October 1, 2019

Dear Parcel Owner:

Flagler County and the U.S. Army Corps of Engineers (USACE) are preparing to construct beach sand replenishment along the segment of the Flagler County Coastal Storm Risk Management Project in the May 2020 to November 2020 timeframe. This sand placement will be the initial construction of the federal shore protection project that will slightly widen and subsequently maintain the existing beach and dune conditions along this approximate 2.8 mile long shoreline between South 6th Street and South 28th Street in Flagler Beach. Construction of the project requires the establishment of an Erosion Control Line (ECL) along the length of the project. Attached to this letter is an official notification to you regarding a October 22, 2019 Public Workshop and Public Hearing regarding the proposed ECL.

State Law (Chapter 161.141, Florida Statutes) requires the establishment of an Erosion Control Line (ECL) prior to construction of a beach nourishment project that will place sand on submerged state lands (that is, seaward of the Mean High Water Line (MHWL)) – such as in the upcoming Coastal Storm Risk Management project. The ECL is recognized in Florida as the fixed boundary between upland property and submerged state owned lands. The area landward of the ECL remains the property of the upland owner, irrespective of future beach erosion or accretion. Sand that is placed or accretes seaward of the ECL (where state owned submerged land existed before the project) is considered state owned lands. The location of the ECL is established at or about the Mean High Water Line prior to the project’s initial construction; in this instance, as surveyed in July 2019. In short, the ECL establishes (fixes) the boundary between upland ownership and state submerged lands, at the pre-project mean high water line, which otherwise varies (widens or narrows) from day to day, and year to year, along the shoreline.

The enclosed drawings illustrate the overall location of the proposed new ECL along the Coastal Storm Risk Management project shoreline. The proposed ECL is legally described in the attached “Notice of Public Workshop & Hearing”. The attached “Erosion Control Line and Mean High Water Fact Sheet” further describes the ECL.

You are invited to attend the Public Workshop and Public Hearing on October 22, 2019, which will begin at 6:00 pm and end at 7:30 pm, at the Government Services Complex, 1769 E. Moody Boulevard, Building 2, Board Chambers, Bunnell, FL 32110, Flagler County, regarding the adoption of the ECL, per the attached Agenda. The workshop (commencing at 6:00 pm) will be immediately followed by the Public Hearing. Staff from the Florida Dept. of Environmental
Protection, Flagler County, and the U.S. Army Corps of Engineers, will be present to explain the ECL, address your questions, and take public comments. Maps of the ECL location along the entire Mid Reach shoreline will be available at the workshop and Public Hearing.

This letter and Notice is being sent to all oceanfront property owners along, and within 1000 feet north, south and west, of the proposed segment of the ECL. Because of the number of people receiving notice, the workshop/hearing is being held at the Government Services Building in Bunnell.

If you have any questions regarding the ECL, please contact:
Florida Department of Environmental Protection
Division of Water Resource Management
c/o: William "Guy" Weeks
Planning Manager
Beaches, Inlets and Ports Program
2600 Blair Stone Road, Mail Station 3544
Tallahassee, Florida 32399-2400
William.Weeks@FloridaDEP.gov
(850) 245-7696

If you have questions regarding Flagler County’s Coastal Storm Risk Management project, please contact Richard Gordon, P.E., the County’s Assistant Engineer assigned to the project at (386) 313-4006 or via email at rgordon@flaglercounty.org.

Sincerely,

[Signature]

Faith Alkhatib, P.E., Public Works Director and County Engineer
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110

Attachments:
Maps depicting location of proposed ECL between S. 6th Street and S. 28th Street, Flagler Beach
Notice of Public Workshop & Hearing
Erosion Control Line and Mean High Water fact sheet
Public Workshop & Hearing agenda
LOCATION SKETCH A KEY MAP
(RANGE 31 EAST, SCALE 1:4000)
NOTICE OF PUBLIC WORKSHOP & HEARING

Notice is hereby given that the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida is proposing the establishment of an Erosion Control Line, pursuant to Section 161.161, Florida Statutes. A designee of the Board of Trustees of the Internal Improvement Trust Fund will hold a Public Workshop and a Public Hearing immediately following the Workshop at the Government Services Complex, 1769 E. Moody Boulevard, Building 2, Board Chambers, Bunnell, FL 32110, Flagler County on Tuesday, October 22, 2019, held at 6:00 PM and ending at 7:30 PM for the purpose of considering evidence bearing on the location of a proposed Erosion Control Line for the beach erosion control project known as Flagler County, Florida Coastal Storm Risk Management Project.

This Workshop is the public's opportunity to ask questions about the proposed erosion control line. This Hearing is the public's opportunity to comment on, speak in support of, object to, and submit for consideration materials relevant to the methodology used for locating the proposed Erosion Control Line and relevant to the location of the proposed Erosion Control Line.

If approved by the Board of Trustees, the Erosion Control Line will be recorded in the County's Book of Plats and will become the boundary between private uplands and sovereign submerged lands owned by the state.

