

## FINDING OF NO SIGNIFICANT IMPACT

### **Issuance of a Negotiated Agreement for Use of Outer Continental Shelf Sand from Borrow Area 3A for the Flagler County Coastal Storm Risk Management Project**

Pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR 1500-1508), and Department of the Interior (DOI) regulations implementing NEPA (43 CFR 46), the U.S. Army Corps of Engineers Jacksonville District (Corps) and Bureau of Ocean Energy Management (BOEM) have prepared a Supplemental Environmental Assessment (EA) for the Flagler County Coastal Storm Risk Management (CSR) project and adjacent features (herein referred to as the "Project"). The USACE is the lead federal agency for the NEPA process and associated environmental compliance requirements. Pursuant to 40 CFR 1501, BOEM is serving as a cooperating agency. The EA considers a modified design for initial construction of the Project to mitigate sustained erosional losses from multiple named storm events occurring between 2014 to 2023 while the Project proponents were managing real estate acquisitions. The Project includes additional dune and berm extension components on each end of the authorized federal template that will be 100% funded by the Non-Federal Sponsor (NFS), Flagler County. These NFS components were previously permitted by the Corps and State of Florida and are required to support construction of the Project due to insufficient space to operate and store construction equipment due to significant erosion. Sand required to construct the Project, including the NFS funded components, will come from an offshore borrow area (Borrow Area 3A) located in federal waters.

This Finding of No Significant Impact (FONSI) considers BOEM's decision to authorize use of Outer Continental Shelf (OCS) sand resources from Borrow Area 3A to support initial construction of the Project. The EA was prepared to evaluate if the modified design would result in new or significantly different effects from those previously disclosed in environmental documents related to the Project. These changes include: design and staging modifications, increased volume of sand dredged from Borrow Area 3A, the inclusion of NFS project components, and changes to the existing environment and routes of effect not considered in prior NEPA documents.

The following NEPA and Project documents previously prepared by the USACE and/or BOEM are incorporated by reference:

- *Environmental Assessment Flagler County Dune and Beach Restoration Project, Flagler County, Florida, dated March 2020. Issuance of a Negotiated Agreement for Use of Outer Continental Shelf Sand from Flagler County Borrow Area for the Flagler County Dune and Beach Restoration Project, Flagler County, FL. BOEM. Finding of No Significant Impact (FONSI) signed May 7, 2020. BOEM. Accessed at: [https://www.boem.gov/sites/default/files/documents/environment/Flagler\\_NonFed\\_FONSI\\_FINAL.pdf](https://www.boem.gov/sites/default/files/documents/environment/Flagler_NonFed_FONSI_FINAL.pdf)*

- *Finding of No Significant Impact (FONSI) signed November 27, 2019. Issuance of a Negotiated Agreement for Use of Outer Continental Shelf Sand from Borrow Area 3A for the Flagler County Hurricane and Storm Damage Reduction Project in Flagler County, FL. BOEM. Accessed at: <https://www.boem.gov/marine-minerals/mmp-your-state/florida-projects>*
- *Flagler County Hurricane Protection and Storm Damage Reduction Project, Chief's Report, dated December 23, 2014. Accessed at: <https://planning.erc.dren.mil/toolbox/library/ChiefReports/FlaglerCounty-Dec2014.pdf>*
- *Flagler County Hurricane Protection and Storm Damage Reduction Project, Final Integrated Feasibility Study and Environmental Assessment (EA), prepared September 2014, Finding of No Significant Impact (FONSI) signed January 22, 2016. Accessed at: <https://www.saj.usace.army.mil/About/Divisions-Offices/Planning/Environmental-Branch/Environmental-Documents/> (Click "+Flagler" and scroll down to the project name.)*

## Proposed Action

BOEM's action is to enter into a Non-competitive Negotiated Agreement (NNA) with the Corps and Flagler County authorizing use of OCS sand resources from Borrow Area 3A to conduct initial construction of the Project. The Project purpose is to provide hurricane and storm damage reduction to the shoreline development and critical infrastructure at risk of coastal erosion, maintain the recreational beach, maintain opportunities for recreational use of the nearshore areas, and maintain environmental quality.

