble Rodgers Memorial State Recreation Area boat launch extending approximately 1.8 miles north in Smith Creek.

Majority opinion recommended a modification to the FWC proposal, recommending that the distance be shortened to bracket the boat ramp at Gamble Rogers State Park (5 votes).

Minority opinion agreed with the FWC recommendation (4 votes).

FWC Recommendation

(2) Zone E1: Change existing zone to a warm season (April through October) Slow Speed Minimum Wake zone and remove the component of the existing zones that are in effect during the cold season (total linear distance: 0.7 miles). Also, amend the Volusia County rule to remove the portion of the existing zone that is located within Flagler County.

Majority opinion recommends a modification of the FWC recommendation; namely, to extend the "Volusia Rules" in season to Gamble Rogers Park (5 Votes).

Minority opinion agrees with the FWC recommendation (4 Votes).

Other Committee Recommendations:

Warm Season Duration

FWC Recommendation.
April 1 through October 30.

Majority opinion is that the warm season should be between May 1 through July 31 (6 votes).

Minority opinion.

One member recommended that the warm season should be between May 1 and September 30 (1 vote). Another member agreed with the FWC recommendation (1 vote).

Boater Education

The Local Rule Review Committee urges FWC to support additional manatee education for the boating public. There are six public access points to the Intracoastal Waterway within Flagler County: Gamble Rogers Park, Betty Steflik Park in Flagler Beach, Herschel King Park, Bings Landing and Hammock Beach Marina, all in unincorporated Flagler County, the Palm Coast Marina in the City of Palm Coast, and a seventh access point, a redevelopment of a marina in the Town of Marineland is in the planning stage. These are ideal locations for educational signage, if not already present. Instead of proposing regulations that will prove to be extremely difficult to enforce, spend some time and money educating boaters. There are a number of fishing and boating clubs in Flagler County; instead of regulations, why not a "speaker's bureau?"

Other manatee protection actions

To “save the manatee” there are many pro-active manatee protection possibilities that FL Fish & Wild Life (& others) should investigate. (A) As part of adding more channel-only planing speeds with flanking minimum wake zones, some wide channels can be narrowed to provide wider, safer flanking areas for anchored fishermen as well as manatee. (B) When a channel area is dredged, should shoal flanking areas also be dredged to maybe 6-feet MLW to benefit fishermen and manatee? Data studies and some experimenting in higher manatee death areas will be valuable. (C) Some navigation aids are very widely spaced; additional aids will help keep cruising boats within the channel and anchored fishermen outside the channel.

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Discussion of Reasons for LRRC Recommendations

General principles applicable to Flagler County

Manatee population arguments

The manatee population in Flagler County is strongly influenced by the water temperature. In the winter it is too cold for comfort and most of the manatees leave. During the warm months manatees primarily transit the ICW. There are no favored areas along the boat channel that accumulate manatees. There are no significant submerged grass beds that serve as a food source. The biologists that run kayaking ecotours from the Marineland area comment that they see manatees feeding on young spartina shoots and even sometimes pulling over mangroves to feed on the leaves. They further note that manatees don't use the shallow estuarine flats adjacent to the ICW and don't go any further than the mouths of the feeder creeks that lead to them. They prefer deeper water.

The Palm Coast canal system is the primary area used by manatees when they are not in the ICW. To a lesser extent they can be found in other residential canals and marina basins. Palm Coast is an area with high perinatal fatalities, suggesting that it is important for mother/calf pairs and may be a birthing ground or nursing area. Several members of the LRRC suggested that more attention be paid to this effect and research be directed toward whether the perinatal mortality is in the expected range for a wild population and, if it turns out to be high, whether water quality might be affecting it. Perinatal mortality in our area is a more important component of overall manatee deaths than watercraft injuries and deserves greater attention.

Some felt that the freshwater source in the southern Palm Coast canal system should be considered a manatee attractor and a potential area of concern for manatee safety. The Big Mulberry Creek drains an area west of I-95 and brings most of the fresh water into this system. Many feel that this is the reason that manatees are more often seen in the southern canal system. There is no physical connection between the southern system and northern or middle canals without using the ICW.

Two areas that all members of the LRRC agree need attention are the Palm Coast canal system and the area around Gamble Rogers State Park. Gamble Rogers Park in particular is the site of most of the watercraft related fatalities during the past decade. All other parts of the ICW generated more disputes about what, if anything, should be done.

Manatee protection arguments

There are three reasons for slower speeds to protect manatees: (1) manatees have more time to react; (2) the boat operator has more time to react; and (3) in the event of a collision, the trauma is much less to the mammal.

Generally, there was frustration with the data provided by the FWC to support the imposition of manatee protection zones. While the aerial coincidence data was helpful, the mortality data was generally thought to be less so. All agreed that manatees could

travel a great distance after being struck by a watercraft, so focusing on the location that a carcass was found was thought to be potentially misleading.

Almost all manatees have been hit by watercraft more than once so the overall issue is about more than those who are killed. The effects of the strikes on the overall health, longevity, reproduction, etc., of the manatee may be affected by multiple strikes. Manatees travelling surface more frequently to breathe so the potential for strikes increase where a manatee is migrating through an area rather than staying to feed, such as the ICW portions of Flagler County.

Protection of manatees is an ethical and moral issue which was not fully appreciated by the whole committee. Boaters must expect reasonable restrictions on their activities as population grows, and an increase in transit time is not an unreasonable restriction if it prevents manatee strikes. Fatalities are not the only concern; non fatal strikes are equally to be avoided. Slowing boat speeds is the best way to accomplish this. Also, FWC has already made some concessions to boaters, such as shortening the length of the seasonal restriction by 15 days, and their recommendations are not as severe as they could be. Slow speed zones should be in place 7 days a week in the warm season and no exemptions should be made for anyone; fast moving boats are a threat to manatees and should be slowed.