The proposed Erosion Control Line lies along FLAGLER BEACH fronting the Atlantic Ocean at the line of mean high water. The Erosion Control Line lies in Section 7, Township 12 South, Range 31 East along with Sections 7, 18 & 19, Township 12 South, Range 32 East in Flagler County, Florida. The location of the proposed Erosion Control Line, near FDEP Range Survey Monuments R-79 to R-94, is described as follows:

Legal Description

COMMENCING AT A FLORIDA DEPARTMENT OF TRANSPORTATION DISK IN CONCRETE DESIGNATED "73 07 A08-2 F027" HAVING COORDINATES OF NORTHING 1871193.86 FEET AND EASTING 615697.45 FEET AS REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT, PROCEED ALONG A BEARING OF SOUTH 28°45'40" EAST, A DISTANCE OF 1322.49 FEET TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN, HAVING AN ELEVATION OF 1.41 FEET AS REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988, SAID POINT BEING THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED MEAN HIGH WATER LINE, AND HAVING COORDINATES OF NORTH 1870034.52 FEET AND EASTING OF 616333.78 FEET; THENCE SOUTH 20°13'01" EAST, A DISTANCE OF 26.91 FEET; THENCE SOUTH 17°53'14" EAST, A DISTANCE OF 216.71 FEET; THENCE SOUTH 18°13'55" EAST, A DISTANCE OF 226.45 FEET; THENCE SOUTH 21°33'11" EAST, A DISTANCE OF 209.10 FEET; THENCE SOUTH 22°59'20" EAST, A DISTANCE OF 208.68 FEET; THENCE SOUTH 20°51'56" EAST, A DISTANCE OF 228.80 FEET; THENCE SOUTH 19°35'05" EAST, A DISTANCE OF 197.36 FEET; THENCE SOUTH 21°47'29" EAST, A DISTANCE OF 220.09 FEET; THENCE SOUTH 23°15'15" EAST, A DISTANCE OF 216.09 FEET; THENCE SOUTH 21°13'03" EAST, A DISTANCE OF 202.95 FEET; THENCE SOUTH 21°35'02" EAST, A DISTANCE OF 201.62 FEET; THENCE SOUTH 22°34'44" EAST, A DISTANCE OF 202.37 FEET; THENCE SOUTH 22°24'31" EAST, A DISTANCE OF 196.87 FEET, SAID POINT BEING A DISTANCE OF 143.55 FEET FROM A NATIONAL GEODETIC STAINLESS STEEL ROD WITH NO CASING STAMPED "E405 1991", ALONG A BEARING OF NORTH 43°24'49" EAST; THENCE SOUTH 21°24'49" EAST, A DISTANCE OF 202.73 FEET; THENCE SOUTH 22°36'50" EAST, A DISTANCE OF 201.02 FEET; THENCE SOUTH 23°12'53" EAST, A DISTANCE OF 206.29 FEET; THENCE SOUTH 21°53'13" EAST, A DISTANCE OF 203.34 FEET; THENCE SOUTH 22°59'39" EAST, A DISTANCE OF
206.01 FEET; THENCE SOUTH 22°41'44" EAST, A DISTANCE OF 206.91 FEET; THENCE SOUTH 24°18'41" EAST, A DISTANCE OF 198.41 FEET; THENCE SOUTH 23°27'16" EAST, A DISTANCE OF 198.68 FEET; THENCE SOUTH 21°45'17" EAST, A DISTANCE OF 204.24 FEET; THENCE SOUTH 23°38'56" EAST, A DISTANCE OF 202.01 FEET; THENCE SOUTH 23°41'55" EAST, A DISTANCE OF 201.63 FEET; THENCE SOUTH 23°01'28" EAST, A DISTANCE OF 214.90 FEET; THENCE SOUTH 22°09'36" EAST, A DISTANCE OF 201.27 FEET; THENCE SOUTH 24°25'13" EAST, A DISTANCE OF 200.88 FEET, SAID POINT BEING A DISTANCE OF 176.58 FEET FROM A FLORIDA DEPARTMENT OF TRANSPORTATION DISK IN CONCRETE STAMPED “73 77 A06 RM NO 2” ALONG A BEARING OF NORTH 52°27'54" EAST; THENCE SOUTH 20°54'44" EAST, A DISTANCE OF 203.51 FEET; THENCE SOUTH 21°38'16" EAST, A DISTANCE OF 209.67 FEET; THENCE SOUTH 20°20'55" EAST, A DISTANCE OF 200.79 FEET, SAID POINT BEING 187.62 FEET FROM A DISK IN CONCRETE DESIGNATED “R087 74 F387” ON A BEARING OF SOUTH 75°38'39" EAST; THENCE SOUTH 22°20'36" EAST, A DISTANCE OF 200.00 FEET; THENCE SOUTH 22°21'33" EAST, A DISTANCE OF 202.55 FEET; THENCE SOUTH 23°35'32" EAST, A DISTANCE OF 201.65 FEET; THENCE SOUTH 22°57'54" EAST, A DISTANCE OF 200.09 FEET; THENCE SOUTH 21°14'54" EAST, A DISTANCE OF 197.76 FEET; THENCE SOUTH 22°28'36" EAST, A DISTANCE OF 214.90 FEET; THENCE SOUTH 21°54'01" EAST, A DISTANCE OF 203.19 FEET; THENCE SOUTH 26°32'29" EAST, A DISTANCE OF 201.67 FEET; THENCE SOUTH 19°59'42" EAST, A DISTANCE OF 198.35 FEET; THENCE SOUTH 17°36'28" EAST, A DISTANCE OF 201.98 FEET; THENCE SOUTH 20°24'56" EAST, A DISTANCE OF 200.86 FEET; THENCE SOUTH 22°13'23" EAST, A DISTANCE OF 207.98 FEET, SAID POINT BEING 196.15 FEET FROM A DEPARTMENT OF NATURAL RESOURCES DISK IN CONCRETE DESIGNATED “R-90 FL 2000 F390” ON A BEARING OF NORTH 42°05'54" EAST; THENCE SOUTH 22°01'01" EAST, A DISTANCE OF 199.04 FEET; THENCE SOUTH 22°00'08" EAST, A DISTANCE OF 201.81 FEET; THENCE SOUTH 21°45'51" EAST, A DISTANCE OF 208.83 FEET; THENCE SOUTH 22°00'22" EAST, A DISTANCE OF 204.51 FEET; THENCE SOUTH 22°14'49" EAST, A DISTANCE OF 204.97 FEET; THENCE SOUTH 21°03'18" EAST, A DISTANCE OF 201.92 FEET; THENCE SOUTH 20°19'36" EAST, A DISTANCE OF 206.00 FEET; THENCE SOUTH 22°31'18" EAST, A DISTANCE OF 198.38 FEET; THENCE SOUTH 23°21'08" EAST, A DISTANCE OF 199.66 FEET; THENCE SOUTH 24°29'08" EAST, A DISTANCE OF 199.85 FEET; THENCE SOUTH 19°39'05" EAST, A DISTANCE OF 202.46 FEET; THENCE SOUTH 18°24'10" EAST, A DISTANCE OF 205.48 FEET; THENCE SOUTH 19°09'24" EAST, A DISTANCE OF 208.28 FEET; THENCE SOUTH 18°46'26" EAST, A DISTANCE OF 203.49 FEET; THENCE SOUTH 22°15'18" EAST, A DISTANCE OF 199.88 FEET; THENCE SOUTH 22°51'58" EAST, A DISTANCE OF 201.98 FEET; THENCE SOUTH 22°42'52" EAST, A DISTANCE OF 199.83 FEET; THENCE SOUTH 20°06'53" EAST, A DISTANCE OF 204.30 FEET; THENCE SOUTH 22°40'47" EAST, A DISTANCE OF 196.40 FEET; THENCE SOUTH 22°19'36" EAST, A DISTANCE OF 202.92 FEET, SAID POINT BEING 121.95 FEET FROM A FLORIDA DEPARTMENT OF TRANSPORTATION DISK IN CONCRETE STAMPED “77 73 A04” ON A BEARING OF NORTH 79°11'55" EAST AND THE POINT OF TERMINATION OF THE AFOREMENTIONED MEAN HIGH WATER LINE, SAID POINT HAVING COORDINATES OF NORTH 1857642.26 FEET AND EASTING OF 621295.17 FEET. MEAN HIGH WATER LINE AS DESCRIBED HAVING A TOTAL LENGTH OF 13,354 FEET MORE OF LESS.