The Project will require dredging and transport via trailing suction hopper dredge of up to 2,500,000 cubic yards (CY) of sand from Borrow Area 3A (cuts A, B, and C) to pre-determined offshore pump-out locations. The modified federal portion of the Project consists of an approximately 2.6-mile-long shoreline in Flagler Beach between (Florida Department of Environmental Quality Range Monument (R-Monument)) R-80 and R-94. To account for erosion of the Flagler County shoreline within the last decade (while still fulfilling the defined 10-foot seaward extension of the dune and beach as previously authorized), the constructed berm will be expanded by 100 feet from the original design, for a total constructed berm width of 140 feet (1V:35H). The NFS components of the Project will extend between R-77 to R-80 to the North and R-94 to R-96 to the South, include a constructed berm width consistent with the Federal project of (i.e., 140 feet (1V:35H)), and taper to the existing beach profile and equilibration design (**Attachment 1**).

## Alternatives to the Proposed Action

The Corps previously identified, evaluated, and compared a comprehensive suite of structural and non-structural alternatives in the 2014 Integrated Feasibility Study and Environmental Assessment (IFS/EA). The Corps considered these alternatives based

on contribution to federal planning objectives. Ultimately, the Corps carried forward five alternatives for analysis with the greatest potential to reduce damages to structures and infrastructure in the study area (e.g., no action, geotube with dune, revetment only, dunes, and beach nourishment with dune). The preferred alternative identified in the 2014 IFS/EA, then subsequently selected in the 2014 Chief of Engineers Report, consisted of a 10-foot seaward extension of the existing dune and berm using sand from offshore borrow areas. The selected plan/preferred alternative, as described in the 2014 Chief of Engineers Report, was subsequently authorized in Water Resources Development Act of 2016 (PL 114-322). The Corps is not revisiting alternatives to the authorized Project but is modifying scope to accommodate erosional losses from multiple hurricanes. The purpose and need has not fundamentally changed from the 2014 IFS/EA; thus, no new alternatives have emerged other than those related to dune and beach nourishment and the scale of initial construction of the Project.

The Corps considered a suite of borrow area alternatives (e.g., 2A, 2B, 2C, and 3A) to construct the Project. The Corps eliminated all alternatives but one due to compatibility concerns and volume constraints following design level data acquisition, including collection of additional vibrocore at a tighter spacing. The Corps identified Borrow Area 3A as the only technically or economically viable sand source for the volume and compatibility needs of the Project. There are no other technically feasible borrow areas that have been explored, identified, or discovered at this time.

## **Environmental Effects**

Previous NEPA documents listed above have described the affected environment in detail and evaluated the potential effects on resources of concern, including aesthetics, air quality, benthic resources and habitat, birds and other wildlife, fish and essential fish habitat (EFH), cultural resources, physical oceanography, non-threatened marine mammals, threatened and endangered species, recreation and tourism, water quality, Clean Water Act 404(b)1 discharge of dredged material evaluation, noise, and cumulative effects.

Before preparing this FONSI, BOEM considered the adequacy of the EA and existing environmental documents and related mitigation requirements given new circumstances or information and changes in the proposed action. BOEM searched for but did not discover any new information relevant to significantly different effects associated with the proposed action.

BOEM confirmed that the suite of mitigation, monitoring, and reporting requirements documented in past environmental documents is necessary to avoid, minimize, and/or reduce and track any foreseeable adverse impacts that may result from the Project. The Corps and/or Flagler County are responsible for ensuring compliance with all environmental requirements. The Corps will define roles and responsibilities and coordinate with BOEM in advance of construction to confirm and integrate all environmental compliance requirements into the contract plans and specifications.

## *Significance Review*

Pursuant to 40 CFR 1501.3(b), BOEM analyzed the significance of potential effects of the proposed action considering both the potentially affected environment and the degree of effects. BOEM analyzed connected actions (defined per 40 CFR 1501.9(e)(1)), including on-and-off site mobilization and beach placement activities.