Many questioned what else was being done about protecting manatees except proposing potentially unenforceable speed zones? For instance, what is the county doing about reduction in habitat, fertilizer runoff, etc? The no wake zones will not change the fact that tug boats (which are frequently found in the ICW in Flagler County) "suck" water and all that is in it, including manatees, from the shoreline.

Human population arguments

The census bureau listed the population of Flagler County as 49,832 in year 2000 and 91,622 in year 2009. Overall Flagler boat registration was 3907 in 2001 and 4820 in 2008. This increase doesn't seem to correlate very strongly with an essentially flat manatee fatality curve and doesn't really suggest that an increase in dock permits should trigger slow speed zones. The number of watercraft-related manatee deaths, county-wide, has remained relatively consistent at less than one per year. Imposing slow speed zones on a third of Flagler County is an overreaction.

According to FIND data, 93% of Flagler County boaters interviewed were on single-day trips (as opposed to multiple-day trips) and 87% of them planned to restrict their activity to the Intracoastal Waterway. The ICW is where the vast majority of Flagler County residents do their boating. Again, unnecessary speed restrictions will diminish the perceived value of living on or near the water in Flagler County and, from an inspection of the data, will have little or no positive effect on protecting manatees.

Boating safety arguments

The mission of FWC, as it relates to boating regulations, is two-fold; safety of the boating public and protection of the manatee. The proposed imposition of many miles of "Slow Speed – Minimum Wake" restrictions in the already relatively short Flagler County ICW will force recreational boaters to relocate their activity to the few remaining unaffected portions of the Intracoastal within Flagler County. As a result there will be an increased density of so-called "fast boats" (an unnecessarily pejorative term since it encompasses any boat not fully settled in the water) in these areas. As you squeeze more and more boats into less and less space, you are almost certainly going to negatively impact the safety of the boating public.

Much of the supporting data for the proposed restrictions depends on the "coincidence" of manatees and "fast boats." As mentioned above, if you impose speed limits in one area of the Flagler County ICW, you will force such "fast boats" to move to the remaining unrestricted areas. Will future studies then conclude that these heretofore unrestricted areas now have a higher "coincidence" of "fast boats" that will warrant new, additional areas for speed restrictions? Where does this stop?

Opinions by several members of the public and the committee suggested that manatee speed zones were also protective of human life. One individual suggested that the three recent boating deaths in Volusia County may have resulted from the reduction in manatee zones in that area.

Economic arguments

Recreational boating is a significant component of the attractiveness of Flagler County. The City of Palm Coast has many miles of salt water canals with access to the Intracoastal Waterway. Homes on these canals demand higher-than-average prices due to such water access. The City of Flagler Beach, like Palm Coast, has numerous homes situated on salt water canals with ICW access. Most of the homes along the ICW (Island Estates and Grand Haven, for example) have docks; testimony that they are not there "just for the view." These homes enjoy a correspondingly increased property value as a result of waterway access. Unnecessary waterway restrictions will have a significant negative impact on property values in Flagler County; values that are already greatly impacted by the economic recession we are experiencing. Local governments can ill afford such additional impacts on our tax base.

Data taken from the Florida Inland Navigation District (FIND) "Economic Analysis of the District's Waterways in Flagler County" shows that in 2003 (the most recent study)

- \$133 million in business volume
- \$46 million in personal income
- 1,116 jobs, and
- \$163 to \$185 million in property taxes

in Flagler County were directly attributable to the Intracoastal Waterway. Given the significant growth in Flagler County from 2003 until now, there is no doubt that these numbers significantly under-represent the value that recreational boating brings to Flagler County.

Sea Ray boats is a major employer in a county with high unemployment rates and has a significant impact on the Flagler County economy. Their business is critically dependent on the ability to water test the boats they build prior to delivery. Their normal test route is from the LeHigh Canal north to the Marineland area. Their test procedures include a requirement to run at all speeds for some minimum time. The LRRC committee majority opinion is generally sympathetic to this need and opposes broad slow speed zones in the test area. There was some discussion about obtaining an exemption from slow speed requirements for Sea Ray captains during testing, which is a legitimate option, but most members felt it would lead to others ignoring the speed zones using the principle of "if he can do it, so can I." It is better not to have broad zones, especially considering that manatee fatalities are not a big problem here.

However, some members of the public expressed that ecotourism in Flagler County would benefit from manatee protection. Additionally, by forcing people to "slow down" as they passed through Flagler County, the benefits of living in Flagler County could become more readily apparent.

Law enforcement arguments

Public comment from boaters emphasized that the currently suggested speed zones are driven by a legislative mandate and not by a real-world problem. Most boaters feel that an average of one manatee fatality per year is a regrettable but unavoidable consequence of manatees and boats using the same waterway. Eliminating manatee injuries would require eliminating all manatees or all boats, neither of which is possible. Slowing boating speed over a wide area is extremely unpopular; each mile that a boat travels at 5 mph instead of 25 mph adds 10 minutes to the journey. This may be tolerable for 10 or even 20 minutes, but not for 60 minutes or more. One way around this dilemma is to target smaller speed zones around important areas and not institute broad zones hoping to include problem areas in the larger solution. Law enforcement will not be adequate to slow down all boaters who don't believe that the manatee protection laws are fair and equitable and don't want to observe them.

Duration of restriction arguments

Most members of the committee agree that the speed zones should only be in effect during the warm season when the Flagler manatee population increases. However, they also felt that a 7 month warm season is too long. The majority want the warm season defined as May through July; a minority think that May through September is appropriate.

