

Status Update on Three Regional Biological Opinions in South Atlantic Division

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Developing a Corporate Approach to ESA Consultation

- South Atlantic Coast Regional Biological Opinion (SARBO)
- Gulf of Mexico Regional Biological Opinion (GRBO)
- Statewide Programmatic BO for Beach Placement in Florida (SPBO)



Dredging Impacts to listed species



- Dredging (actual dredging activities)
 - ▶ Hopper dredge
 - ▶ Cutterhead dredge *
 - ▶ Clamshell dredge *
- Placement of fill material/disposal of O&M material
 - ▶ Placement of pipelines
 - ▶ Equipment on the shoreline
 - ▶ Indirect effects of sedimentation; turbidity

* NMFS previously found impacts to be so minimal as to be discountable



ESA Protected Resources Associated w/Dredging & Placement

- Sea Turtles [5 Species – Loggerhead (T); Kemps ridley (E); Green (E & T); Hawksbill (E); Leatherback (E)] – South Atlantic and Gulf of Mexico
- North Atlantic Right Whale - South Atlantic (CH)
- Sturgeon
 - Atlantic (PE), Gulf & Shortnose
- Sawfish
 - Smalltooth (CH) & Largetooth (PE)
- Acroporid Corals (CH) – Southeast Florida coast
- Johnson's seagrass (CH)– Southeast Florida
- Beach Mice (5 species)
- Manatee
- Piping Plover & Red Knot



