



U.S. Department of Justice

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90-8-6-04673

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August 23, 2002

Via Hand Delivery

Nancy Mayer-Whittington, Clerk
United States District Court
for the District of Columbia
333 Constitution Ave., NW
Washington, D.C. 20001

Re: Save The Manatee Club, et al. v. Ballard, et al.
Civil No. 00-00076 (D.D.C.)

Enclosed for filing is the original and one copy of the Notice of Filing in the above-styled case. Please call me if you have any questions.

Sincerely,

Wayne Hettenbach
Trial Attorney
(202) 305-0213

cc: Counsel of Record

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

SAVE THE MANATEE CLUB, et al.

Plaintiffs,

v.

BALLARD, et al.

Defendants.

Civil No. 1:00CV-00076 (EGS/JMF)

NOTICE OF FILING

Pursuant to this Court's order of August 16, 2002, the Federal defendants Gale Norton, Secretary of the Interior, Steven Williams, Director, Fish and Wildlife Service, (collectively the "Interior defendants"), hereby file the reports and information specified in that order.

The Court's order of August 16, 2002 was provided to the Interior defendants, who independently prepared the attached report.

Respectfully Submitted,

THOMAS L. SANSONETTI,
Acting Assistant Attorney General
Environment and Natural Resources Division
SETH BARSKY, Assistant Chief
Wildlife and Marine Resources Section

Wayne D. Hettenbach Date: *8/23/02*
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SAVE THE MANATEE CLUB, et al.

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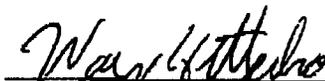
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Notice of Filing was served, via facsimile and U.S. mail, to opposing counsel this 23rd day of August, 2002, to the following:

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WAYNE HETTENBACH

**Report Submitted in Response to Court Order of the United States District Court for the
District of Columbia dated August 16, 2002, in the matter of
Save the Manatee Club et al. v. Ballard et al.
August 23, 2002**

By Order dated August 16, 2002 the Court directed the Service to file with the Court the following:

1. "...ORDERED that in further remedy for defendants ongoing breach of paragraph 11 of the settlement agreement and in accordance with paragraph 11 of the settlement agreement - which requires the Fish and Wildlife Service ("FWS") to "... evaluate the propriety of invocation of its emergency/sanctuary/refuge designation authority with regard to any specific area" - the FWS shall file with the Court the results of any such evaluations conducted since the date the settlement agreement was signed ... "
2. "...ORDERED that the FWS shall file with the Court a written list of all specific areas where the Service now believes that "there is substantial evidence that there is imminent danger of a taking of one or more manatees" within the meaning of 50 C.F.R. §17.106(a) that the FWS' regulation authorizing the "[e]mergency establishment of protection areas" for manatees. That list shall briefly describe the area involved, the nature of the danger to manatees, and the justification for the decisions ... "
3. "...ORDERED that defendants shall submit to the Court detailing the steps defendants are now taking to establish emergency protection areas for any areas on the above list ... "

Emergency Designation of Refuges and Sanctuaries

Under U.S. Fish and Wildlife Service regulations, a site that warrants emergency designation is one that qualifies for standard designation but where there is also an "imminent" danger of taking one or more manatees. See 50 C.F.R. section 17.106. Thus, in evaluating whether a particular site qualifies for designation under the emergency manatee refuge/sanctuary designation standard, the Service must first evaluate whether the site meets the typical designation standard. See 50 C.F.R. section 17.103. Any sites found not to meet the standard under the typical designation process would not require further evaluation under the emergency designation process.

The Service first evaluated 145 sites to determine if they warranted protection under the typical designation process for refuges and sanctuaries. See attachment 1. Following evaluation of the initial 145 sites, the Service found that 16 sites could potentially meet the criteria for typical designation and therefore qualified for further evaluation under the emergency designation standard.

In evaluating whether these 16 sites met that standard, the Service used the best available science and the best professional judgment of its field personnel. Sites were evaluated based on information on manatee use (i.e., telemetry and observational data), other data such as carcass recovery information, and the extent of current protection measures.

In documenting manatee use and historic manatee harm and harassment, we relied on the best available data including aerial survey data and manatee mortality data, information from the Florida Marine Research Institute, Pathobiology Laboratory, and other information from State and Federal sources. These data were supplemented with information from manatee experts, the public, and our best professional judgment.

The Service did not identify any "imminent" threat of take at any of the 16 sites. In evaluating whether these sites required emergency protection, the Service must determine whether take will occur in a specific area within a specific amount of time. For example, large numbers of animals concentrated in a relatively small area are much more likely to become an attraction for humans or maybe unable to avoid the passage of boats. We also evaluated whether there was a history of harassment or other forms of take at the site and the likelihood of future take (including the type of recent mortality). The Service further considered whether there were existing protective measures in place to prevent manatee mortality. Finally, we looked at whether the type of take that had occurred would be likely to be avoided by additional protective measures. Under this analysis, the Service found that there was not substantial evidence of "imminent danger of a taking of one or more manatees" for these 16 sites and therefore, in accordance with statutory and regulatory standards, found that these sites did not warrant emergency designation.

As directed by the Magistrate at the November 30, 2001 hearing, and in response to the Notice of Controversy, a meeting was convened with the Plaintiffs, the Intervenor and the State of Florida on January 8 and 9, 2002, to allow a data sharing exercise to be conducted. One of the issues discussed at the meeting was the identification of areas that the plaintiffs believed warranted additional protection for manatees, including possible emergency designation. A Manatee Assessment Report, which was reviewed and commented on by those in attendance at the meeting, included an evaluation of specific sites that were suggested by the plaintiffs as warranting emergency refuge and sanctuary designation. See Attachment 2.