Most members believe that the data shows that May, June, and July are when there is a high probability of manatee-watercraft incidents. One member believes that the data shows that that probability extends through September.

Discussion of specific zones

A. Marineland and Long Creek (4 miles). Starting from the Flagler/St Johns county line and extending 4 miles south.

There is an expectation that the marina will begin redevelopment within the next year and that a slow, minimum wake zone of about ¼ mile will be needed around the entrance for boating safety. Historically there was a no-wake zone around the marina when it was active. When the marina is developed FWC will be petitioned for a slow, minimum wake zone based on boating safety needs.

Although there was initial agreement between several members that because manatees are seen daily around the marina area during the summer season, ultimately the vote showed that only one member of the committee supported an out of channel slow speed, minimum wake zone. Her rationale was that there was evidence of a high coincidence of manatees in the area during the warm season and the channel is wide enough to support such a zone.

B. Palm Coast

The LRRC committee agrees that the Palm Coast canal system is often used by manatees. They feel that the majority of manatees congregate in the southern canals because there are sources of fresh water present. The canal system is covered by a slow speed zone so no additional protection is needed. Most members felt that the southern entry to the canal system is most often used because most manatees are seen in the south canals. This is where the protection should exist. Members also note that, although there are a significant number of deaths recorded from this area, they are mostly not watercraft related. This is where most of the perinatal mortality occurs, so other factors than boats are responsible for these fatalities. Only 3 watercraft related fatalities are recorded here (1990, 1995, and 1998).

A view that did not gain support was that manatees use any of the three entries randomly and once inside the canal system find their way to favored hangouts by trial and error. This view endorsed protecting only the mouths of the canal entries since this is where the manatees must enter and exit.

Another opinion that was in the minority was that this area did not show a significant enough coincidence to support a slow speed minimum wake zone, except on the weekends when the aerial data showed a high incidence of planing boats.

C. Fox Cut

Most members did not support a manatee zone in this area because the FWC had not recommended one and there was no mortality data to support it.

Another opinion that was in the minority was that the data showed a higher coincidence of fast boats in this area than in the Palm Coast zone, representing a greater risk to manatees than an area where a recommendation had been made and that the fast boat coincidence was significantly higher on the weekends.

D. Smith Creek North of S.R. 100

D1: Generally, the members rejected the FWC recommendation because there was no watercraft-related manatee mortality data in the area and the potential negative impact that a speed zone in this area would have on Sea Ray Boats.

D2: Similar to D1, the majority rejected the FWC recommendation because there was no watercraft-related manatee mortality data in this area and there already exists a "Boater Safety Zone" in the vicinity of the S.R. 100 Bridge and the boat ramp immediately south of the bridge.

If the 1.8 miles restriction were to take effect, it would cause more congestion just north of the proposed zone to the S.R. 100 bridge resulting in not only a boating hazard between boaters, but creating high coincidence for boats on plane and manatees in that area.

E. Smith Creek South of S.R. 100

E1: While all agreed that a slow zone was warranted in this area, the majority requested that the zone be shortened because the manatee mortality data seemed to be clustered around the boat ramp. The S.R. 100 launch ramp offers boaters a choice of turning north or south to leave the current slow speed zone. South is favored by water skiers. If the slow speed zone concentrates fast boats to a smaller area here then boating safety issues arise and the fast boat COIN values similarly increase. Most members felt that a slow speed zone around the Gamble Rogers basin would be the most effective way to protect manatees while allowing boaters traditional use of the northern section of this zone.

E2: This area has no reported watercraft-related deaths and, as such, does not warrant a "slow speed" designation. Boaters travelling northward from Volusia County are already subject to a numerical restriction (30 mph daytime and 25 mph night) and are further restricted to "slow speed out of channel." It was also suggested that extending the Volusia County Rule from the Flagler County line northward to Gamble Rogers might make sense.

However, the minority do not agree that the Volusia County Rule provides any real protection to manatees due to the fact that most boats are planing at 25 mph. The high mortality data in the E zone generally, and without being able to accurately pinpoint where the deaths occurred suggests that the FWC recommendation is appropriate.

- Appendix A. Letter from FWC dated March 8, 2010 Announcing Rule-Making
- Appendix B. Appointment of LRRC Members by Flagler County Board of County Commissioners dated May 5, 2010
- Appendix C. FWC Staff Report dated May 24, 2010 Describing Recommended Speed Zones and Discussing Data and Methodology Used to Create those Zones
- Appendix D. Minutes of LRRC Meetings
- Appendix E. Individual Member Comments

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APPENDIX E

Report from the Local Rule Review Committee for Flagler County

INDIVIDUAL MEMBER COMMENTS

Ed Caroe

Chris Herrera

S. Laureen Kornel

Stan Ksyniak

Richard McCleery

Jon Netts

Jim Netherton

Virginia Tee

Ed Caroe Comments on 07/09/10 McCleery Summary Chart

I've studied and re-studied the info and graphics provided that cover our Flagler County section of the beautiful Intra-Coastal Waterway.

I'm confused because FL Fish & Wildlife asks that all focus be on the small percentage of manatee deaths in Flagler County that occur in the Intra-Coastal and are caused by moving boats. We are asked to ignore data that confirms approx. 90% of manatee deaths in Flagler occur out of the Intra-Coastal Waterway's channels - with no boat involved. Is that saving the manatee?

Then I recall the wonderful hours over many years that I spent neck deep in the waters of a Palm Bay, FL, condo's marina, scrapping barnacles off my boat's running gear. I could count on a friendly manatee resting its head on my shoulder while it waited for a belly scratch, maybe some spinach, or a suck on the hose - not considered "bad" in those days. Like boaters in Flagler County, we all loved our manatee neighbors and felt privileged to have them around. (That was down a long access waterway off the Intra-Coastal, where manatee were plentiful, but no boat related manatee deaths ever occurred.)