Hopper Dredging – Potential Impacts to Listed Species



Breaking/crushing due
To contact with equipment



Burial of critical/
Foraging habitats



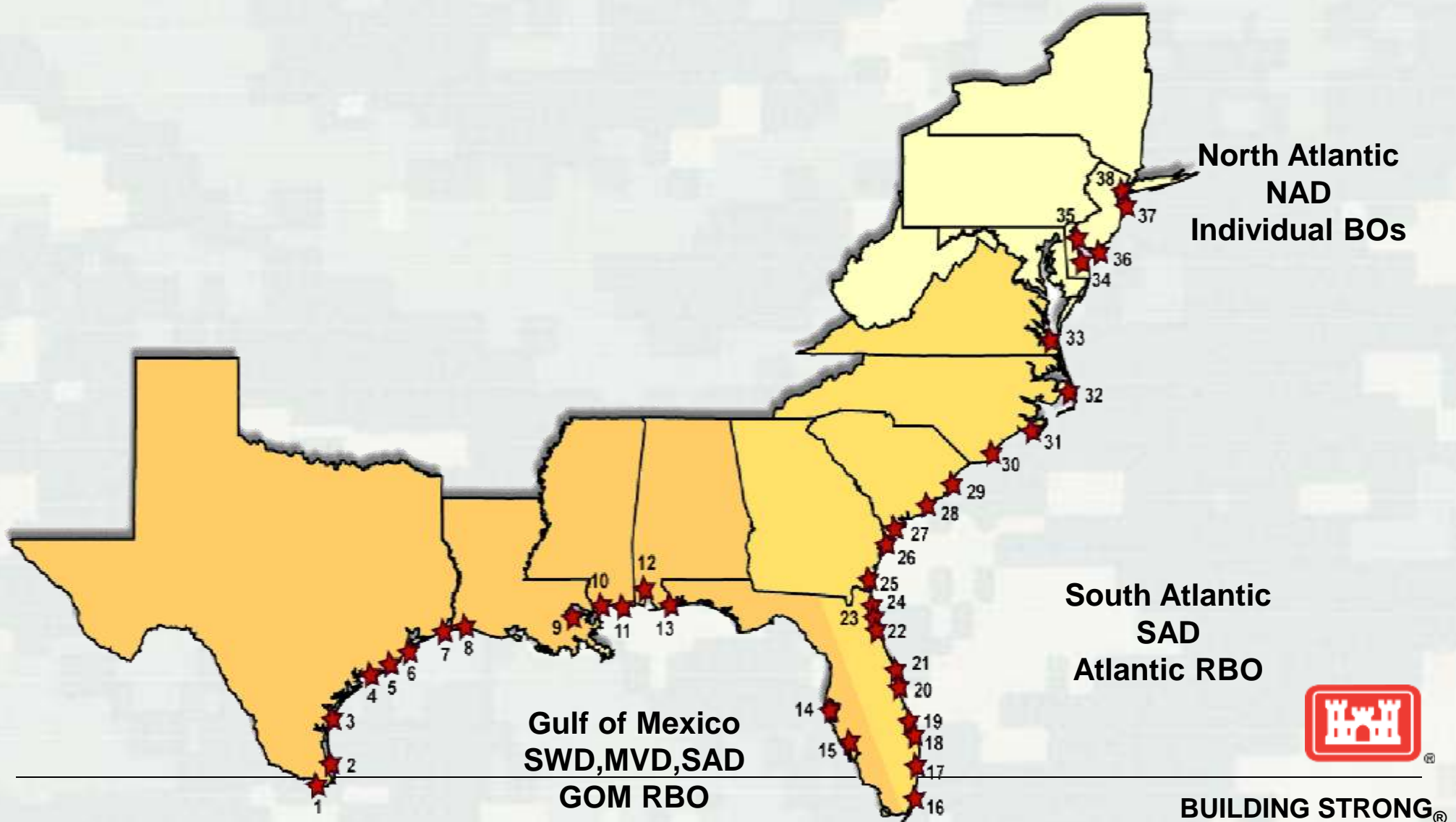
Entrainment/
Crushing



Ship Strike



Hopper Dredging – Distribution Across South Atlantic & Gulf of Mexico Regions



History of Consultation - SARBO

- **1991** – 1st regional Biological Opinion for hopper, clamshell, pipeline dredges
- **1995** – incorporate clamshell and pipeline determination, incidental take of sea turtles for hopper
- **1997** – 2 opinions – increase of loggerhead take due to high mortality year – covers hopper, keeps 1991 determination on clamshell and pipeline dredges
- **2003-2007** – NMFS determines reinitiation is required, USACE waits till GRBO is complete



ESA Reinitiation Triggers

- ☑ ■ Action is modified in a manner causing effects to listed species or critical habitat not previously considered
- ☑ ■ New species listed or new critical habitat designated
 - Amount or extent of incidental take is exceeded
- ☑ ■ New information reveals effects of the action that may affect listed species or critical habitat in a manner/to an extent not previously considered