In preparation for the January 2002 meeting, the Service reevaluated 82 sites recommended by the plaintiffs in their comments on the proposed rule and in subsequent discussions. All 82 suggested sites had previously been considered in the evaluations of the 145 potential sites. See attachment 3. As part of that analysis, the Service again looked at these 82 sites to determine if they warranted emergency designation. The Service did not identify any "imminent" threat of take at any of the 82 sites.

In their comments on the draft Service proposal to designate refuges and sanctuaries, the plaintiffs recommended emergency designation of Blue Waters, the Barge Canal, Sykes Creek, and the Caloosahatchee River. In their August 9, 2002 correspondence to the Court, plaintiffs specifically mentioned the Caloosahatchee River, and Duval and Collier counties as sites where they suggest emergency designations may be appropriate to address manatee deaths resulting from boat collisions.

Because Barge Canal and Sykes Creek were finalized in December 2001, no additional emergency analysis was conducted. We recognize that the Caloosahatchee River remains an area of concern. However, we found no evidence that designation as a refuge or sanctuary (including emergency designation) would provide more protection for manatees than current regulations. Thus, the designation was not "necessary to prevent such a taking" as provided under the regulatory standard. The Service acknowledged that there is evidence of manatee use, and there is a history of take. However we did not find a continued potential for take because the existing speed zones and signs were evaluated in the river and adjustments were made early this year. There has also been a recent increase in the law enforcement effort to ensure boater compliance in the river. During FY02, the Service's Division of Law Enforcement conducted 6 enforcement task forces in Lee County. There has also been a decline in the number of manatee deaths in this area over the past few months as compared to late last year and earlier this year. During FY01, there were 10 mortalities in the Caloosahatchee River. During FY02, there were 10 mortalities in Lee County and six of these mortalities were in the Caloosahatchee River (four in January; one in February; none in March, April, May, or June; and one in July). We believe that revised speed zones and increased law enforcement are likely to be effective in addressing past problems with manatee mortality. If not, appropriate adjustments can be made.

The Service has been working to address manatee concerns in Duval County. We are scheduled to meet with county and the State officials to further discuss the issue. The area suggested for designation is on the St. Johns River in downtown Jacksonville. There was only one watercraft-related mortality recorded during 2001 in Duval County, and that carcass was not recovered downtown. In 2002, only one carcass has been recovered downtown. The Service acknowledges that there is evidence of manatee use, and there may be the potential for take. However, the County has agreed to improve signs in some portions of the St Johns River in association with permitting of a public boat ramp and negotiations are ongoing with two permit applicants to improve signs in the downtown area. The Service determined that designation of sites would not prevent take because of the size of the area and the presence of the existing State speed zones. Instead, we believe this area should be closely monitored to determine the effectiveness of the current speed zones and the improved signage. If these zones are not sufficiently effective, then designation may be considered.

The Service's determination regarding emergency designation for Everglades National Park, Ten Thousand Islands, and Faka Union Canal/Port of the Islands, all in Collier County, remains

unchanged from the Manatee Assessment Report of February 28, 2002. The area in the Everglades National Park is being addressed by the National Park Service, which is committed to establishing manatee speed zones through their regulations and their park planning process. We are still evaluating how to address manatee protection in the area of Ten Thousand Islands. Effective solutions are not readily apparent in large part due to the enormous size of the area¹. Additionally, the State is evaluating the Ten Thousand Islands area and the Service will continue to monitor and evaluate it as well. The concern regarding threats to manatees in the Faka Union Canal/Port of the Islands was resolved in March of 2002. A permit applicant posted a manatee aggregation area to restrict access by vessels smaller than 33 feet and agreed to conduct a one-year manatee speed zone compliance study of the canal area.

At this time, the Service has not been presented with any other site-specific evaluation that identifies additional sites that might qualify for emergency designation.

Current Evaluation

The Director of the Service has discretionary authority, 50 C.F.R. 17.106, to take emergency action when there is "substantial evidence" that take of one or more manatees is "imminent" and such action "is necessary to prevent" this take. The emergency designation is limited to 120 days. The effect of this authority is to allow the Service to implement manatee protection measures on an accelerated schedule. The Service interprets "imminent" take to be that which would be reasonably certain to occur during the time it would take to propose and finalize a rule designating a site as a refuge or sanctuary.

As winter approaches, we now believe the wintering sites in our August 10, 2001, *Federal Register* notice (proposed refuges and sanctuaries rule) qualify for emergency designation. We believe there is imminent danger of a take of one or more manatees in these warm-water wintering sites because manatees congregate in these locations; there is a history of harassment at these sites; and there are no protective measures in place or the current protective measures are inadequate. Emergency designation by the Service will be implemented at the following seven sites: Blue Waters - a sanctuary (Citrus County); Bartow Electric Generating Station - a sanctuary and an adjacent refuge (Pinellas County); Gannon Electric Generating Station - a sanctuary and an adjacent refuge (Hillsborough County); and Big Bend Electric Generating Station - a sanctuary and an adjacent refuge (Hillsborough County). Emergency designation is

¹While the emergency designation process may be an effective tool to address localized problems that are well defined such as those at wintering sites, it is less useful in addressing the issue of watercraft-related mortality of manatees in expansive areas. Often data are not sufficiently detailed to support a biological determination that take is "imminent" in areas that are very large and there is not enough specific information detailing where the manatees are being struck.

appropriate at this time because it will reduce the potential for take to occur before a proposed and final designation can be prepared and published for these sites. The nature of the danger at these sites is taking of manatees through harassment and injury and/or mortality from human interaction. This interaction typically includes boating or fishing in areas used by the congregated manatees. This type of take has been documented in other warm water wintering sites in Florida where people have access to congregated manatees without sufficient protective measures. Emergency designation of these warm water wintering sites is consistent with previous Service designations because all previous emergency designations have involved winter aggregation sites.