After the Hearing, and if approved by the Board of Trustees' designee the Erosion Control Line will be recorded in the County's Book of Plats and will become the boundary between private uplands and sovereign submerged lands owned by the state. Written objections to, or inquiries regarding, the proposed Erosion Control Line should be submitted to the Division of Water Resource Management – Beaches, Inlets and Ports Program, Department of Environmental Protection, c/o William Guy Weeks, 2600 Blair Stone Road, Mail Station 3590, Tallahassee, Florida 32399-2400, (850) 245-7696, e-mail: william.weeks@FloridaDEP.gov, prior to the date mentioned above. The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida reserves the right to deny establishment of the Erosion Control Line.

BY ORDER OF THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST
**Erosion Control Line Information**

Prior to beach erosion control projects in the State of Florida, an Erosion Control Line (ECL) must be established along the shoreline to define the property boundary between sovereign submerged land and upland ownership. In discharging its statutory duties to establish these boundary lines, coordination activities must occur with the Florida Department of Environmental Protection’s Division of Water Resource Management (DWRM), Division of State Lands (DSL) - Bureau of Survey & Mapping (BSM), Office of General Counsel (OGC), local sponsors, consultants and surveyors. There are several steps one must follow to establish an erosion control line that can be found in the ECL checklist document. To view existing operative erosion control lines, please see the OCULUS electronic document management system, a FDEP database. To learn about beach restoration project information, see the Strategic Beach Management Plan (SBMP).