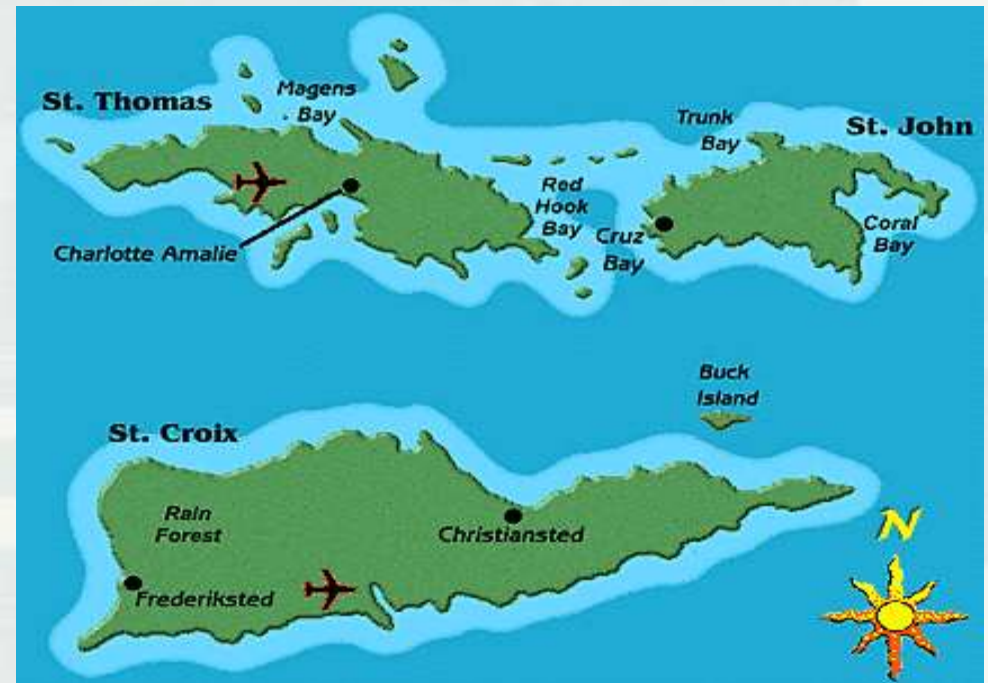


Listed species/actions NOT covered by 1997 SARBO



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Geographic areas NOT covered by 1997 SARBO



Reinitiation of Consultation - SARBO

Timeline

- **Jan 2007** – Informal reinitiation via conference call between USACE and NMFS-SERO-PRD
- **April 30, 2007** – Formal reinitiation letter from SAD to NMFS
- **May 2007** – Scoping meeting in St. Pete, FL – (NMFS staff and biologists from CW and RD programs of SAD, SAJ, SAW, SAC and SAS)
- **January 2008** – BOEM (MMS) coordination initiated (i.e. joint consultation).
- **September 12, 2008** – SARBA released to NMFS
- Current status – SAD coordinating with NMFS to complete draft Biop in Calendar Yr 2011.



Actions Covered by New SARBO

- **Federal, Federally-permitted, or Federally sponsored**
 - ▶ **Dredging** of the *coastal waters, navigation channels, and sand mining areas* along the South Atlantic Coast (including federal sand under BOEM jurisdiction).
 - ▶ **Sand placement** within previously approved templates (not including *Acropora* habitat (S. Florida – Palm Beach – Monroe Counties) - except for previously utilized, documented and permitted O&M disposal areas).
- **Dredge types** – hopper; cutterhead; clamshell; bed-leveling; side-casting
 - ▶ Add Canaveral Harbor dredging with hopper dredge
- **Transport activities** – Hopper; scow-barge; tugboats



Actions NOT covered by new SARBO

- **Sand placement within habitat of coral species** (Martin/Palm Beach County line south through Monroe county, Florida; USVI or PR) except for previously permitted O&M placement areas.
- **Port Expansion** (deepening, widening, etc.)



Gulf of Mexico Regional Biological Opinion for Hopper Dredges “GRBO”

- Issued in late 2003 to three divisions/four districts (New Orleans and Galveston had previous “regional” opinions).
 - GRBO protocol developed to work across division lines.
- Applied many of the “Guiding Principles” from previous SARBOs
 - Applies a common “pool” of take; divided between Civil Works and Regulatory; USACE subdivided between districts with operational limits.
- Similar to South Atlantic RBO, except:
 - Involves all dredging in Gulf of Mexico, incorporating previous clamshell and cutterhead determinations from SARBO
 - Applies to COE-conducted (Federal) hopper dredging and COE-permitted hopper dredging (regulatory for first time)
 - More stringent “take avoidance” measures (RPMs)
 - USACE had concerns with original set of T&C – some were not fiscally implementable (per counsel). Two revisions of GRBO in June 2005 and Jan 2007.



Statewide Programmatic Biological Opinion for Beach Placement in Florida

- USACE (SAJ & SAM) developed the Statewide Programmatic Biological Assessment (with support from SAW).
- Purpose: To streamline compliance with Endangered Species Act (ESA)
- Activities Covered (Regulatory & Corps Civil Works): Beach Nourishment, Navigation Dredging, other placement of sand on the beach, and other Shore Protection measures
- Authorities Covered: Shore Protection, Navigation, Regulatory, other
- Species Considered: Nesting Sea Turtles (5 species), Piping Plover (Critical Habitat), Snowy Plover, Red Knot, Beach Mouse (5 species), Manatee
- Geographic Scope: (Coast of Florida)