Through the evaluation process described in the first part of this report, the Service determined that some sites warrant further monitoring. However, at this time none of these sites meets the standard for emergency designation. For example, the Service is monitoring the Intracoastal Waterway adjacent to the Riviera Beach Power Plant outfall in Palm Beach County and the Manatee Observation Area in Haulover Canal, which is also part of the Intracoastal Waterway. These sites already have some manatee protection measures in place, but the Service is still evaluating their effectiveness. The Service will continue to conduct further evaluations of these sites to determine whether these protective measures are adequate and if they are not, what additional measures may be needed at the sites to prevent the take of manatees.

Current Implementation Actions

In response to the third requirement of the order, the Service has initiated steps to make emergency refuge and/or sanctuary designations at the wintering sites. Draft *Federal Register* and newspaper legal notices have been prepared by the Service's Jacksonville Field Office and are presently under review by our Regional Office in Atlanta. Designation of areas necessitates development of sign plans. These plans identify the numbers, type, and precise locations of signs by latitude and longitude. As of the date of this report, all seven sign plans needed for the emergency refuge and sanctuary designations identified above have been completed.

The Service is currently negotiating with contractors to make or post the signs. The Service is in discussion with two Inland Navigation Districts and others to have the signs posted. Before the Service can have the signs posted it must obtain required permits. Therefore the Service has completed applications for permits from the U.S. Coast Guard, U.S. Army Corps of Engineers, Florida Fish and Wildlife Commission, and the Florida Department of Environmental Protection. All of the permit applications are completed, were signed by the Field Office Supervisor on August 22, 2002, and mailed that day. Once posted, the Service, in coordination with other appropriate entities, will ensure that the sites are adequately enforced.

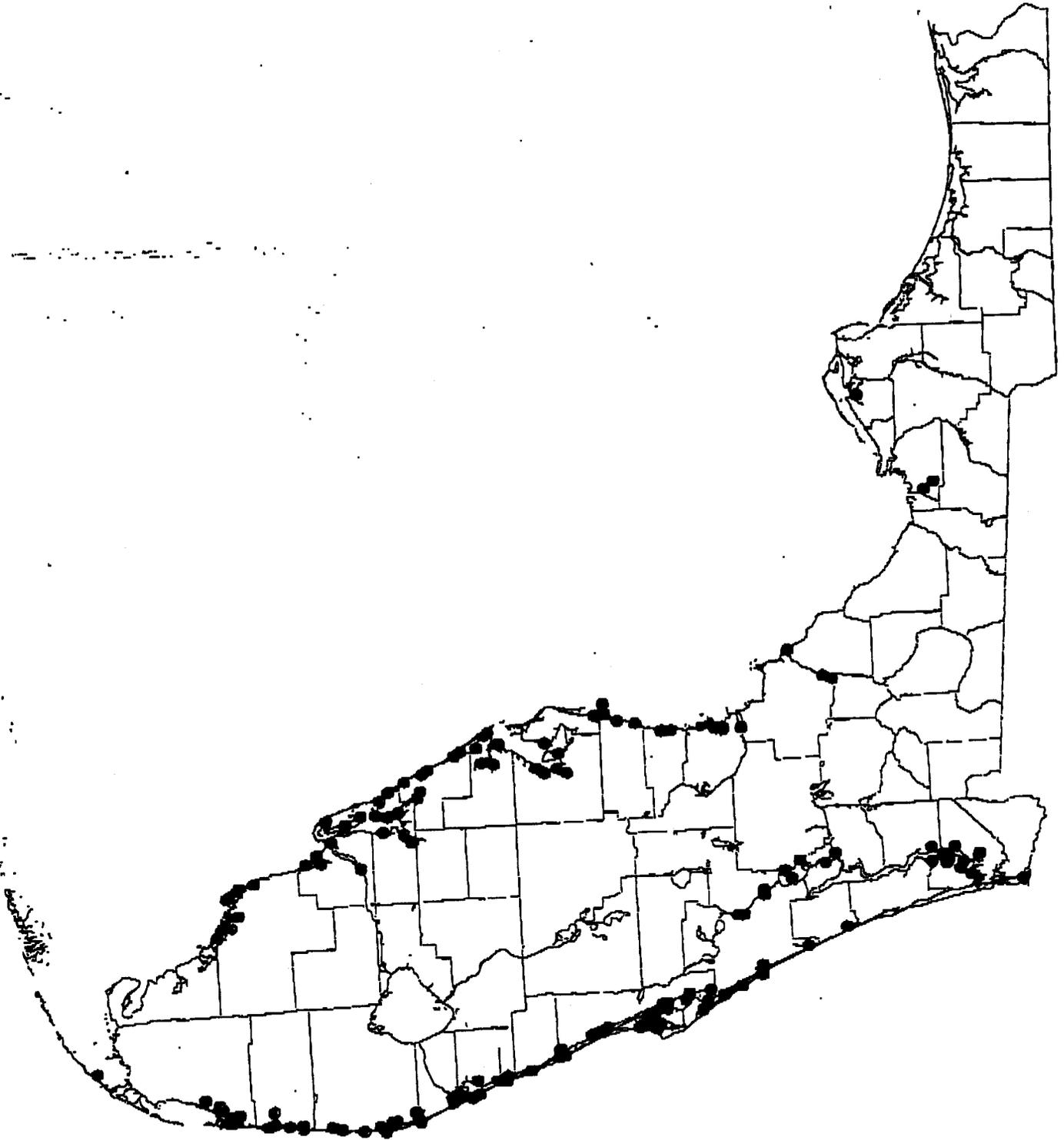
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Attachment 1