BOEM considered the affected area and resources potentially present in both spatial and temporal contexts. The proposed action is considered site-specific. The area of direct fill placement includes dry sandy beach, intertidal flat/surf zone, and shallow subtidal habitat. Borrow Area 3A includes sandy submerged habitat. Effects would be limited to the placement site (including the pipeline corridors for conveying sediment to the beach) and the immediate dredging area, both of which are dominated by storms and physical processes of waves and currents. Effects of the Project would generally be limited to the 3-month to 6-month construction window and the time interval associated with equilibration of the placement material, benthic community recovery of the disturbed borrow area, and any habitat change along the beach. BOEM evaluated the following when evaluating the degree of effects:

### *(i) Short- and long-term effects*

Potential effects associated with the Project would be localized, short-lived, and generally reversible as described below. Borrow Area 3A has not been previously dredged. Removal of sand would change the shape and characteristics of the bottom habitat in that limited area and result in physical geomorphologic change. However, the effects would not be physically or biologically significant, since cuts A, B, and C are confined to a relatively small area within the larger 3A sand complex that has similar habitat for species potentially displaced by the alteration. Dredging would impact benthic epifauna and infauna resulting in the temporary, localized loss of some species. The plan to dredge Borrow Area 3A includes preserving similar sediment types at the bottom of the dredge template ensuring that the sediments exposed by dredging are like those previous surface sediments and will therefore remain suitable for expected rapid benthic recolonization. Recruitment and recolonization would occur in the short-term (i.e., days to weeks) after dredging given similar species in surrounding habitat. Recovery of the benthic population is expected within 1 to 2 years after dredging; therefore, the potential for significant or chronic impact would be avoided. Similar impacts are anticipated in the nearshore soft bottom communities of the beach placement site, and intertidal areas would recover through recruitment from surrounding communities.

Current sea turtle nesting opportunities along the Project's beach area are diminished because of long-term chronic beach erosion and frequent storm damage, resulting in lower-quality habitat. The sand composition of Borrow Area 3A meets the State of Florida's sediment criteria for native beach compatibility. Nesting habitat may be affected over the short-term, until the beach and dune system equilibrate post-construction and provide improved habitat. Construction activities and staging of

equipment may affect existing dune vegetation; however, the Project includes revegetation of dune areas that would be disturbed.

Loggerhead critical habitat (LOGG-N-17) and North Atlantic Right Whale (Unit 2) critical habitat occur in the project area. The Corps would avoid and/or minimize impacts to protected species and their designated critical habitat in accordance with requirements outlined in the U.S. Fish and Wildlife Service (USFWS) Statewide Programmatic Biological Opinion (SPBO) for beach placement activities (2015), the USFWS Programmatic Piping Plover Biological Opinion (P3BO) (2013), and the National Marine Fisheries Service (NMFS) South Atlantic Regional Biological Opinion for Dredging and Material Placement Activities in the Southeast United States (2020 SARBO) (Issued March 27, 2020 and revised July 31, 2020). These critical habitats and associated physical and biological features of the habitat are not likely to be adversely affected with avoidance and minimization measures in place.

The Project area falls under NMFS and the South Atlantic Fisheries Management Council (SAFMC) jurisdiction. NMFS has designated Essential Fish Habitat (EFH) in and adjacent to the Project's area for various demersal, pelagic, and highly migratory species. The Project would have temporary effects on EFH from dredging and placement activities. The Corps would implement measures to avoid and minimize effects on those fish species and fish habitat including but not limited to adherence to the State Water Quality conditions at the edge of a 150-meter mixing zone, avoiding/minimizing construction overlap with peak recruitment windows for benthic infauna assemblages and federally managed species, and avoidance of ephemeral hard bottom. The effects would not be significant as there is comparable, undisturbed habitat adjacent to the borrow area and the anticipated effects are short-term and limited in area.