The Statutory and Rule Authority for Erosion Control Lines are the following:

- 161.141 F.S., Beach Restoration Projects *
- 161.151 F. S., Definitions
- 161.161 F.S., Procedure for Approval of Beach Restoration Projects
- 161.181 F.S., Recording procedures for ECL’s
- 161.191 F.S., Vesting of Title to Lands
- 161.201 F.S., Preservation of Common-Law Rights
- 161.211 F.S., Cancellation of Resolution for Nonperformance
- 177 F.S., Land Boundaries and Coastal Mapping *
- 253.12-5(B) F.S., Sovereign Submerged Lands
- 18-21 F.A.C., Sovereign Submerged Lands Management
• 5J-17 F.A.C., Standards of Practice / Minimum Technical Standards (MTS) for Surveyors and Mappers
• 62B-41.008 F.A.C., Joint Coastal Permit Application Requirements and Procedures

*Actual Florida Statute language for 161 and 177 are written below.

Acronyms:

• FDEP – Florida Department of Environmental Protection
• CE – Critical Erosion
• BIPP – Beaches, Inlets and Ports Program
• BSM – Bureau of Survey and Mapping
• CCCL – Coastal Construction Control Line
• DSL – Division of State Lands
• DWRM – Division of Water Resource Management
• ECL – Erosion Control Line
• JCP – Joint Coastal Permit
• LABINS – Land Boundary Information System
• MHWL – Mean High Water Line
• OGC – Office of General Counsel
• PSM – Professional Surveyor and Mapper
• SBMP – Strategic Beach Management Plan
• TIITF – Trustees of the Internal Improvement Trust Fund
• USACE - United States Army Corps of Engineers - Jacksonville
• USACE - United States Army Corps of Engineers - Mobile
You **need** an erosion control line (ECL), **when the following applies**:

- The project is authorized and defined by Congress/US Army Corps (USACE) or State as a beach restoration project.
- The project advances the mean high water line (immediately or over time).
- The project has a signed and dated local resolution; and
- To establish an ECL, the project must be located along FDEP designated “critically eroded beach”.
- Projects facing an inlet shoreline or locally/privately funded projects will be examined by the Department on a case by case basis to determine the classification of the ECL as a standard ECL or just a MHWL survey and possible “Boundary Line Agreement” (BLA).
- A MHWL survey (required) and a possible BLA accomplishes the same objective as an ECL, but does not require a public workshop and hearing, since no state monies would be used to construct the beach restoration project.

You **don’t need** an erosion control line (ECL) **when the following applies**:

- The dune project is seeking a coastal construction control line (CCCL) permit.
- The construction plans for the dune project have demonstrated that the mean high water line (MHWL) will not be advanced nor has an adverse impact on offshore resources through the equilibration process post construction.
- The beach project is the result of an inlet or navigation channel maintenance dredging disposal and has not been defined as an authorized beach project by Congress/USACE or State, see Section 161.141 F.S. This applies even if the project is being permitted through a joint coastal permit (JCP); or
- If the project is constructed along a “non-critically eroded beach” and advances the MHWL seaward or is affecting offshore resources, then a MHWL survey is required & a BLA may be required.
Timeline:
The ECL should represent the current conditions of the Mean High Water Line (MHWL) before construction is initiated:

- The MHWL survey should not be more than approximately 6 months old at the time of the ECL hearing. If the MHWL survey is several months beyond six months old at the time of the hearing, the DSL/BSM or the DWRM may not accept the survey and if necessary, request that the MHWL survey be resurveyed and resubmitted to the Department so it will be reflective of current coastal conditions before construction of the beach restoration project.

- Department staff, local government officials and the consultant should consider the risk of recording an ECL, if the project is not ready to be constructed within a two-year time period after the workshop/hearing. Therefore, it is recommended that the MHWL survey not be recorded in the County’s Clerk of Court as an ECL, if it is known that the beach restoration project’s permit will be petitioned and/or construction will be delayed for longer than a two-year time period. Therefore, the project should be planned for construction within two years of the recorded ECL. If the project is not constructed within two years of the ECL recording, the ECL may need to be cancelled and vacated; re-established and resubmitted based on a current MHWL survey. ECL’s need to be consistent with 161.211 F.S.

- The MHWL Survey, ECL process and the recording of the new ECL takes approximately 6 months to 1 year to perform all of the listed tasks described in the ECL checklist. Best case scenario, the process will take approximately 6 months, however many items can potentially develop that may delay the process and the final recording of the ECL may take 1 year or in some cases 2 years. Just as you have delays in a construction schedule, similar delays may potentially develop with the ECL process.