REFUGES AND SANCTUARIES

| PRIORITY | COUNTY | LOCATION | CURRENT | PROPOSED | COMMENTS | JUSTIFICATION | THREAT | |
|----------|-----------|------------------------------|---------------|---|--------------------------------------|---|--------|---|
| 1.00 | Sarasota | Ringling Hwy. Waterski Area | High Speed | Slow Speed | | High Manatee use- next to refuge area | 2 | X |
| 1.00 | Sarasota | Roberts Bay Waterski Area | High Speed | Slow Speed | | High Manatee mortality location | 2 | X |
| 1.00 | Sarasota | Curry Creek Waterski Area | High Speed | Slow Speed | | High Manatee Use | 2 | |
| 4.00 | Sarasota | Vertice Airport Canal | 25 mph | Slow Speed | | Manatee Travel Corridor | | |
| 5.00 | Sarasota | Upper Myacca River | Slow Speed | Slow Speed | | Overfay Area in case State Zone is repealed | | |
| 2.00 | Sarasota | Warm Mineral Springs | Slow Speed | Seasonal no entry zone | Some discussion on access to Spring. | Warm water wintering area | 4 | |
| 3.00 | Charlotte | Lower Myacca River | None | Slow Speed - Channel exempt | | | 1 | |
| 2.00 | Charlotte | Lennon, Bay | None | Slow Speed - Channel exempt | | Manatee Mortality | 1 | X |
| 3.00 | Charlotte | Don Pedro Pass | None | Slow Speed | | Narrow Travel Corridor | 1 | |
| 3.00 | Charlotte | Gasparilla Sound | None | No Motor Zone - Boat Travel Channels Exempt | Potential Tie In with NWR | High Manatee Use - Feeding Area | 1 | |
| 3.00 | Charlotte | West Wall - Charlotte Harbor | None | Slow Speed Buffer | | | 1 | |
| 2.00 | Charlotte | Peace River | None | Slow Speed - Channel exempt | | | 1 | X |
| 2.00 | Charlotte | Upper Peace River | None | Slow Speed | | | 1 | X |
| 2.00 | Charlotte | East Wall - Charlotte Harbor | None | Slow Speed buffer | | Heavy manatee use | 1 | |
| 4.00 | Lee | Bokkalia point | None | Slow Speed Inshore | | | | |
| 3.00 | Lee | Pine Island - Flamingo Bay. | Slow | Seasonal Sanctuary - residents entry only | | | 4 | |
| 1.00 | Lee | Shalk Island | None | Slow Speed - Channel Included | Manatee/human Safety | Manatee movement corridor | 1 | X |
| 4.00 | Lee | West Sanibel Island | Slow Seasonal | Slow Speed- year Round | | | | |
| 2.00 | Lee | Estero Bay | Slow-Seasonal | Slow Speed Year Around 777 | | High Manatee Use Area | 2 | X |

REFUGES AND SANCTUARIES

| PRIORITY | COUNTY | LOCATION | CURRENT | PROPOSED | COMMENTS | JUSTIFICATION | THREAT | |
|----------|--------------|---------------------------|------------------|--|----------------------------------|---|--------|---|
| 2.00 | Lee | Mullock Creek | Tidal Slow | Slow Speed | | Manatee Use warm water area | 2 | X |
| 1.00 | Lee | Bonilla Springs | 25 mph | Slow Speed | | High Use manatee area | 2 | |
| 3.00 | Collier | Rookery Bay | 30 mph chnl. | Slow Speed - Channel exempt | Potential for no motor areas | High Use area | 2 | X |
| 5.00 | Collier | Marco Island | Idle Speed | Seasonal No Entry Zones - residents Only | | Protection for manatees in residential canals | | |
| 5.00 | Collier | Faka Union Canal | Slow Speed | Slow Speed Overlay Area | Protection exists currently | High Mortality Area | | |
| 3.00 | Collier | 10,000 Island/Cape Romano | None | Potential No Motor zones | | | 1 | |
| 2.00 | Collier | Fakahatchee Bay/Strand | 30 mph | Slow Speed - channel Exempt | | | 2 | X |
| 2.00 | Collier | Everglades Nat'l Park | 30 mph | Speed zones - no motor zones | | | 2 | X |
| 1.00 | Indian River | Vero Beach Power Plant | Idle Speed | Seasonal Sanc. No Fishing | All or last 2 canals | | 4 | |
| 2.00 | St. Lucie | Harbor Branch | Slow In ICW | Expand Slow Zone to N. Causeway | | | 2 | |
| 1.00 | St. Lucie | Fl. Plerce Ulf. Auh. | Idle | Establish Sanc. Seasonal | | | 4 | |
| 3.00 | St. Lucie | N. Fork/SL Lucie | 25 mph | Slow Zone N&S of City Park | | | 2 | |
| 4.00 | St. Lucie | Taylor Creek | Idle | Monitor-OK now | | | | |
| 4.00 | St. Lucie | Quensens Cove | Portion Idle | Monitor | Needs improved signage | | | |
| 4.00 | St. Lucie | Big Mud Creek | Idle | Potential No Motor Zone E. of A1A Bridge | | | | |
| 4.00 | St. Lucie | Lillie Mud Creek | Idle | Potential No Motor Zone E. of A1A Bridge | | | | |
| 4.00 | Martin | Stuart Yacht Club | Idle | Sanc. NW of St. Lucie Blvd. Bridge | Aggregation need protection | | | |
| 2.00 | Martin | Crossroads | 25 mph, 600 buft | Slow from Hells Gate to ICW | | | 2 | |
| 3.00 | Palm Beach | Jupiter Sound | Slow Channel Exe | Seasonal Slow Speed- Air | Seasonal Sanc. in Waterway Canal | | 2 | |