Back to reality, in Florida boating is a \$2.1-**Billion**/year industry. Also, the Intra-Coastal waterway from VA to FL is a vital "highway" on which suitable freight can be transported by barge at only 20% of the cost of truck transport. It also was invaluable for safe coastal transport of material during WWII when enemy subs were close off-shore; could happen again sometime. And yes, it also is key to much recreational boating. *So a logical balance between boaters and manatee is a must.*

I absolutely encourage strict enforcement of (POSTED) present laws which make boat skippers responsible for what danger and damage their actions and wakes cause to all boats, occupants and manatee they pass. Violators should be ticketed, points charged to their boat registrations - and their insurance companies encouraged to slap penalty premiums on offenders. That will get the attention of habitual offenders. It should be structured to warn and finally rescind captain's licenses. That will punish just "bad guys" instead of mandating lots more "in-channel minimum wake areas" that punish the great majority of boaters who are "good guys" who care about protecting the manatees (and other boaters) they see.

To "save the manatee" there are many pro-active manatee protection possibilities that FL Fish & Wild Life (& others) should investigate. (A) As part of adding more channel-only planing speeds with flanking minimum wake zones, some wide channels can be narrowed to provide wider, safer flanking areas for anchored fishermen as well as manatee. (B) When a channel area is dredged, should shoal flanking areas also be dredged to maybe 6-feet MLW to benefit fishermen and manatee? Data studies and some experimenting in higher manatee death areas will be valuable. (C) Some navigation aids are very widely spaced; additional aids will help keep cruising boats within the channel and anchored fishermen outside the channel.

(D) In Flagler County's Intra-Coastal, manatee migrate north in spring and south as the water gets colder. Flagler is not considered a manatee destination. Healed scars on manatee seen here likely were caused many miles away. Old animals are less likely to migrate and therefor get stuck in cold water. They are most vulnerable to boat accidents.

(E) FL Fish & Wild Life graphics and data show absolutely that about 90% of manatee deaths here are younger animals in Palm Coast canals which are west of the southern main canal. That heavy population

area for manatee makes sense since Big Mulberry Branch brings large quantities of fresh water from as far away as west of I-95, and dumps most of it into the canal area just west of Palm Coast Yacht Club. (Big Mulberry now is a protected "environmentally sensitive land" acquired by joint action of the City of Palm Coast and Flagler County.)

Note that there is no similar fresh water flow into Palm Coast canals west of the *middle* and *north* main canals, and no connections between the three separate canal systems. Also, before I-95 was built, much more water from western Flagler County drained into Big Mulberry. Before the Palm Coast canals were dug, and most of that fresh water was diverted, the Big Mulberry fresh water ran into Long's Creek. So prior to our canals, and our present Intra-Coastal being dredged out and created (circa 1878) to create the continuous "river" - fresh water Long's Creek was a deep and wide tributary used to transport crops from Mala Compra Plantation to freight sailing ships that anchored inside of nature-made Matanzas Inlet.

If just one out of nine of those manatee in the south canal system's back areas could be saved, there would be a balance between the number of generally older animals that die in Flagler's Intra-Coastal and younger animals saved in our canals. Yet it appears that nothing is being researched to accomplish this basic way to save the manatees. This should be science, not politics. That is where success should be measured.

Just as an aside, manatee history tells that they evolved from their ancestors, which were 4-legged elephants that for environmental reasons returned to life in the water. That was some 4-million years ago. So manatee have survived thru ice ages, sea water level shifts of many hundreds of feet, huge continent shifts, an impact in Mexico from outer space that blocked most sunlight long enough to wipe out dinosaurs, and so on. Is manatee population now decreasing? Or are many colonies relocating to more accommodating areas between Florida and the east coast of South America? No data on that was provided and should be.

I think about how easy it is to use manatees to try to accomplish goals that have absolutely nothing to do with saving manatee. I'll gladly fight for some of those goals when addressed separately for "people safety". However, within this present manatee safety task, Ed Caroe is going to vote strictly for boater restrictions when they are likely to substantially benefit manatee.

I agree with the "majority vote" in each area as being the more logical option. Two comments:-

- (A) In "Zone A" I initially supported a well defined Intra-Coastal channel with minimum wake zones on each side. However, "each side" is predominantly areas that strongly feel the impact of incoming ocean water at Matanzas, where there is nothing to attract manatee. (Note this is strictly a manatee protection study, not people-protection.)
- (B) The major problem at Hutch King Sr. boat ramp is the terrible boat entry design. The long dock east of the ramps is so open to, and impacted by, boat wakes that it is only a matter of "when" somebody will be killed while loading or boarding a launched boat - - or offloading. *Again, this is strictly a manatee protection study, but I urge that the long, dangerous dock be blocked off or removed promptly.*

#####

7/14/10 - Ed Caroe

Comments from LRRC member Chris Herrera (water way user)

To FWC:

As a full time fishing guide in Flagler County I log over 250 days a year on the water either guiding or what I call fun fishing on my days off. I travel through and fish all the areas that are under review for manatee zones and for that reason my votes for or against proposed zones were not **emotionally** driven but more from my **experience** and **observations**.

Trying to impose 6 ½ miles of manatee zones into a county that has less than one manatee/watercraft related death a year is excessive considering that our neighboring county (Volusia) death rate is 5x higher.

It is my opinion that all future LRRC committee members should have some type of local knowledge and experience of the water way so they can vote **rationally** and not **emotionally**. I hope the FWC will take into consideration all the valid comments given by the public during our LRRC meetings.