Statewide Programmatic Biological Opinion for Beach Placement in Florida

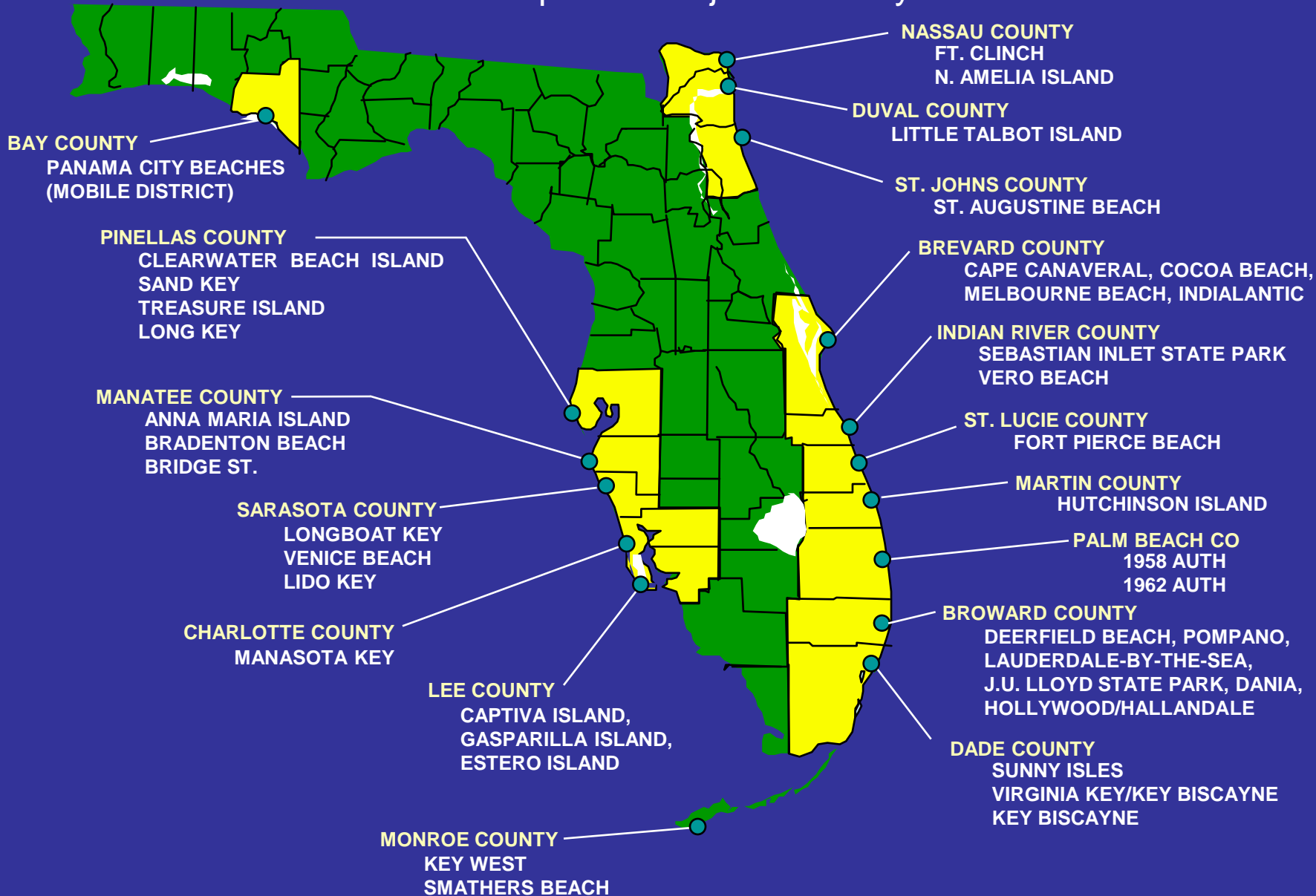
- New Initiative – started discussions in Dec 2005 – lessons learned from 2004/2005 hurricane seasons
- Purposes – better nesting result for sea turtles, savings & efficiencies in the consultation process, improved consistency & predictability in Section 7 compliance
- Jacksonville and Mobile Districts plus Three USFWS Field Offices, Florida DEP & FWC
- COE Team Lead for developing the initial BA was a sea turtle expert from Wilmington District
- Results may offer benefits to neighboring states/districts