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Tuesday, August 20, 2002

REFUGES AND SANCTUARIES

| PRIORITY | COUNTY | LOCATION | CURRENT | PROPOSED | COMMENTS | JUSTIFICATION | THREAT |
|----------|--------------|-----------------------------------|---------------------|------------------------------------|------------------------------------|---------------------------------|--------|
| 2.00 | Palm Beach | Lox. North Fork | Slow Channel Exe | Seasonal Slow Speed- All | | | 2 |
| 3.00 | Palm Beach | Munyan N. | Slow | Seasonal Sanc. | | | 4 |
| 3.00 | Palm Beach | E. Little Munyan | Slow | Idle | | | 4 |
| 1.00 | Palm Beach | SE corner Little munyan | Slow | seasonal Sanc. | | | 4 |
| 1.00 | Palm Beach | C17 | Slow | Seasonal Sanc. 300' of | | | 4 |
| 2.00 | Palm Beach | C15 | Slow | Seasonal Sanc. 300' of | | | 4 |
| 3.00 | Palm Beach | C18 | Slow | Seasonal Sanc. 300' of | | | 4 |
| 3.00 | Palm Beach | Canals N of Earman | Slow Channel | All idle | | | 2 |
| 1.00 | Palm Beach | FPL | Sanc. | Expand Sanc. | | | 4 |
| 3.00 | Palm Beach | Ocean Ave. | Variable Width B | | | | 2 |
| 1.00 | Broward | Port Everglade | Slow | Idle | | | 4 |
| 5.00 | Broward | Pompano Beach | Seasonal Idle | Monitor | All Deaths Occurred out of Idle | | 4 |
| 5.00 | Broward | Fern Crest | Idle/slow | Monitor | | | 4 |
| 5.00 | Broward | Dania | 25 mph. | monitor | no mortality | | 4 |
| 5.00 | Broward | Ft. Lauderdale | 25 mph | monitor | no fatalities | | 4 |
| 2.00 | Dade | Snake Creek | None | Slow | Ski Boat Problems | | 1 |
| 1.00 | Dade | Palmer Lake | Idle | Sanc. Residents Only | Sea Ray | | 4 |
| 2.00 | Dade | Snapper Creek | None | Slow-Year round | | | 1 |
| 3.00 | Dade | Tudle Csy | None | No Motor Area-Sea grass | Watercraft Deaths | | 1 |
| 3.00 | Monroe | Koy Largo | None | 1/4 mi. slow speed Buffer | | | 1 |
| 4.00 | Broward | Lake View | Slow | HP restrictions | PWC problems | | 1 |
| 2.00 | Dade | Blue Lagoon | Slow | HP restrictions | PWC problems | | 2 |
| 3.00 | Dade | Unk. | None | | | | 1 |
| 2.00 | Hillsborough | East/Shoreline - Old Tampa Bay | None | Slow Speed Buffer along contour | | manatee feeding/calving area | 1 |
| 3.00 | Hillsborough | Sulphur Springs | None | No Entry at discharge Point | | Wintering Site | 3 |

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REFUGES AND SANCTUARIES

| PRIORITY | COUNTY | LOCATION | CURRENT | PROPOSED | COMMENTS | JUSTIFICATION | THREAT | |
|----------|--------------|-----------------------------------|----------------|---|--|--|--------|---|
| 3.00 | Hillsborough | Port Sulton | None | No Entry in Outfall, Year-round Slow | | Wintering Site | 3 | X |
| 1.00 | Pinellas | Barlow Power Plant | None | Winter No Entry-Year Round Slow Speed | May be Designated By Pinellas Co. | Major Wintering Site | 3 | X |
| 1.00 | Hillsborough | Tampa Electric Co. Power Plant | No Entry | Extend No Entry South | Eliminate Fishing (Casting into Sanc.) | Major Winter Site | 4 | |
| 3.00 | Hillsborough | Apollo Beach | None | Slow Speed Including Access Channel | May Be Designated by Hillsborough Co. | Adjacent to Warm Water Sanctuary | 1 | X |
| 2.00 | Hillsborough | Terra Ceda Bay | None | Slow Speed | | Major Feeding Area | 1 | |
| 2.00 | Manatee | Manatee River | None | Seasonal Slow Speed-Channel Exempt in Lower River | | Calving Area/Heavy Use | 1 | |
| 2.00 | Manatee | Braden River | None | Seasonal Slow Speed-Channel Exempt | | | 1 | |
| 2.00 | Manatee | Anna Maria Sound/Palmira Sala Bay | None | Seasonal Slow Speed-Channel Exempt | | Heavy use and travel corridor | 1 | X |
| 2.00 | Manatee | Bowlee Creek | None | Seasonal Slow Speed Zone | | Heavy manatee use area | 1 | |
| 4.00 | Dixie | Suwanee River Mouth | None | Slow Speed Channel Exempt | | | | |
| 3.00 | Levy | Manatee Springs | None | Reposition Swimming area to minimize disturbance | Only during winter months | Manatees vacate site when swimmers present | 3 | |
| 4.00 | Levy | Fairning Springs | None | Seasonal Closure | Only during winter months | Potential increase in Manatee Use | | |
| 3.00 | Citrus | Upper Withlacoochee River | None | Year round Idle | | Calving Area | 1 | |
| 2.00 | Citrus | Three Sisters Spring | Seasonal Sanc. | Increase size of Sanctuary to include Springhead | | Important Wintering Area | 4 | |
| 2.00 | Citrus | Kings Bay - Winter Months | None | Manatee Reluge SkivSnorkle | | Intensive Manatee/tuman | 3 | |
| 1.00 | Citrus | Kings Bay-Summer | 35mph May- | Slow Speed year- | | Increasing Use of | 2 | X |
| 1.00 | Citrus | Hombessa River-Blue | Idle Speed | Winter No Entry | Harassment/Public | Major Wintering Site | 3 | X |