Zone A

I voted for the FWC Recommendation:

This zone did not warrant a manatee zone and I agreed with the FWC recommendation because it's a straight and wide passage of water way.

Zone B-1

I voted for a modification of the recommended manatee zone:

My vote was based on the fact that the most utilized canal for manatees was the southern canal since it's the canal that has a fresh water source. I frequently fish all the canal systems during the peak manatee season in Palm Coast and do not see Manatees as often in the two northern canals as I do in the southern canal.

Zone D-1

I voted against the FWC recommendation:

This area should not be considered a Manatee zone as only one death has ever occurred due to water craft collision since 1974-2009.

Comments from LRRC member Chris Herrera (water way user)

Zone D-2

I voted against the FWC recommendation:

No manatee/water craft related deaths in the area. There is also a no wake zone already being implemented south of the 100 bridge to an area north of the bridge.

Zone E-1

I voted for a modification of the FWC recommendation:

This area has the highest manatee/water craft related deaths and do think a manatee zone should be in place but not 1.8 miles. If a zone of 1.8 miles would be implemented in this area it would decrease the area water way users could operate their boats on plane causing more of a congested area just north of the proposed zone to the SR 100 bridge resulting in not only a boating hazard between boaters (jet ski, water skiers, fisherman...) but most importantly creating higher coin for boats on plane and manatees in that area. I proposed a modification that will create a no wake zone on either side of Gamble Rodgers State Park since their basin is used by manatees as a resting and calving area through the warm season.

Zone E-2

I voted against FWC recommendation:

This area does not warrant any changes since there are no manatee/water craft related deaths

Modification:

Season change for all zones:

I voted for the change of our "warm season" to reflect the peak manatee traffic that occurs during the months of May- July that differs from the originally stated April-October.

- The truth is that manatees are equally as likely to be found in any section of the ICW in Flagler County because there is no inlet. Since Manatees generally seem to be moving through the Flagler ICW to get to food sources and resting places outside of the County and there are no inlets in Flagler County, it seems reasonable to me that they can be found anywhere in the ICW. As such, I view the FWC recommendations as a compromise to regulating the entire ICW in Flagler County.
- The increase in transit time, with the proposed slow zones has been grossly over-estimated and I believe a more realistic estimate would be an increase in 40 minutes. Also it seems reasonable to me that those boaters that don't have direct access to water will put in near their destination and don't need to travel at great speeds to get where they're going. For others, who do have direct water access or are just travelling through the County I don't think it's unreasonable to expect slow zones in areas where manatees are expected in higher numbers.
- Most of Florida's coastal counties are regulated including other working water fronts. I don't see why Flagler should expect to be exempt from reasonable regulation. The County has significantly changed in population: Numbers from the Census Bureau show that in 1970 there were 4,500 people. In 1980 the population increased to 10,000. Today there are over 80,000 people. The number of reported manatee deaths correlates with the increase in population – and that doesn't count un-reported deaths and non-fatal strikes. This is a fact succinctly stated in the FWCC report that was presented to us at the very first LRRC meeting.
- The current economic slump is temporary. We should be proactively planning ahead for when things do turn around. If the economy were booming, I suspect the argument against slow speed zones would still be centered on jeopardizing generated funds.
- To some the ICW might be nothing more than a highway. If that's the case then there should be regulation to control speed. To me and I think to a lot of other Flagler County residents the ICW encompasses a wide array of natural resources. To compare the ICW to a highway is a disservice to the ICW and all of its natural resources. The ICW is living, breathing, and ever changing complex ecosystem. Manatees are hard to see and controlling speed is considered one of the best tools to minimize collisions and protect this endangered species.
- The debate over manatee slow speed zones is more than just fatalities. It's also about non-fatal strikes. The depth of the channel is insignificant to me because manatees come to the surface to breath.
- There shouldn't be a comparison made between F.C. and Volusia County. It's like comparing apples and oranges. It has been shown that manatees

Local Rule Review Committee General Comments
S. Laureen Kornel
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use the Volusia County waterway in different ways than in F.C. (food, etc.) and the Volusia County ICW is significantly longer. Volusia County's population is roughly 500,000 people – that's more than 5 times the population in Flagler County. Volusia County's coastline is significantly longer than that of Flagler County. With significantly more use, it's a no brainer that fatalities are higher in Volusia County.

- As the population continues to increase in Flagler County, so will boater use. In turn the threat of increased strikes will increase and slow speed zones can be used as one tool to mitigate or minimize incidences. Education is another useful tool but we need to slow down through areas that are known to show strikes.
- I do not support an exemption for anyone – a business or otherwise because that would undermine the ability of speed zones to protect manatees and that's the whole purpose of implementing slow speed zones. Fast moving boats are a threat to manatees.
- I do not support weekend-only zones because it creates an opportunity for inconsistencies that can affect compliance. Since Flagler County is a retirement area a lot of boaters have the option to use the ICW during the week. A manatee has no idea what day of the week it is. I think 7-day a week zones are justified.
- It should be noted that that the FWC has shortened the proposed seasonal zone by 15 days which in my mind is a concession to boaters.
- This entire process associated with the Committee has been a disappointment to me. Because of the way in which the committee was set up, two groups working against each other, there was never an opportunity for an intelligent and meaningful discussion. Lead by the Chair of the Committee, an elected official, the committee was polarized right from its inception.
- This isn't an emotional issue, it's an ethical and moral issue and that discussion never took place amongst committee members.

B-1 – Support because there are three access canals. FWC has compromised on this recommendation. They could have suggested extending the zone to cover the northernmost canal access, but they did not.