Other expected short-term effects from the Project include interruption of shorebird foraging and resting at the placement site, noise and beach access closure effects on the local socio-economics and aesthetics, impediments to recreational usage at the placement site, restricted boating navigation at the dredge and placement sites, increases in turbidity at the construction sites, localized and minor noise level increases at the dredge site, and public safety risks posed by the construction equipment. These effects are limited to the 3-month to 6-month construction period.

*(ii) Beneficial and adverse effects*

BOEM considered potential effects to the physical environment, biological resources, cultural resources, and socioeconomic resources. Some coastal sand dependent species (e.g., native and migratory shorebirds, sea turtles) may experience temporary disruptions to foraging and nesting during and following construction. However, the birds and sea turtles that use the beach for foraging or nesting should benefit in the long-term from higher quality habitat. Flagler County plans to implement standard shorebird monitoring and sea turtle nesting protocols (as required by biological opinions

if the project timing overlaps with the nesting season). Dune vegetation would help create higher quality habitat to improve ecosystem function.

Dredging activities within Borrow Area 3A overlap with the distribution of threatened loggerhead (Northwest Atlantic Distinct Populations Segment (DPS)) and green sea turtles (North Atlantic DPS), and endangered leatherback, hawksbill, and Kemp's Ridley Sea turtles protected under the Endangered Species Act (ESA). Placement of sediment within the designated beach placement site may affect nesting sea turtles (loggerhead, leatherback, and greens) and piping plovers. Adherence to state and federal requirements, including sediment compatibility requirements, dredging operational constraints, endangered species observers, sea turtle nest monitoring, *etc.* would avoid and/or minimize effects. The Project would not occur in "optimal" piping plover habitat and is not likely to adversely affect the piping plover. The threatened West Indian manatee occurs in coastal and estuarine habitat within Flagler County where they primarily use inlet estuaries and shallow coastal waters to migrate and forage. The dredge and support vessels associated with the Project would be operating in deeper waters offshore and not in these migratory and foraging habitats. Therefore, minimal effects to the West Indian manatee are expected.

Seafloor-disturbing activities (*e.g.*, dredging, anchoring, pipeline placement, *etc.*) would occur during proposed construction activities. The Corps conducted cultural resources and hard bottom resource clearance surveys in Borrow Area 3A, pipeline corridors, and the beach placement area. No cultural or hard bottom resources were identified in the borrow area. The Corps would avoid three identified cultural resource targets located within the nearshore placement area. No adverse effects to historic or pre-contact resources are expected. If any other potential hard bottom or cultural resource anomalies are identified, avoidance buffers will be implemented. No adverse effects to historic or pre-contact resources or hard bottom resources within the borrow area, placement area, or pipeline corridors are expected with implementation of recommended avoidance measures.

### *iii. Effects on public health or safety*

Significant effects to public health and safety are not expected. The Project would provide for increased recreational opportunity (*e.g.*, beach access, surfing, shore fishing, wildlife viewing) from the improved beach and dune habitat. Temporary disruption to recreation would occur in small alongshore stretches as the construction progresses along the beach. The Project would result in improved visual amenity and long-term recreational improvements. Construction of the beach would provide protection of existing infrastructure as well. Noise would temporarily increase at the placement locations during construction, and then would return to ambient levels after project completion. The construction equipment at the beach placement site could pose a minor public safety risk. BOEM used the EPA EJScreen ([EJScreen \(epa.gov\)](http://EJScreen.epa.gov)) to determine that there are no minority or low-income populations in the Project area; therefore, the Project would not disproportionately affect populations outlined in Executive Order 12898.

In November 2022, the Corps conducted a probability assessment (PA) for the encounter of Munitions and Explosives of Concern (MEC) within Borrow Area 3A and along the Project shoreline. Through extensive research of records, including Formally Used Defense Sites (FUDS) and USACE archived records, no reports of MEC or Munitions Debris (MD) indicative of MEC were made during any past operations from the Project shoreline or for the Borrow Area 3A location. Identified FUDS locations in the vicinity of the Project that were reviewed by the Corps include: 1) Flagler Beacon Aircraft Warning Service, 2) Flagler Beach Airport, and 3) Bunnell Auxiliary Fighter Field. Per the 2022 MEC PA, the Corps determined “no probability” in both the beach fill area and borrow area for the Project. There is no indication of any ordnance being fired at these sites or originating from these sites to the borrow area.