REFUGES AND SANCTUARIES

| PRIORITY | COUNTY | LOCATION | CURRENT | PROPOSED | COMMENTS | JUSTIFICATION | THREAT |
|----------|-----------|-----------------------------------|-----------------|---|-----------------------------------|-------------------------------------|--------|
| 3.00 | Hernando | Weeki Wachee | None | Idle Speed from confluence of Mad River to mouth | | Resting Area in Main Channel | 1 |
| 3.00 | Hernando | Jenkins creek | Seasonal Slow | Year-round Slow | Harassment Problems | Warm Water Refuge | 3 |
| 4.00 | Pasco | Hudson | None | Slow Speed Channel Exempt | | | |
| 4.00 | Pasco | Port Richey | None | Slow Speed-Channel Exempt | | | |
| 4.00 | Pasco | East Shoreline of Anndale Key | None | Slow Speed Buffer along 6' Contour | | Feeding and Traveling Site | |
| 4.00 | Pasco | Howard Park north to Gulf Harbors | None | Slow Speed Buffer along 6' Contour | | Feeding and Traveling Site | |
| 4.00 | Nassau | Annella River-Fernandina | None | Slow in Downtown Fernandina Area | | Travel corridor | |
| 3.00 | Duval | Mill Cove | None | Slow Speed | | Feeding Site | 1 |
| 1.00 | Duval | St. Johns River-Downtown | Variable Buffer | Slow speed-Channel Exempt All Slow-Main/Acosta | Large # of watercraft mortalities | Travel corridor | 2 |
| 3.00 | Duval | Trout Creek | None | 300' Slow buffer to Hwy 17 Bridge | | Feeding Site | 1 |
| 3.00 | Duval | Ortega River | Variable Buffer | 300' Slow buffer, Slow at Mouth | | Feeding/Travel Site | 2 |
| 1.00 | Duval | St. Johns River-Wide Area | Variable Buffer | 1/4 Mi. slow speed buffer | | Heavy manatee use | 2 |
| 2.00 | Duval | Mulberry Cove-NAS Jax. | Slow | Closed Area, Military Ops only | | Manatee Feeding Site | 2 |
| 4.00 | Duval | Goodby's Creek | None | Slow Speed | | Manatee Resting Area | |
| 2.00 | Duval | Arlington River | None | Slow Speed Mouth | | Manatee Migration Site | 1 |
| 2.00 | Clay | Doctors Lake | Variable Buffer | 300' Slow Buffer | | Manatee Feeding Site | 2 |
| 2.00 | St. Johns | Jurlington Creek | Variable Buffer | 300' Slow Buffer, All slow east of Hwy 13 | | Manatee Feeding and Travel Corridor | 2 |
| 3.00 | Pulnam | Rodman Barge Canal | None | Slow Speed in conjunction with four-manual marina | | Manatee Feeding Site | 1 |

X

X

REFUGES AND SANCTUARIES

| PRIORITY | COUNTY | LOCATION | CURRENT | PROPOSED | COMMENTS | JUSTIFICATION | THREAT | |
|----------|---------|-----------------------|------------------|---|--------------------------|---------------------------------|--------|---|
| 2.00 | Flagler | Palm Coast | None | Slow Speed in Residential Canals | | Manatee Feeding/Resting/Calving | 1 | |
| 3.00 | Volusia | Tomoka River | Summer High Sped | Slow Speed year round | High Perinatal Mortality | Manatee Calving Area | 2 | X |
| 4.00 | Marion | Sail Springs | None | Seasonal Idle Speed/Potential Sanctuary | | Potential Wintering Site | | |
| 3.00 | Lake | Silver Glen | Slow | Partial closure in Winter | | Potential Wintering Site | 4 | X |
| 4.00 | Pulnam | Welaka | Slow | Partial closure in Winter | | Potential Wintering Site | | |
| 4.00 | Volusia | Ponce Inlet | variable speeds | Uniform Slow Speed/channel example | | Travel corridor | | |
| 2.00 | Volusia | Shotgun Pass | None | Slow Speed/Channel | | Feeding/travel | 1 | X |
| 4.00 | Volusia | Lake George | Variable | Uniform Speed Zone | | | | |
| 4.00 | Volusia | Lake Dexter | Variable | Uniform Speed Zone | | | | |
| 4.00 | Volusia | Lake Woodruff | Variable | Uniform Speed Zone | | | | |
| 4.00 | Volusia | Lake Beresford | Variable | Uniform Speed Zone | | | | |
| 2.00 | Volusia | Blue Springs | Boat | Sanctuary Status In | | Important Wintering | 4 | |
| 3.00 | Volusia | Upper Mosquito Lagoon | None | Potential No-Motor | | Important | 1 | X |
| 3.00 | Volusia | Spruce Creek | Summer High | Year-round Slow | | Heavy manatee use | 2 | |
| 3.00 | Brevard | Turnbull Basin | None | Potential No-Motor | | Large Quantities of | 1 | |
| 2.00 | Brevard | Haulover canal | Slow speed | Expand Slow speed | | Important Migration | 1 | X |
| 4.00 | Brevard | Titusville Marina | Idle Speed | Manatee sanctuary- | | Important staging | | |
| 2.00 | Brevard | Brock Flats | None | No Entry-Feeding Site | | Feeding Site | 1 | |