**Florida Statutes**  
(2018)

**Chapter 161**  
BEACH AND SHORE PRESERVATION

**Erosion Control Lines:**

**161.141 Property rights of state and private upland owners in beach restoration project areas.**— The Legislature declares that it is the public policy of the state to cause to be fixed and determined, pursuant to beach restoration, beach nourishment, and erosion control projects, the boundary line between sovereignty lands of the state bordering on the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida, and the bays, lagoons, and other tidal reaches thereof, and the upland properties adjacent thereto; except that such boundary line shall not be fixed for beach restoration projects that result from inlet or navigation channel maintenance dredging projects unless such projects involve the construction of authorized beach restoration projects. However, prior to construction of such a beach restoration project, the board of trustees must establish the line of mean high water for the area to be restored; and any additions to the upland property landward of the established line of mean high water which result from the restoration project remain the property of the upland owner subject to all governmental regulations and are not to be used to justify increased density or the relocation of the coastal construction control line as may be in effect for such upland property. The resulting additions to upland property are also subject to a public easement for traditional uses of the sandy beach consistent with uses that would have been allowed prior to the need for the restoration project. It is further declared that there is no intention on the part of the state to extend its claims to lands not already held by it or to deprive any upland or submerged land owner of the legitimate and constitutional use and enjoyment of his or her property. If an authorized beach restoration, beach nourishment, and erosion control project cannot reasonably be accomplished without the taking of private property, the taking must be made by the requesting authority by eminent domain proceedings. In any action alleging a taking of all or part of a property or property right as a result of a beach restoration project, in determining whether such taking has occurred or the value of any damage alleged with respect to the owner’s remaining upland property adjoining the beach restoration project, the enhancement, if any, in value of the owner’s remaining adjoining property of the
upland property owner by reason of the beach restoration project shall be
considered. If a taking is judicially determined to have occurred as a result of a
beach restoration project, the enhancement in value to the owner’s remaining
adjoining property by reason of the beach restoration project shall be offset against
the value of the damage, if any, resulting to such remaining adjoining property of
the upland property owner by reason of the beach restoration project, but such
enhancement in the value shall not be offset against the value of the property or
property right alleged to have been taken. If the enhancement in value shall exceed
the value of the damage, if any, to the remaining adjoining property, there shall be
no recovery over against the property owner for such excess.

History.—s. 1, ch. 70-276; s. 1, ch. 79-233; s. 1, ch. 82-144; s. 7, ch. 86-138; s.
18, ch. 87-97; ss. 28, 487, ch. 94-356; s. 1439, ch. 95-147; s. 11, ch. 2000-346; s.

161.151 Definitions; ss. 161.141-161.211.—As used in ss. 161.141-161.211:
(1) “Board of trustees” means the Board of Trustees of the Internal Improvement
Trust Fund.
(2) “Requesting authority” means any coastal county, municipality, or beach
erosion control district which requests a survey by the board of trustees under the
provisions of ss. 161.141-161.211.
(3) “Erosion control line” means the line determined in accordance with the
provisions of ss. 161.141-161.211 which represents the landward extent of the
claims of the state in its capacity as sovereign titleholder of the submerged bottoms
and shores of the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons and
other tidal reaches thereof on the date of the recording of the survey as authorized
in s. 161.181.
(4) “Authorized beach restoration project” means a beach project authorized by the
United States Congress or the department which involves a specific project
engineering design and a project maintenance program for a period of not less than
10 years.

History.—s. 2, ch. 70-276; s. 1, ch. 70-439; s. 2, ch. 82-144.

161.161 Procedure for approval of projects.—
(1) The department shall develop and maintain a comprehensive long-term
management plan for the restoration and maintenance of the state’s critically eroded
beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits of Florida. The beach management plan shall:

(a) Address long-term solutions to the problem of critically eroded beaches in this state.

(b) Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion. With respect to each inlet determined to be a significant cause of beach erosion, the plan shall include:

1. The extent to which such inlet causes beach erosion and recommendations to mitigate the erosive impact of the inlet, including, but not limited to, recommendations regarding inlet sediment bypassing; modifications to channel dredging, jetty design, and disposal of spoil material; establishment of feeder beaches; and beach restoration and beach nourishment; and

2. Cost estimates necessary to take inlet corrective measures and recommendations regarding cost sharing among the beneficiaries of such inlet.

(c) Design criteria for beach restoration and beach nourishment projects, including, but not limited to:

1. Dune elevation and width and revegetation and stabilization requirements; and

2. Beach profile.

(d) Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches and the source of beach-compatible sand.

(e) Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles.

(f) Identify shoreline development and degree of density and assess impacts of development and shoreline protective structures on shoreline change and erosion.

(g) Identify short-term and long-term economic costs and benefits of beaches, including recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs.

(h) Study dune and vegetation conditions.

(i) Identify beach areas used by marine turtles and develop strategies for protection of the turtles and their nests and nesting locations.

(j) Identify alternative management responses to preserve undeveloped beach and dune systems, to restore damaged beach and dune systems, and to prevent inappropriate development and redevelopment on migrating beaches, and consider
beach restoration and nourishment, armoring, relocation and abandonment, dune
and vegetation restoration, and acquisition.

(k) Establish criteria, including costs and specific implementation actions, for
alternative management techniques.

(l) Select and recommend appropriate management measures for all of the state’s
sandy beaches in a beach management program.