B-2 – Support because the 1.2 stretch being proposed is only ½ of Sea ray's "initial run". I'm not sure why Sea ray would have selected building their facility so far from an inlet. Again, I re-iterate that Sea ray is a stakeholder in this and their input is valuable, but I think there is financial conflict of interest that we have someone from Sea ray on the committee who will vote. I also think that there are other questionable conflicts of interest on this committee given that there are others on the committee whose work is directly related to

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S. Laureen Kornel
July 14, 2010

the ICW (i.e. there are others who could quite possibly stand to gain or lose financially depending on the outcome of the committee's recommendations).

D-2: Support for reasons stated in my general comments.

E Region – Support because we can do more than the Volusia County Rule to minimize mortality.

E1: Support for reasons stated in my general comments.

E2: Support because I don't think deep or shallow water is relevant in this debate.

****MEMO**

TO: Tim Telfer
FROM: Stan Ksyniak
SUBJECT: Rationale for FWC Rule Proposal Voting
DATE: July 14, 2020

In response to last LRRC Meeting on July 8, 2010, I would like to offer the following rationale regarding my votes in regards to the FWC Rule Proposals.

Area 1, Marineland – vote was for option 1 as I concur with the majority in that this is a public safety issue versus a manatee issue and agree that this area can be looked at later as the marina is developed.

Area 2, Palm Coast, Zone B1 – vote was for option 3 as this is the intersection where the manatees migrate and data did not reflect the need to extend the zone further.

Area 3, Fox Cut – vote was for option 1 as data did not warrant any recommendation for slow speeds in this zone.

Area 4, Smith Creek North of SR 100, Zone D1 – vote was for option 2 as the data did not warrant any recommendation for slow speeds in this zone.

Zone D2 – vote was for option 3 as the data did not warrant slow speeds in the channel.

Area 5, Smith Creek South of SR 100, Zone E1 – Vote was for option 3 as the supporting data focused around the entrance to Gamble Rogers State Park and extending the area further was not warranted. Furthermore, the current FWCC recommendation would result in water activities, such as water skiing, having to be compressed into a smaller area and thereby pose a potential safety hazard.

Zone E2 – vote was for option 3 to coincide with the owner/operator transition between counties with slow speed minimum wake out of channel as the data did not warrant slow speed in the channel.

Please feel free to contact me should you require further clarification. Thank you.

/sk

LRCC –Flagler County committee member Richard F. McCleery

A. Comments and VOTES on FWC recommendations for Manatee Protection Speed Zones

1. “Zone A”- Marineland and Matanzas River

Voted no- see no record of manatee deaths to support this phantom zone. Further, appropriate safe boater zone to be reinstated with reopening of Marineland Marina will suffice for manatees and boating safety.

2. Palm Coast Zone- aka B1

Voted No for FWC proposal. Voted yes for the modification to shorten it which should provide for boater and manatee safety while maintaining timely transit through this area.

3. Foxes Cut

Voted to accept FWC recommendation that no zone is necessary.

4. Smith Creek Zone- aka D1 and D2

Voted No on FWC recommendation for D-1

Voted to modify proposal for zone D-2 designation as slow speed out of channel

5. South Smith Creek Zones E 1 and E 2.

Zone E-1 voted to modify so that zone only brackets entry on north and south sides of Gamble Rogers State Park Boat ramp

Zone E-2 Voted to modify so that “Volusia Rules” apply in warm season to south side of Gamble Rogers Boat Ramp

B. Further Commentary

1. In view of the significant number of Perinatal Manatee deaths, which number exceeds by a factor of two that of boating caused deaths in our county, it would seem the time and resources of the FWC would be better spent conducting research in this matter rather than imposing restraints on the boating taxpayers of Florida.
2. A more effective approach than inflicting speed restrictions on boaters would be to initiate a comprehensive education program. I encourage FWC to work with local boating and angling organizations to develop safe boating programs where manatee and people populations are both served through development of safe boating practices. Working in concert with other agencies such as the Sea Grant program, local schools and local sheriff departments, FWC marine officers can work with groups such as local boating clubs and anglers associations to

LRCC –Flagler County committee member Richard F. McCleery

encourage a multi-purpose boating safety program. This will reap far more benefits for man and manatee than any of the speed zone restrictions put forth in the May 2010 FWC document .

3. A safe boating zone in the ICW north and south of Herschel King County Park makes good sense for people and manatees. The design of that facility left it directly open to the impact from wakes of passing boats creating a safety issue for boats moored in that basin that as yet to be addressed
4. A number of factors are working in concert to dampen boat usage and population growth in Flagler County. The present economic situation shows no sign of recovery with attendant increase in demand for housing in Flagler County. While the percentage of Flagler County (and adjacent Florida county)residents are not identified in the boat usage data collected by FWC research, it is sound logic that diminished real estate growth and a shrinking economy will not increase boater usage of the ICW by residents of Flagler and other adjacent Counties. What is more, prospective increases in fuel prices brought on by ill timed Federal policies crafted to cope with the Gulf Oil spill will further reduce boating in Flagler County waters. Until these economic factors are mitigated, there will be decreasing, not increasing, trends in boating in the waters of our county. To what end then are these proposed regulations?

Comments for the Flagler County LRRC

Jon Netts

Committee Member and Chair

First, some general comments.

(1) The data supplied by FWC does not support the wholesale imposition of many miles of “slow speed” zones within Flagler County. While the population of Flagler County has grown from several thousand persons and several hundred boats in 1974 to a population approaching one hundred thousand and over five thousand registered watercraft in 2009, there has been no corresponding increase in watercraft-related manatee deaths. Quite the contrary – the number of watercraft-related manatee deaths, county-wide, has remained relatively consistent at less than one per year.