*iv. Effects that would violate a Federal, State, Tribal, or local law protecting the environment*

The Corps and BOEM have completed ESA and Magnuson-Stevens Fishery Management and Conservation Act consultations. The Corps and BOEM determined that beach placement of sediment associated with the Project is within scope of the USFWS SBPO (revised 2015) and P3BO (2013). The Corps and BOEM have determined that dredging activities associated with the Project are within scope and will operate under the NMFS SARBO (2020). The Corps and Flagler County would comply with all relevant PDCs, Reasonable and Prudent Measures (RPMs), and associated Terms and Conditions (T&Cs).

The proposed action complies with the Marine Mammal Protection Act. Marine mammals are not likely to be adversely affected by the Project and incorporation of safeguards to protect threatened and endangered species during project construction (e.g., vessel speed requirements, protected species observers, etc.) would also protect non-listed marine mammals in the area.

Migratory birds may experience minor, short-term interruptions to foraging or resting activities linked to prey smothering or turbidity increases. The Corps and Flagler County will implement measures to avoid effects to migratory birds, hatchlings, or eggs along with pre- and post-project monitoring requirements.

The Corps and BOEM previously coordinated with the Florida Division of Historical Resources and State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officers (THPOs), as required by Section 106 of the National Historic Preservation Act. The SHPO concurred with the determination that the proposed project would have no adverse effect to historic properties listed, eligible, or potentially eligible for listing in the National Register of Historical Places provided avoidance of the nearshore targets. The Corps will immediately cease operations and notify BOEM and SHPO if an unexpected discovery occurs.

The Project has existing or modified consolidated Joint Coastal Permits (JCP). The JCP constitutes a finding of consistency with Florida’s Coastal Management Program, as

required by Section 307 of the Coastal Zone Management Act (CZMA); the JCP also constitutes certification of compliance with Florida water quality standards pursuant to Section 401 of the Clean Water Act (CWA) (33 U.S.C. 1341).

### **Consultations and Public Involvement**

The Corps made the EA available for public review on October 16, 2023 and can be found on the Corps and BOEM websites or provided upon request. No significant comments were received. This Finding will be made available to the public on boem.gov.

### **Mitigation and Monitoring**

The Corps and Flagler County are responsible for complying with all mitigation measures and monitoring requirements engendered by Federal, State, Tribal, and local laws, including those identified in the prior NEPA documents and related consultations. The Corps will prepare an environmental compliance matrix to document and track all environmental mitigation requirements and identify roles and responsibilities for implementation to ensure compliance prior to, during, and after construction. Additionally, the Corps or dredging contractor will be required to provide an environmental protection plan that verifies compliance with relevant environmental requirements. Implementation of mitigation measures and monitoring requirements will ensure effects are not significant.

Any mitigation or monitoring uniquely specified by BOEM in its NNA is done pursuant to the authority established by the Outer Continental Shelf Lands Act and 30 CFR 583. Other Project mitigation is engendered by various authorities, including the vested authority of the Corps, as well as environmental laws, such as ESA, CWA, and CZMA. Other federal or state agencies shall be responsible for enforcement of other mitigation measures. BOEM may terminate its authorization, or refer the Corps to enforcing agencies, if the Corps does not comply with mitigation measures (30 CFR 583).

### **Conclusion**

BOEM considered the consequences of entering into a NNA authorizing use of OCS sand from Borrow Area 3A (cuts A, B, and C) for the Project. BOEM concludes that the suite of referenced prior NEPA documents and recently completed EA fully analyze the direct, indirect, and cumulative impacts of the Project and the environmental commitments necessary to avoid, minimize, and or mitigate impacts. BOEM finds that the Project is in compliance with the relevant provisions of the CEQ regulations implementing NEPA, DOI regulations implementing NEPA, and other Bureau requirements.