(m) Establish a list of beach restoration and beach nourishment projects, arranged
in order of priority, and the funding levels needed for such projects.

The beach management plan may be prepared at the regional level based upon
areas of greatest need and probable federal funding. Such regional plans shall be
components of the statewide beach management plan and shall serve as the basis
for state funding decisions upon approval in accordance with chapter 86-138, Laws
of Florida. In accordance with a schedule established for the submission of regional
plans by the department, any completed plan must be submitted to the secretary of
the department for approval no later than March 1 of each year. These regional plans
shall include, but shall not be limited to, recommendations of appropriate funding
mechanisms for implementing projects in the beach management plan, giving
consideration to the use of single-county and multicounty taxing districts or other
revenue generation measures by state and local governments and the private sector.
Prior to presenting the plan to the secretary of the department, the department shall
hold a public meeting in the areas for which the plan is prepared. The plan
submission schedule shall be submitted to the secretary for approval. Any revisions
to such schedule must be approved in like manner.

(2) Annually, the secretary shall present to the Legislature recommendations for
funding beach erosion control projects prioritized according to the criteria established
in s. 161.101(14).

(3) Once a project is determined to be undertaken, a survey of all or part of the
shoreline within the jurisdiction of the local government in which the beach is located
shall be conducted in order to establish the area of beach to be protected by the
project and locate an erosion control line. No provision of ss. 161.141-161.211 shall
be construed as preventing a local government from participating in the funding of
erosion control projects or surveys undertaken in accordance with the provisions of
ss. 161.141-161.211. In lieu of conducting a survey, the board of trustees may
accept and approve a survey as initiated, conducted, and submitted by the
appropriate local government if said survey is made in conformity with the appropriate principles set forth in ss. 161.141-161.211.

(4) Upon completion of the survey depicting the area of the beach erosion control project and the proposed location of the erosion control line, the board of trustees shall give notice of the survey and the date on which the board of trustees will hold a public hearing for the purpose of receiving evidence on the merits of the proposed erosion control line and, if approval is granted, of locating and establishing such requested erosion control line. Such notice shall be by publication in a newspaper of general circulation published in the county or counties in which the proposed beach erosion control project shall be located not less than once a week for 3 consecutive weeks and by mailing copies of such notice by certified or registered mail to each riparian owner of record of upland property lying within 1,000 feet (radial distance) of the shoreline to be extended through construction of the proposed beach erosion control project, as his or her name and address appear upon the latest tax assessment roll, in order that any persons who have an interest in the location of such requested erosion control line can be present at such hearing to submit their views concerning the precise location of the proposed erosion control line. Such notice shall be in addition to any notice requirement in chapter 120.

(5) The board of trustees shall approve or disapprove the erosion control line for a beach restoration project. In locating said line, the board of trustees shall be guided by the existing line of mean high water, bearing in mind the requirements of proper engineering in the beach restoration project, the extent to which erosion or avulsion has occurred, and the need to protect existing ownership of as much upland as is reasonably possible.

(6) In no event shall the department undertake a beach restoration or beach nourishment project where a local share is required without the approval of the local government or governments responsible for that local share.

(7) The department may adopt rules to administer this section.

History.—s. 3, ch. 70-276; s. 1, ch. 70-439; s. 23, ch. 78-95; s. 2, ch. 79-233; s. 9, ch. 86-138; s. 20, ch. 87-97; s. 29, ch. 94-356; s. 1440, ch. 95-147; s. 6, ch. 96-321; s. 3, ch. 96-371; s. 4, ch. 98-311; s. 12, ch. 2000-346; s. 40, ch. 2010-102.

161.181 Recording of resolution and survey of board of trustees.—If no review is taken within the time prescribed from the decision of the board of trustees or, if review be timely taken, in the absence of a final decision of a court of
competent jurisdiction preventing the implementation of a beach erosion control project or invalidating, abolishing, or otherwise preventing the establishment and recordation of the erosion control line as provided herein, the board of trustees shall file in the public records of the county or counties in which the erosion control line lies, a copy of its resolution approving the beach erosion control project and locating the erosion control line and shall also file and cause to be recorded in the book of plats of said county or counties a survey showing the area of beach to be protected and the location of the erosion control line.

History.—s. 5, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-233.

161.191 Vesting of title to lands.—

(1) Upon the filing of a copy of the board of trustees’ resolution and the recording of the survey showing the location of the erosion control line and the area of beach to be protected as provided in s. 161.181, title to all lands seaward of the erosion control line shall be deemed to be vested in the state by right of its sovereignty, and title to all lands landward of such line shall be vested in the riparian upland owners whose lands either abut the erosion control line or would have abutted the line if it had been located directly on the line of mean high water on the date the board of trustees’ survey was recorded.

(2) Once the erosion control line along any segment of the shoreline has been established in accordance with the provisions of ss. 161.141-161.211, the common law shall no longer operate to increase or decrease the proportions of any upland property lying landward of such line, either by accretion or erosion or by any other natural or artificial process, except as provided in s. 161.211(2) and (3). However, the state shall not extend, or permit to be extended through artificial means, that portion of the protected beach lying seaward of the erosion control line beyond the limits set forth in the survey recorded by the board of trustees unless the state first obtains the written consent of all riparian upland owners whose view or access to the water’s edge would be altered or impaired.