(2) Recreational boating is a significant component of the attractiveness of Flagler County. The City of Palm Coast has many miles of salt water canals with access to the Intracoastal Waterway. Homes on these canals demand higher-than-average prices due to such water access. The City of Flagler Beach, like Palm Coast, has numerous homes situated on salt water canals with ICW access. Most of the homes along the ICW (Island Estates and Grand Haven, for example) have docks; testimony that they are not there “just for the view.” These homes enjoy a correspondingly increased property value as a result of waterway access. Unnecessary waterway restrictions will have a significant negative impact on property values in Flagler County; values that are already greatly impacted by the economic recession we are experiencing. Local governments can ill afford such additional impacts on our tax base.

Data taken from the Florida Inland Navigation District (FIND) “Economic Analysis of the District’s Waterways in Flagler County” shows that in 2003 (the most recent study)

\$133 million in business volume
\$46 million in personal income
1,116 jobs, and
\$163 to 185 million in property taxes

in Flagler County were directly attributable to the Intracoastal Waterway. Given the significant growth in Flagler County from 2003 until now, there is no doubt that these numbers significantly under-represent the value that recreational boating brings to Flagler County.

According to FIND data, 93% of Flagler County boaters interviewed were on single-day trips (as opposed to multiple-day trips) and 87% of them planned to restrict their activity to the Intracoastal Waterway. The ICW is where the vast majority of Flagler County residents do their boating. Again, unnecessary speed restrictions will diminish the perceived value of living on or near the water in Flagler County and, from an inspection of the data, will have little or no positive effect on protecting manatees.

(3) The mission of FWC, as it relates to boating regulations, is two-fold; safety of the boating public and protection of the manatee. The proposed imposition of many miles of

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"Slow Speed – Minimum Wake" restrictions in the already relatively short Flagler County ICW will force recreational boaters to relocate their activity to the few remaining unaffected portions of the Intracoastal within Flagler County. As a result there will be an increased density of so-called "fast boats" (an unnecessarily pejorative term since it encompasses any boat not fully settled in the water) in these areas. As you squeeze more and more boats into less and less space, you are almost certainly going to negatively impact the safety of the boating public.

(4) Much of the supporting data for the proposed restrictions depends on the "coincidence" of manatees and "fast boats." As mentioned above, if you impose speed limits in one area of the Flagler County ICW, you will force such "fast boats" to move to the remaining unrestricted areas. Will future studies then conclude that these heretofore unrestricted areas now have a higher "coincidence" of "fast boats" that will warrant new, additional areas for speed restrictions? Where does this stop?

Now, let me address the specific "zones" proposed by FWC staff.

Zone "B1," proposed to extend from 300' south of the Hammock Dunes Bridge to the so-called "middle cut" or Cimarron Basin residential canal in Palm Coast, should be shortened to something immediately north of the southern-most residential canal.

The data supplied by FWC shows only three (3) manatee watercraft related deaths (1990, 1995, and 1998) in this area. However, the number of perinatal deaths in the waters associated with the southernmost canal gives testimony to the fact that manatees must spend at least some time in this vicinity. The presence of the Hammock Dunes Bridge and two marinas in this area suggest that there may be a higher-than-normal number of boats present here. In an abundance of caution, a shortened slow speed zone in this area might be warranted.

Zone "D1," proposed to extend from Silver Lake southward to the Lehigh Canal, should not be designated a "slow speed" zone. There are no watercraft-related manatee deaths in this area. Public testimony from an attorney representing Sea Ray Boats, the second-largest private employer in Flagler County, has indicated that the imposition of a slow speed zone here will have a direct and chilling impact on their ability to continue their manufacturing and testing activities in Flagler County. Flagler County has the highest unemployment rate in all of Florida; we can not afford to jeopardize the jobs represented by Sea Ray!

Similarly, Zone "D2," proposed to extend from the Lehigh Canal southward to 300' south of the S.R. 100 Bridge and partially overlapping an existing "Boating Safety Zone" in the vicinity of the bridge, does not warrant a slow speed designation. There have been no watercraft-related manatee deaths in this area. There already exists a "Boater Safety Zone" in the vicinity of the S.R. 100 Bridge and the boat ramp immediately south of the bridge. This zone should be preserved.

Comments for the Flagler County LRRC

Jon Netts

Committee Member and Chair

Zone "E1," proposed to extend from 1.8 miles north of Gamble Rogers State Park is the only area where FWC staff report a significant number of watercraft-related deaths, however these deaths are clustered near the boat ramp of the Park. Consequently, the zone should be shortened by one mile such that the zone would begin 0.8 miles north of the park.

Zone "E2," proposed to extend from essentially the Volusia County line northward to Gamble Rogers Park, has no reported watercraft-related deaths and, as such, does not warrant a "slow speed" designation. Boaters traveling northward from Volusia County are already subject to a numerical restriction (30 mph daytime and 25 mph night) and are further restricted to "slow speed out-of-channel." Good regulations are marked by ease of understanding and consistency so an extension of the "Volusia County Rule" from the Flagler County line northward to Gamble Rogers might make sense.

In conclusion, regulations that are onerous, difficult to understand and contrary to reason are frequently ignored by the public. The original proposal by FWC is all of these. The Local Rule Review Committee urges FWC to support additional manatee education for the boating public. There are six public access points to the Intracoastal Waterway within Flagler County: Gamble Rogers Park, Betty Steflik Park in Flagler Beach, Herschel King Park, Bings Landing and Hammock Beach Marina, all in unincorporated Flagler County, the Palm Coast Marina in the City of Palm Coast, and a seventh access point, a redevelopment of a marina in the Town of Marineland is in the planning stage. These are ideal locations for educational signage. Instead of proposing regulations that will prove to be extremely difficult to enforce, spend some time and money educating boaters. There are a number of fishing and boating clubs in Flagler County; instead of regulations, why not a "speakers bureau?"