REFUGES AND SANCTUARIES

| PRIORITY | COUNTY | LOCATION | CURRENT | PROPOSED | COMMENTS | JUSTIFICATION | THREAT |
|----------|--------------|--|---------------|--|-----------------------------------|---|--------|
| 3.00 | Brevard | South Mosquito Lagoon | None | Potential No-Motor Zone | | Important Feeding Site | 1 |
| 1.00 | Brevard | OUC Plant | No Entry | Expand No-entry zone | | Critical wintering Site | 4 |
| 1.00 | Brevard | FP&L Plant | No Entry | Expand No-entry zone | | Critical wintering Site | 4 |
| 1.00 | Brevard | Palm Island Shoreline | None | Feeding Sanctuary | | Access from Critical | 3 |
| 1.00 | Brevard | Barge Canal | Variable | Slow Year-round | High Watercraft-related mortality | Warm Water Slies | X |
| 1.00 | Brevard | Sykas Creek | 25mph Chnl | Slow Year-round | | Important Travel Corridor | 2 |
| 4.00 | Brevard | No-Motor Zone/Space Center | No-Motorboats | Extend Southward | | Important feeding and travel corridor | 2 |
| 2.00 | Brevard | Port Canaveral | None | Slow Speed Year-round | | Important feeding site | X |
| 1.00 | Brevard | Artesia | None | Idle Speed | | Important Travel Corridor | 1 |
| 1.00 | Brevard | Grand Canal | 35 mph | Slow Speed year-round | | Important Feeding site | 1 |
| 3.00 | Brevard | Eau Galle River | None | Slow Speed year-round | | | 2 |
| 3.00 | Brevard | Crana Creek | None | Slow Speed year-round | | | X |
| 3.00 | Brevard | Turkey Creek | None | Slow Speed year-round | | | 1 |
| 1.00 | Brevard | Sebastian River | Slow | Extend motorboat prohibited and create sanc. | | Important Calving area | 4 |
| 1.00 | Brevard | Mullet Creek | Slow | Potential manatee sanctuary site | | | 4 |
| 2.00 | Indian River | Indian River lagoon | Unreg. | Establish manatee refuge near Pelican Island | | | 1 |
| 5.00 | Lee | Upper Caloosahatchee/Orange River/ Eastl. Bay cove | Slow Speed | Slow Speed Overlay | | Enhance Awareness | 1 |
| 4.00 | Franklin | | None | Seasonal Motorboat Exclusion - Permit Only Entry | | Summer habitat-abundant Sub. Aquatic Veg. | |

REFUGES AND SANCTUARIES

| PRIORITY | COUNTY | LOCATION | CURRENT | PROPOSED | COMMENTS | JUSTIFICATION | THREAT | |
|----------|----------|-------------------------------|---------|---|----------|--|--------|---|
| 4.00 | Wakulla | Lower Wakulla River | None | Seasonal Slow Zone | | Summer habitat | | |
| 3.00 | Wakulla | Wakulla Springs | None | Make Spring Accessible to maralees | | Potential Wintering Site | 3 | |
| 1.00 | Sarasota | Lower Sarasota Bay | None | Slow Speed/Channel Exempt | | Uniformly with remainder of Sarasota Bay | 1 | X |
| 2.00 | Pinellas | Anclote River | none | Slow Speed/Channel Exempt ldlc east of Hwy 19 | | wintering site, feeding | 1 | |
| 4.00 | Pinellas | Whitcomb Springs/Spring Bayou | None | Seasonal No Entry | | | | S |

*Attachment 2***Manatee Assessment Report
February 28, 2002**

As a result of a meeting on January 8-9, 2002, among all parties in the *Save the Manatee v. Ballard, et al.* lawsuit, the Fish and Wildlife Service (Service) agreed to re-evaluate three points discussed in the meeting. These points include (1) the increased law enforcement effort by the State and the Service as well as local governments or other Federal agencies; (2) other regional areas of concern identified by the Save the Manatee Club that need to be assessed to determine if additional remedial actions are necessary to conserve manatees; and (3) reassess the manatee maps developed by the Service as part of the Interim Strategy that identified "areas with inadequate protection." Additionally, and in accordance with the Interim Strategy, the Service agreed to provide an assessment of the effectiveness of the Interim Strategy for the period of August 21, 2001, to December 31, 2001.

Law enforcement effort

The Service agreed to the actions listed below regarding law enforcement. After multiple requests and rigorous efforts by many individuals throughout the Florida Fish and Wildlife Conservation Commission's, Bureau of Protected Species (FWC); FWC's Division of Law Enforcement (DLE); and the Florida Department of Highway and Motor Vehicles, Bureau of Vessel Registration, as well as the Service's Law Enforcement personnel, we have determined the following regarding each of these actions:

1. The Service will work with the State to generate data that compares the level of law enforcement effort before and after the final interim guidance. This will include determining the average percent of an officer's time spent monitoring manatee zones.

DLE did provide the number of hours spent monitoring manatee speed zones from April 29, 2000, through January 31, 2002, for the following counties: Brevard, Broward, Citrus, Collier, Duval, Hillsborough, Indian River, Lee, Levy, Manatee, Miami-Dade, Palm Beach, Sarasota, and Volusia. However, DLE does not have a record of the total amount of time officers spend patrolling on the water. Without this information, we cannot determine the average percentage of an officer's time spent monitoring manatee zones while performing on-the-water patrols.

As a result of September 11, DLE officers have worked approximately 11,000 hours (including 3,000 hours of overtime) on homeland defense. Many of these officers were patrolling the waterways near power plants. Though these officers were not conducting manatee activities specifically, their presence in these locations certainly added additional protection to manatees and provided benefits to the manatees.

2. The Service will continue to revise the calculation regarding the law enforcement effort per county to determine the amount of additional law enforcement coverage for boat slips.