History.—s. 6, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-233.

161.201 Preservation of common-law rights.— Any upland owner or lessee who by operation of ss. 161.141-161.211 ceases to be a holder of title to the mean high-water line shall, nonetheless, continue to be entitled to all common-law riparian rights except as otherwise provided in s. 161.191(2), including but not limited to
rights of ingress, egress, view, boating, bathing, and fishing. In addition the state shall not allow any structure to be erected upon lands created, either naturally or artificially, seaward of any erosion control line fixed in accordance with the provisions of ss. 161.141-161.211, except such structures required for the prevention of erosion. Neither shall such use be permitted by the state as may be injurious to the person, business, or property of the upland owner or lessee; and the several municipalities, counties and special districts are authorized and directed to enforce this provision through the exercise of their respective police powers.

History.—s. 7, ch. 70-276.

161.211 Cancellation of resolution for nonperformance by board of trustees.—

(1) If for any reason construction of the beach erosion control project authorized by the board of trustees is not commenced within 2 years from the date of the recording of the board of trustees’ survey, as provided in s. 161.181, or in the event construction is commenced but halted for a period exceeding 6 months from commencement, then, upon receipt of a written petition signed by those owners or lessees of a majority of the lineal feet of riparian property which either abuts or would have abutted the erosion control line if the same had been located at the line of mean high water on the date the board of trustees’ survey was recorded, the board of trustees shall forthwith cause to be canceled and vacated of record the resolution authorizing the beach erosion control project and the survey locating the erosion control line, and the erosion control line shall be null and void and of no further force or effect.

(2) If the state, county, municipality, erosion control district, or other governmental agency charged with the responsibility of maintaining the protected beach fails to maintain the same and as a result thereof the shoreline gradually recedes to a point or points landward of the erosion control line as established herein, the provisions of s. 161.191(2) shall cease to be operative as to the affected upland.

(3) In the event a substantial portion of the shoreline encompassed within the erosion control project recedes landward of the erosion control line, the board of trustees, on its own initiative, may direct or request, or, upon receipt of a written petition signed by the owners or lessees of a majority of the lineal feet of riparian property lying within the erosion control project, shall direct or request, the agency charged with the responsibility of maintaining the beach to restore the same to the
extent provided for in the board of trustees’ recorded survey. If the beach is not restored as directed or requested by the board of trustees within a period of 1 year from the date of the directive or request, the board of trustees shall forthwith cause to be canceled and vacated of record the resolution authorizing the beach erosion control project and the survey locating the erosion control line, and the erosion control line shall be null and void and of no further force or effect.

History.—s. 8, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-233.

Chapter 177
LAND BOUNDARIES – Part II -- Coastal Mapping

177.25 Short title.— This part shall be cited as the “Florida Coastal Mapping Act of 1974.”

History.—s. 1, ch. 74-56.

177.26 Declaration of policy.— The Legislature recognizes the desirability of confirmation of the mean high-water line, as recognized in the State Constitution and defined in s. 177.27(15) as the boundary between state sovereignty land and uplands subject to private ownership, as well as the necessity for uniform standards and procedures with respect to the establishment of local tidal datums and the determination of the mean high-water and mean low-water lines, and therefore directs that uniform standards and procedures be developed.

History.—s. 2, ch. 74-56; s. 2, ch. 91-56.

177.27 Definitions.— The following words, phrases, or terms used herein, unless the context otherwise indicates, shall have the following meanings:

(14) "Mean high water" means the average height of the high waters over a 19-year period. For shorter periods of observation, “mean high water” means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.
“Mean high-water line” means the intersection of the tidal plane of mean high water with the shore.

177.28 Legal significance of the mean high-water line.—
(1) Mean high-water line along the shores of land immediately bordering on navigable waters is recognized and declared to be the boundary between the foreshore owned by the state in its sovereign capacity and upland subject to private ownership. However, no provision of this part shall be deemed to constitute a waiver of state ownership of sovereignty submerged lands, nor shall any provision of this part be deemed to impair the title to privately owned submerged lands validly alienated by the State of Florida or its legal predecessors.
(2) No provision of this part shall be deemed to modify the common law of this state with respect to the legal effects of accretion, reliction, erosion, or avulsion.

History.—s. 4, ch. 74-356.