BOEM finds that entering into a NNA, with the implementation of the mitigating measures, does not constitute a major Federal action significantly affecting the quality of the human environment, in the sense of NEPA Section 102(2)(C), and would not require preparation of an EIS.



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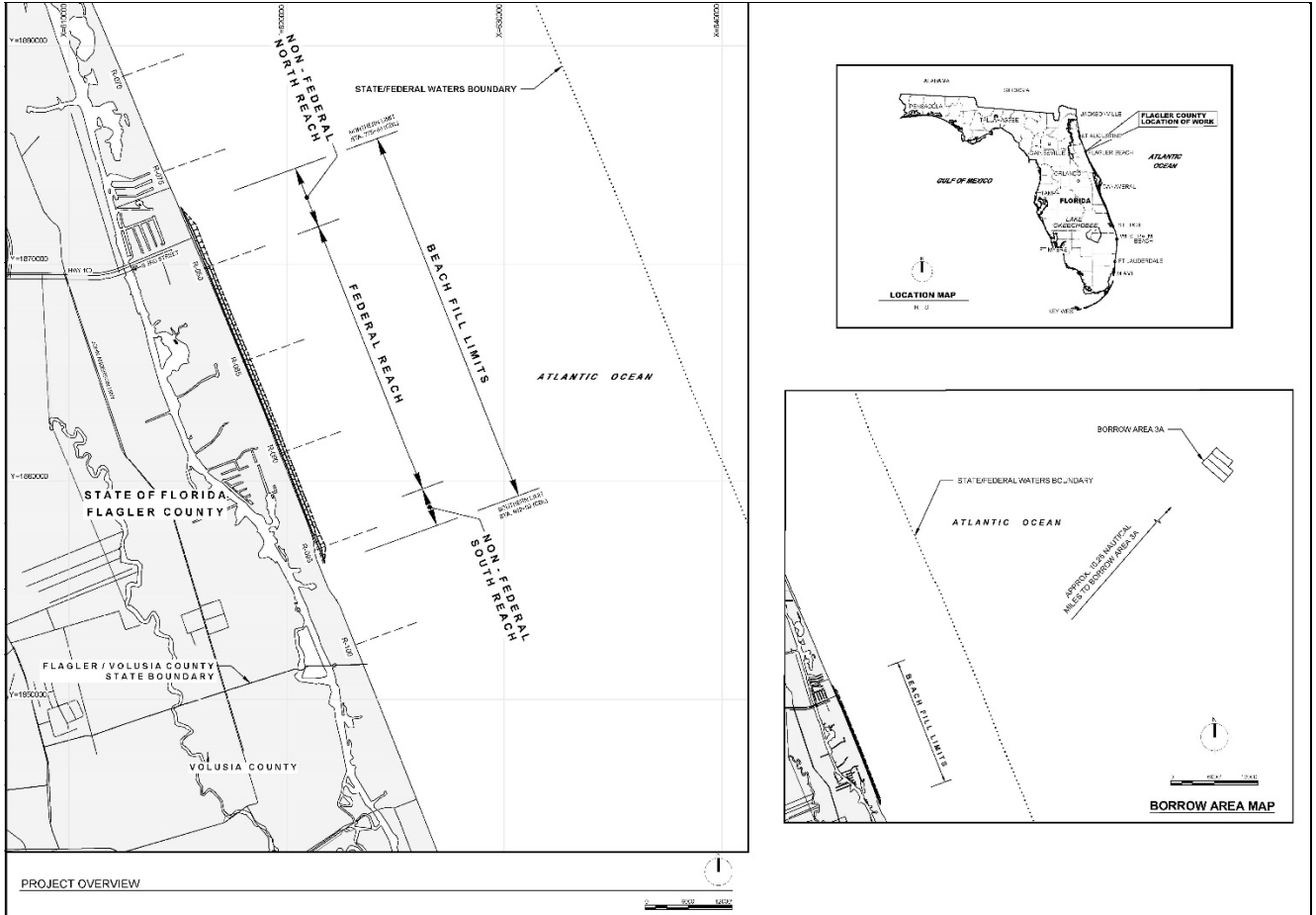
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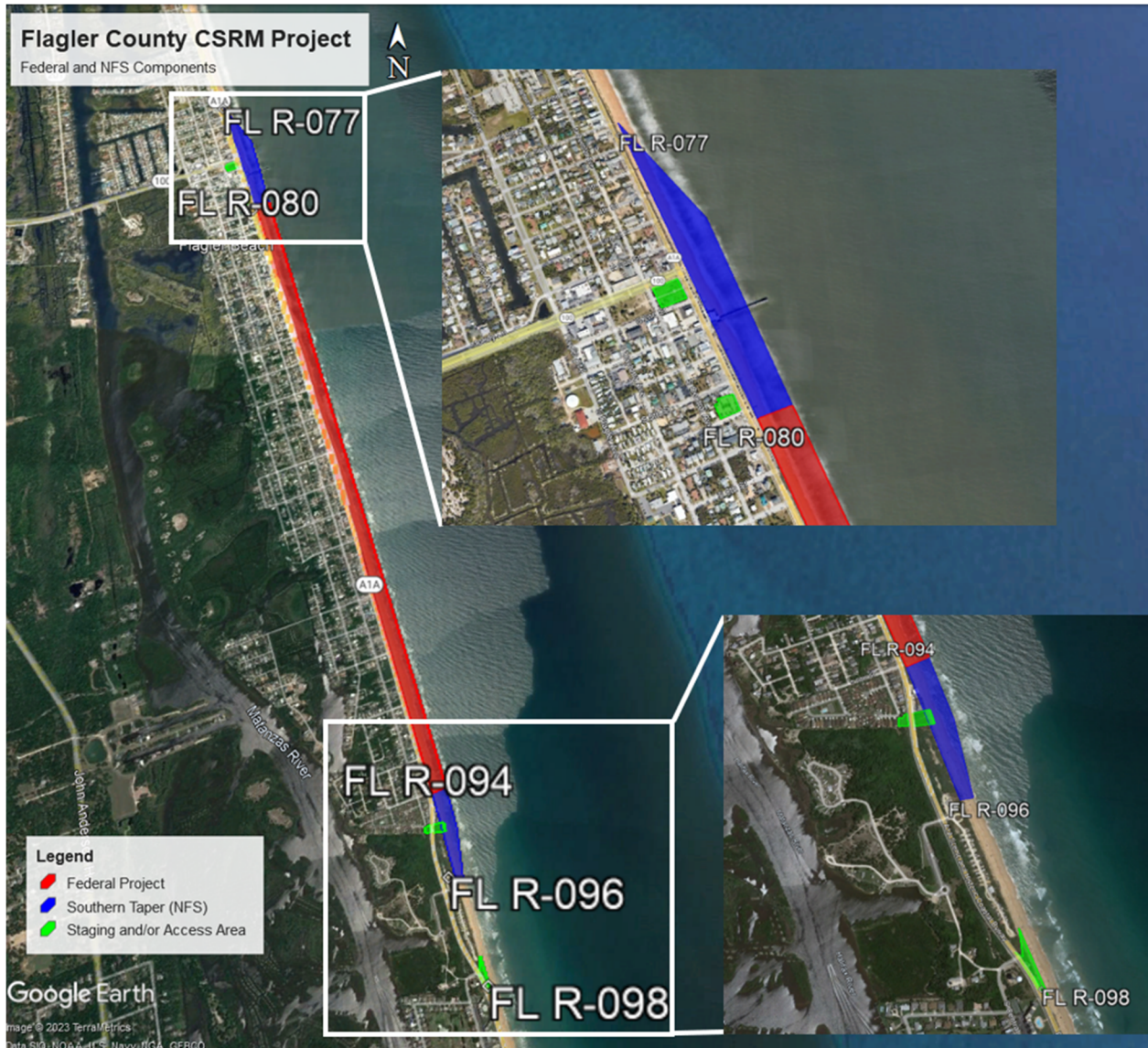
**Attachment**