Collaboration

- Jacksonville Corps
 - ▶ Planning Division
 - Environmental Branch (Lead Organization)
 - Plan Formulation Branch
 - ▶ Regulatory Division
 - ▶ Construction and Operations Division (Field Offices)
- Mobile Corps (CW – Panhandle/Operations)
- Wilmington Corps (Brokered Work)
- US Fish and Wildlife Service (Vero Beach, Jacksonville, and Panama City) would issue a Biological Opinion
- Florida Fish and Wildlife Conservation Commission
- American Bird Conservancy (Data, GIS)

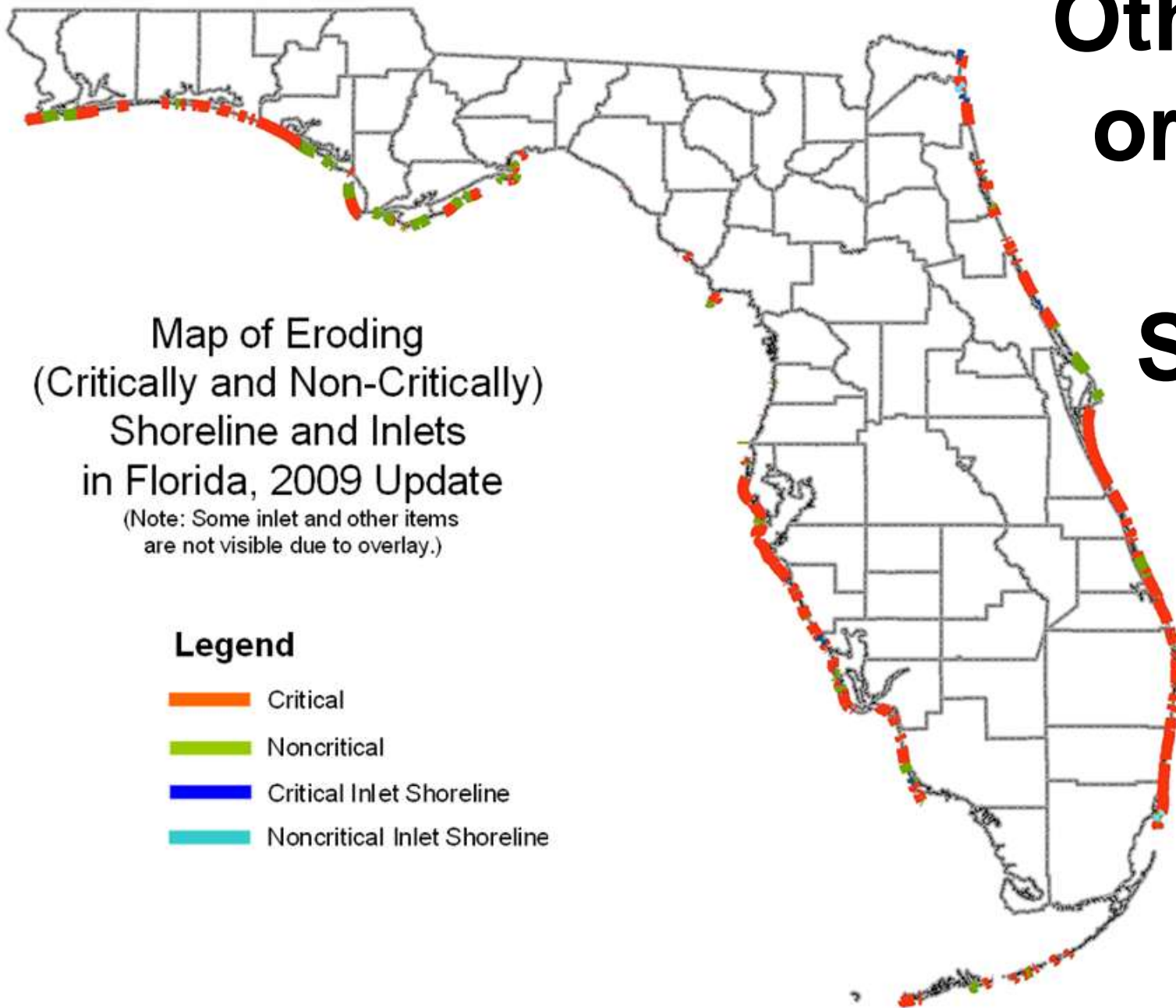




AUTHORIZED SHORE PROTECTION PROJECTS



(for more detailed information go to <http://www.dep.state.fl.us/beaches/programs/coasteng.htm>).



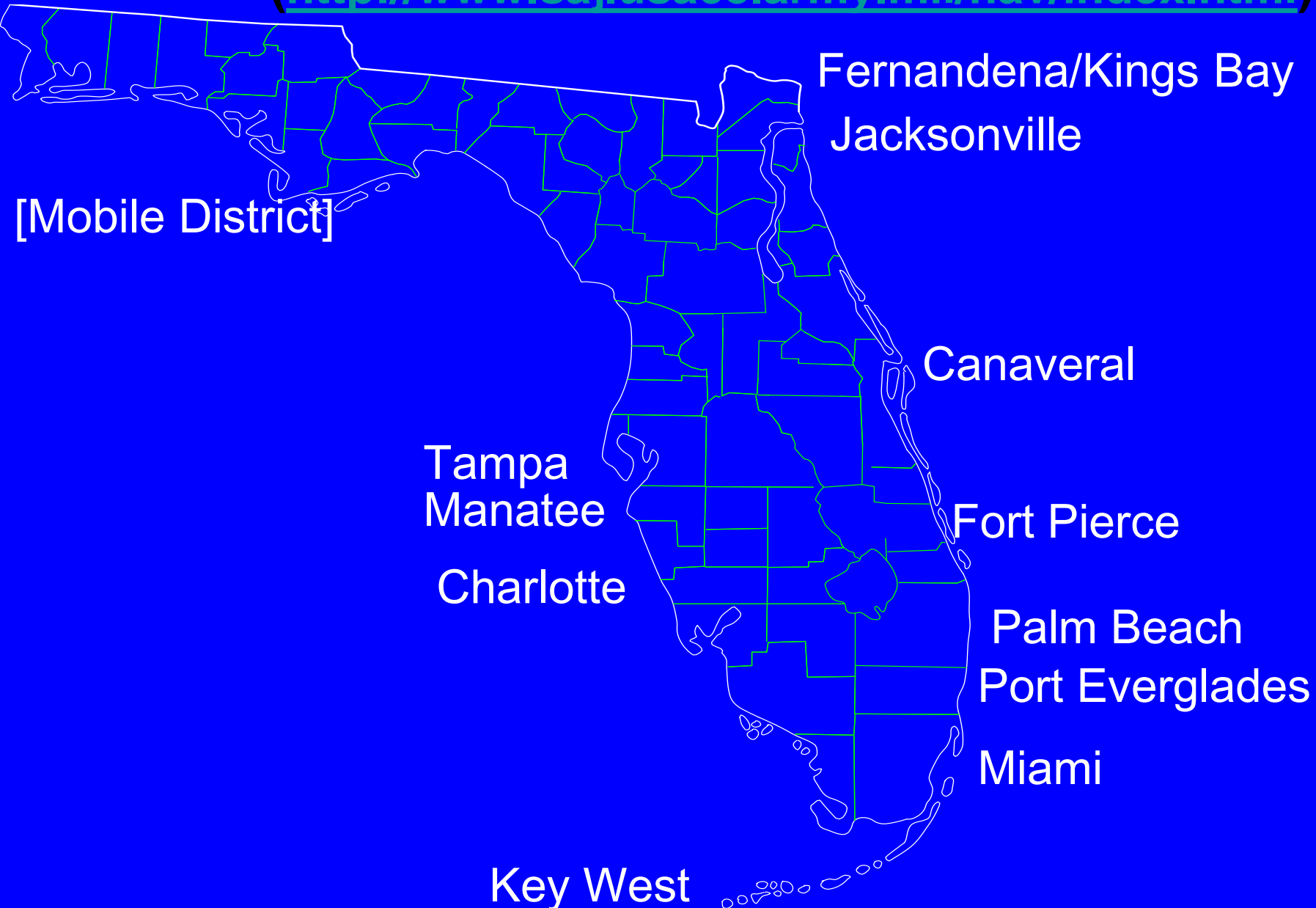
Other Eroded or Critically Eroded Shoreline