177.29 Powers and duties of the department.—
(1) The provisions of this part shall be administered by the department.
(2) In addition to such powers as may be specifically delegated to it under the provisions of this part, the department is authorized to perform the following functions:
(a) To coordinate the efforts of all public and private agencies and organizations engaged in the making of tidal surveys and maps of the coastal areas of this state, with the object of avoiding unnecessary duplication and overlapping;
(b) To serve as a coordinating state agency for any program of tidal surveying and mapping conducted by the Federal Government;
(c) To assist any court, tribunal, administrative agency, or political subdivision, and to make available to them information, regarding tidal surveying and coastal boundary determinations;
(d) To contract with federal, state, or local agencies or with private parties for the performance of any surveys, studies, investigations, or mapping activities, for preparation and publication of the results thereof, or for other authorized functions relating to the objectives of this part;
(e) To develop permanent records of tidal surveys and maps of the state’s coastal areas;
(f) To develop uniform specifications and regulations for tidal surveying and mapping coastal areas of the state;
(g) To collect and preserve appropriate survey data from coastal areas; and
(h) To act as a public repository for copies of coastal area maps and to establish a library of such maps and charts.

History.—s. 5, ch. 74-56; s. 36, ch. 94-356.

177.35 Standards and procedures; applicability.—The establishment of local tidal datums and the determination of the location of the mean high-water line or the mean low-water line, whether by federal, state, or local agencies or private parties, shall be made in accordance with the standards and procedures set forth in ss. 177.37-177.39 and in accordance with supplementary regulations promulgated by the department.

History.—s. 11, ch. 74-56.

177.36 Work to be performed only by authorized personnel.—The establishment of local tidal datums and the determination of the location of the mean high-water line or the mean low-water line must be performed by qualified personnel licensed by the Board of Professional Surveyors and Mappers or by representatives of the United States Government when approved by the department.

History.—s. 12, ch. 74-56; s. 50, ch. 83-217; s. 21, ch. 85-80; s. 107, ch. 94-119.

177.37 Notification to department.—Any surveyor undertaking to establish a local tidal datum and to determine the location of the mean high-water line or the mean low-water line shall submit a copy of the results thereof to the department within 90 days after the completion of such work, if the same is to be recorded or submitted to any court or agency of state or local government.

History.—s. 13, ch. 74-56.

177.38 Standards for establishment of local tidal datums.—
(1) Unless otherwise allowed by this part or regulations promulgated hereunder, a local tidal datum shall be established from a series of tide observations taken at a tide station established in accordance with procedures approved by the department. In establishing such procedures, full consideration will be given to the national standards and procedures established by the National Ocean Service.
(2) Records acquired at control tide stations, which are based on mean 19-year values, comprise the basic data from which tidal datums are determined.
(3) Observations at a tide station other than a control tide station shall be reduced to mean 19-year values through comparison with simultaneous observations at the appropriate control tide stations. The observations shall be made continuously and shall extend over such period as shall be provided for in departmental regulations.

(4) When a local tidal datum has been established, it shall be preserved by referring it to tidal bench marks in the manner prescribed by the department.

(5) A local tidal datum may be established between two tide stations by interpolation when the time and mean range differences of the tide between the two tide stations are within acceptable standards as determined by the department. The methods for establishing the local tidal datum by interpolation shall be prescribed by regulations of the department. Local tidal datums established in this manner shall be recorded with the department.

(6) A local tidal datum properly established through the use of continuous tide observations meeting the standards described in this section shall be presumptively correct when it differs from a local tidal datum established by interpolation.

(7) The department may approve the use of tide observations made prior to July 1, 1974, for use in establishing local tidal datums.

History.—s. 14, ch. 74-56; s. 16, ch. 98-20.

177.39 Determination of mean high-water line or mean low-water line.—
The location of the mean high-water line or the mean low-water line shall be determined by methods which are approved by the department for the area concerned. Geodetic bench marks shall not be used unless approved by the department.

History.—s. 15, ch. 74-56.

177.40 Admissibility of maps and surveys.— No map or survey prepared after July 1, 1974, and purporting to establish local tidal datums or to determine the location of the mean high-water line or the mean low-water line shall be admissible as evidence in any court, administrative agency, political subdivision, or tribunal in this state unless made in accordance with the provisions of this part by persons described in s. 177.36.

History.—s. 16, ch. 74-56.
FLAGLER COUNTY
COASTAL STORM RISK MANAGEMENT PROJECT

FLAGLER BEACH EROSION CONTROL LINE (ECL) – Federal Project
PUBLIC WORKSHOP & PUBLIC HEARING
TUESDAY, OCTOBER 22, 2019
6:00 pm to 7:30 pm

GOVERNMENT SERVICES COMPLEX
BUNNELL, FLORIDA
1769 E. Moody Boulevard
Bunnell, Florida

PUBLIC WORKSHOP - AGENDA

Welcome Flagler County (Project Sponsor)
Purpose of Workshop FDEP and Flagler County
Presentation of Proposed Project & ECL USACE/Olsen Associates, Inc.
Talk to Specialists Walk room to see/discuss details/ask questions
Adjourn

PUBLIC HEARING – AGENDA (to immediately follow WORKSHOP)

Outline of ECL Process Hearing Officer (FDEP)
Presentation of Proposed ECL Olsen Associates, Inc.
Public Comments Moderated by Hearing Officer (FDEP)
Closing Remarks Hearing Officer (FDEP)
Adjourn

Note: Public Hearing will be recorded.