Attachment 1 – [Project Maps](#)

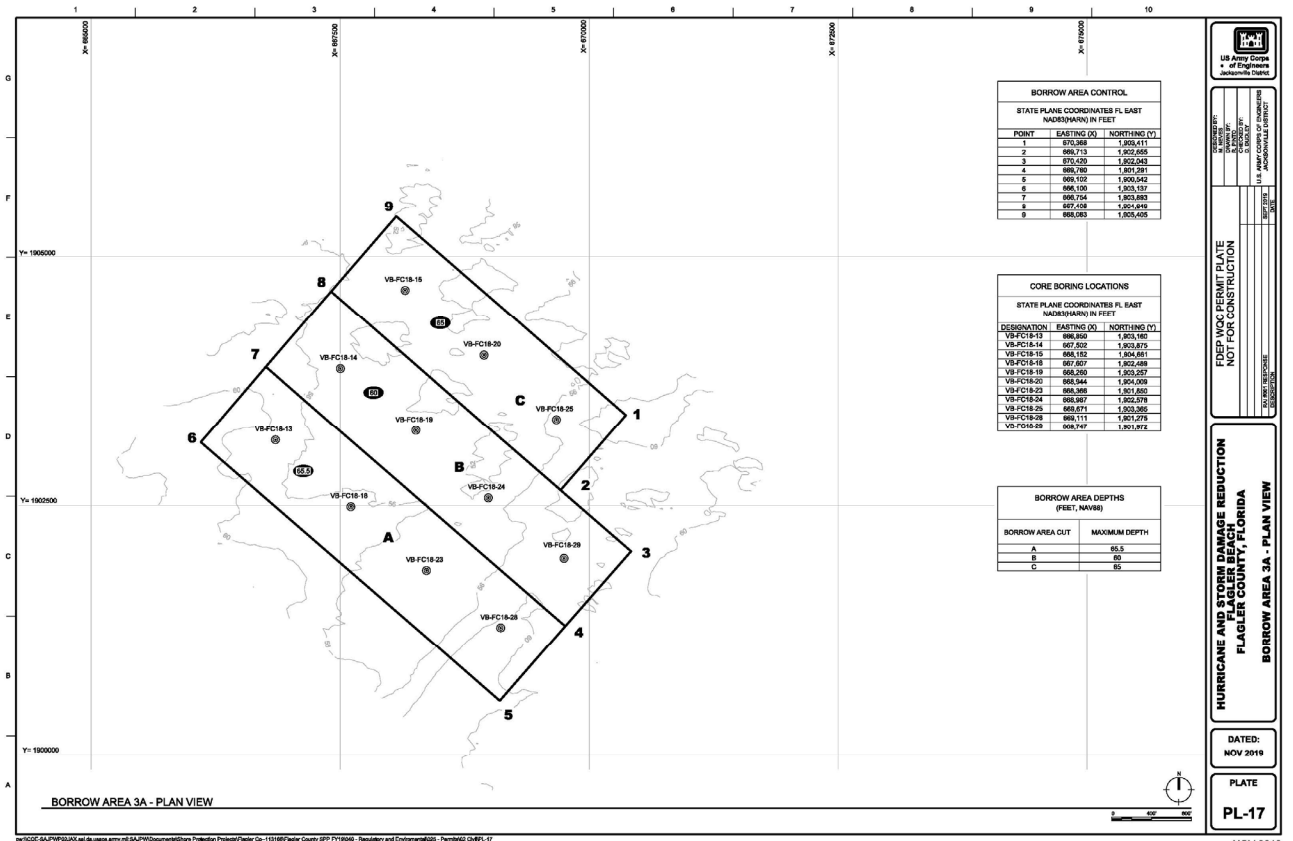
# **ATTACHMENT 1**



**Flagler County Project and Borrow Area Location Map**



**Flagler County Project Federal and NFS components**



## Borrow Area 3A and Associated Cuts A, B, and C