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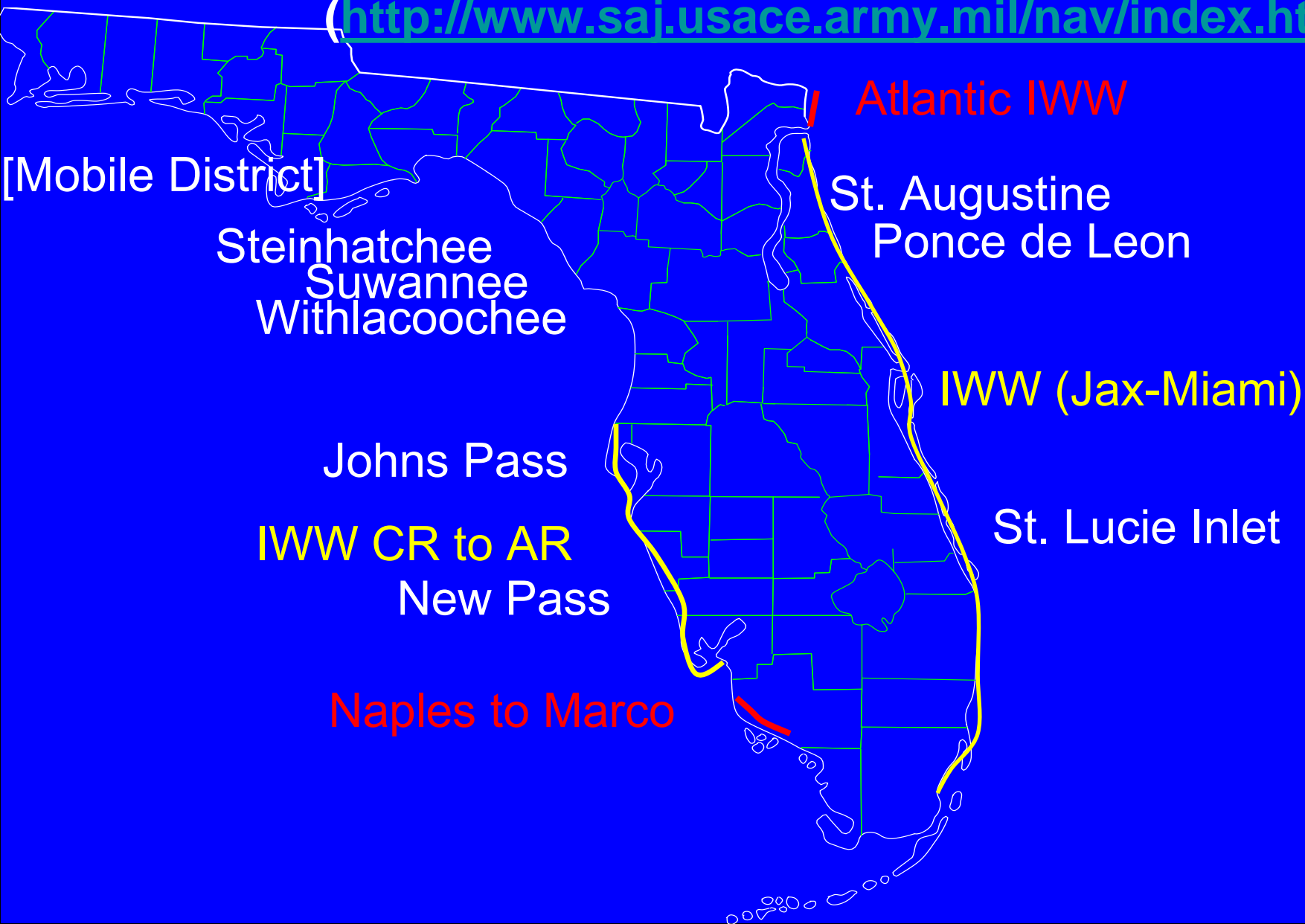
DEEP DRAFT NAVIGATION