Jon Netts

Committee Member and Chair

Preferences for Manatee Protection Speed Zones

Jim Netherton

General Comments. The evidence seems to show that manatees primarily transit Flagler County and don't have favorite places along the ICW to stay. Resident manatees are more likely to be in the residential canal systems, particularly those around Palm Coast. I don't see any need to establish refuge areas for manatees. The main interactions between boats and manatees will be in the ICW.

I prefer to have smaller, targeted slow speed zones and not broad zones. The two places that I see a potential problem are with the three entries to the Palm Coast canals where there are a lot of manatee sightings, and the area around Gamble Rogers park where the majority of boat/manatee fatalities have occurred.

I believe it is critical to arrive at speed zones that boaters are comfortable with and will voluntarily obey out of desire to benefit manatees. I do not believe it is possible to hire enough law enforcement to make everyone slow down if they don't want to. According to Google Earth, it is about 18.5 miles from the northern to southern county line. Simple math shows that it takes nearly ten minutes more travel time for every mile that a boat has to travel at 5 mph as opposed to 25 mph. If as much as a third of the county is covered with slow speed zones, that will add an hour to a trip and I suspect cause enough resentment that boaters will see manatees as the enemy, not a species to be protected. The slow speed zones that I support will add 25 minutes to the transit time of the county. This is not good, but probably acceptable.

The other problem with broad slow speed zones is that it concentrates the recreational Flagler boaters that need higher speeds – i.e. water skiers, jet skis, and boats pulling inner tubes or other water toys. This creates more boating safety issues and in the future, when FWC repeats their aerial surveys, will increase COIN values along unregulated parts of the ICW and create a push for even more slow speed zones.

I prefer to keep the area north of the Lehigh Canal that is used for boat testing by Sea Ray generally free from slow speed zones, except for the areas around the Palm Coast canal entries. Sea Ray is a waterway user with the same rights as everyone else, and their business can be seriously and adversely impacted by overly severe waterway restrictions. I don't think it is a good idea to create an exemption from the rules for Sea Ray captains. This will foster disrespect for the laws on the part of other boaters. I believe it is better not to establish speed zones in the bulk of their test area.

I prefer to define the warm season as May to September. All speed zones should only be in effect during the warm season.

Specific Recommendations

1. Marineland and the Matanzas River. I will agree with the FWC recommendation at this time for no additional speed zone. I expect to petition the FWC for a quarter mile Slow, Minimum Wake zone around the mouth of the Marineland Marina when it becomes active. This is for purposes of boating safety.

Preferences for Manatee Protection Speed Zones

Jim Netherton

2. Palm Coast. I disagree with the FWC recommendation of a warm season 1.5 mile Slow Speed Minimum Wake zone from the central Palm Coast canal to 300 feet south of the Dunes Hammock Bridge. I would prefer to see a warm season Slow Speed Minimum Wake zone extending 1/8 mile north and south of each of the 3 entries to the Palm Coast canals. There is about 1 mile between each of these entries. In my view any of these entries can provide access to the canal system and I don't see a good way to tell if manatees prefer one to the other. However these are the only 3 entry/exit points available and it is perfectly clear that manatees like to spend time in the canals. Establishing a 2 mile Slow Speed zone from the south entry to the north entry is a little too long for boaters.

3. Fox Cut. I agree with the FWC recommendation for no speed zone.

4. Smith Creek north of S.R. 100

D-1. I disagree with the FWC suggestion. I prefer not to establish a speed zone in this area.

D-2. I disagree with the FWC suggestion. I prefer not to expand the speed zone in effect around the S.R. 100 bridge.

5. Smith Creek south of S.R. 100.

E-1. I agree with the FWC recommendation for a warm season Slow Speed zone from the Gamble Rogers basin 1.8 miles north. My reason is that this is where almost all the Flagler County manatee deaths occur, especially those during the past decade that have stirred regulatory interest.

E-2. I agree with the FWC recommendation to make the 0.7 miles from the Gamble Rogers basin south to the Volusia County line a warm season slow speed zone. My suspicion that one reason for the increased number of manatee deaths around Gamble Rogers park is that boaters that have been creeping through Volusia County are finally able to get back on plane and go fast again. They may be so eager to get back up to speed that they are not careful to look for manatees in the area.

VIRGINIA TEE VOTE RATIONALE

Zone	My Vote	Reason
A	Modification – Slow Speed Out of Channel	Manatees spotted around docks frequently. Data shows a heightened level of Fast Coin (1.109) due to a large group of manatees travelling through area. ICW is wide enough to support a buffer zone that will not interfere with channel traffic.
B1	Modification – Weekend Only	Primarily the greater incidence of boats and of planing boats in the area is on the weekend. Otherwise the data does not support a zone in this area in my opinion.
Fox's Cut	Modification – Weekend Only	High Coin and Fast Coin data (higher than B1). Primarily the greater incidence of planing boats occurs on the weekends.
D1	(Aye) For FWC Recommendation	High warm season Coin and high density of manatees.
D2	Modification – Slow Speed Outside of Channel	Coin and density are lower for D2 than D1. D1 and D2 would be a very long contiguous slow speed zone. Channel is wide enough to support a small buffer here.
E1	(Aye) For FWC Recommendation	High Coin and Fast Coin and high density of manatees.
E2	(Aye) For FWC Recommendation	High Coin and Fast Coin and high density of manatees.
Warm Season	May - September	Data shows the highest density of manatees and a corresponding high mortality rate during these months.