<http://www.saj.usace.army.mil/nav/index.html>



SHALLOW DRAFT NAVIGATOR

<http://www.saj.usace.army.mil/nav/index.html>



REGULATORY PERMITS



- Entire Florida Coast



Areas for Discussion (Requirements and Recommendations)

- Restrictions on Certain Night-time Dredging
- Restrictions in “Important Manatee Areas”
- Leave Rack on Beach for Shore Bird Use
- Prescribe Beach Slope (turtle friendly)
- Survey Artificial Light Reaching the Beach
- Post-Construction Monitoring and Management
- Other



Schedule

- FWS Expresses Interest (December 2005)
- Various Meetings and Phone Calls
- Draft and Revised Biological Assessment
 - ▶ Concurrent development of SPBA and SPBO to allow for discussions and agreement for the development of a useful and implementable product.
- Several Draft and Revised “Terms and Conditions” for SPBO over a three year period
- Proposed SPBA under review by Corps (SAJ, SAM and SAD).
- Corps asking to review final SPBO prior to implementation



Knowledge Management and Sharing

- USACE Threatened Species :
<http://el.erdc.usace.army.mil/teesp/index.cfm>
- USACE Sea Turtle Data Warehouse:
<http://el.erdc.usace.army.mil/seaturtles/index.cfm>



Regional Biological Opinions (RBOs)

Challenges based on Our Experience

- District cultures/District “stovepipes”
- Fear of the unknown – the paradigm shift
- Giving up some control (tough for District Commanders/Senior staff)
- Potential conflicts with:
 - ✓ Interpretations of legal authority
 - ✓ Agency policy
 - ✓ Accepted practices
- Regional standards vs. site specific conditions
- Trade-offs (across projects ... across functions)
- Internal decision-making mechanisms
- Clear decision-making process
- Implementing effective risk management measures
- Trust and communication must be constantly cultivated



Regional/Programmatic Biological Opinions (RBOs) - Benefits based on SAD Experience

- Eliminates requirements for numerous project-by project consultations
- More consistent process and results on a regional scale
- Flexible and adaptable (“big picture” versus “narrow focus”)
- More effective way to look at cumulative effects
- Strengthened communication/relationships with or among:
 - ✓ Consulting agencies (NMFS & FWS)
 - ✓ Dredging industry
 - ✓ ERDC
 - ✓ HQUSACE
 - ✓ Affected Districts/Divisions
 - ✓ Co-consulting agencies (BOEM)
 - ✓ Functional organizations within Districts
- More consistent collection and application of available scientific-technical data
- Centralized knowledge and data management



Characteristics of an Effective Regional or Corporate Approach to ESA Issues

“Key Take Away Points”

- Think “Win-Win” (consider cost, value, and sustainability factors)
- Form partnerships (avoid “we vs. they” thinking)
- Think “big picture” wherever possible ... it creates opportunities for flexibility
- Trust is the foundation
- Open and honest communication (internal and external) provides the power



Questions?



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