DLE provided information on law enforcement positions as of January 1, 2001, and January 1, 2002. While DLE did not have records on the allocation of law enforcement positions by county prior to January 1, 2001, they did have a total number of positions by year statewide from 1995 to 2002. The information illustrates that there was an increase in almost every county in the number of State law enforcement positions from January 2001 to January 2002 that conduct on-the-water law enforcement. The data used to generate the numbers in Table 1 only reflects the number of individuals that actually conduct on-the-water duty. Though the information from the State identified there were 21 vacancies statewide, we do not believe this has an impact on the overall law enforcement effort in the counties at this time.

Based on the increase in law enforcement positions (215 more) from January 1, 2001, to January 1, 2002, when compared to the number of registered vessels for 2000 and 2001, our analysis indicates that the ratio of vessels per officer decreases meaning the amount of officer time (in minutes) available for each vessel increases (Table 1). Statewide, the ratio of vessels to officers decreased 47 percent while the amount of officer's time to vessels increased 87 percent.

Additional law enforcement coverage continues to be provided by the Service's law enforcement personnel and Refuge officers as well as other Federal agencies like the Coast Guard. These agencies have been providing law enforcement coverage since 1997. Table 2 lists the number of speed zone violations cited by the Coast Guard for last year and early this year. For 2001, Service officers performed a series of task force events (12) throughout the State resulting in the issuance of more than 600 violations for noncompliance with manatee speed zones (Table 3). Eleven more task force events are scheduled between January and September for 2002 (Table 4).

3. The Service, with the help of the State and SMC, will complete an analysis of the ratio of officers to slips per county. At this time, however, the data may only be available for a few counties. The Service will conduct a preliminary review of this information to determine the applicability and if it is feasible.

In reassessing the Interim Strategy's foundation on sufficient levels of law enforcement by county, the Service considered analyzing the ratio between the number of law enforcement officers and the number of boat slips within a particular county as a more appropriate measure of increased law enforcement effort for watercraft access projects.

To that end, FWC provided copies of any draft and final Manatee Protection Plan. As a component of the plan, each county is required to conduct a boating facility siting survey. The data within these surveys is quite variable. Some counties conducted only marina surveys while other counties accounted for every docking slip within its boundaries. Also problematic is that the surveys themselves range

from outdated material to current information. Another problem with considering the number of slips by county is that only 13 of the 32 manatee counties are required to develop manatee protection plans. In conclusion, considering the number of slips by county in our analysis is not feasible at this time.

4. The Service and the State will continue to standardize their reporting requirements regarding the law enforcement efforts for manatee enforcement. The Service will also ensure that they received these reports and make adjustments as appropriate to the law enforcement analysis.

This activity is ongoing.

Law Enforcement Monitoring effort associated with the Interim Guidance

In determining the effectiveness of the State's law enforcement efforts as it relates to the Interim Strategy, watercraft-related manatee mortality data for 2001 was compared to mortality data for 2000. Also considered in the comparison was the increase in law enforcement personnel with the State as well as the number of new slips for watercraft access projects approved by the Service in 2001.

The following changes occurred from January 1, 2001, to January 1, 2002, for the 32 counties affected by the interim strategy: (1) manatee mortalities increased from 78 to 80, (2) law enforcement positions increased from 187 to 402, including 21 positions currently vacant, and (3) 3,625 new slips determined "not likely to adversely affect" the manatee by the Service. Lee County lead the way with 597 new slips, including 226 slips for single family docks, and was followed by Collier, Martin, Duval, and Monroe counties (Table 1).

In reviewing the manatee mortality data for 2001, there were alarming increases in manatee deaths for 2 of the 31 counties: Volusia County mortality increased from 4 to 10 (see discussions on Tomoka River and Halifax River). In Lee County, the mortality increased almost twofold from 13 to 23 manatee deaths. For the remaining 30 counties, we believe that the existing levels of law enforcement are consistent with the Interim Strategy.

As for Lee County, some background information is necessary. Manatee speed zones (seasonal) were established in the Caloosahatchee and Orange rivers around the Fort Myers power plant in 1979. Additional speed zones were established in the Caloosahatchee downstream from the power plant in November 1989. Speed zones were established countywide in November 1999. All zones were to be posted with the appropriate signage by July 2001.

According to DLE, there were ten officers assigned to Lee County as of January 1, 2001, with another three officers assigned on July 1, 2001, for a total of 13 officers. As a result of the terrorist attack on September 11, 2001, two of these officers were activated for military duty, thus reducing the number of sworn officers to 11. In addition to the State's officers, Lee County Sheriff's Office has 22 officers available for on-the-water patrol activities such as enforcing

manatee speed zones. State law enforcement officers issued 341 citations while the Sheriff's Office issued 2 citations during 2001 (Table 5).

Interim Guidance and associated Manatee maps

Lee County

Despite the establishment of manatee speed zones, the signage associated with the zones, and increased law enforcement efforts provided by the State, watercraft-related manatee mortalities continued to increase in Lee County, particularly in the Caloosahatchee River region, from 10 to 13 to 23 for 1999, 2000, and 2001, respectively. Furthermore, five more manatees have died as a result of watercraft collisions in January 2002, totaling 28 deaths for the past 13 months. Lee County alone represents roughly 30 percent of the total watercraft-related mortalities statewide for the same time period (January 1, 2001 - January 31, 2002). Based on the continuing increase in watercraft-related manatee mortalities, the Caloosahatchee River will be designated as an area with inadequate protection (see map).

Another area in northern Lee County receiving this designation is Bokeelia at the north end of Pine Island. The designated area extends east, north, and west of Bokeelia. The area has averaged more than one manatee death per year for the past 5 years. With the exception of a small waterbody, known as Pelican Bay, near the north end of Cayo Costa Island, there are no designated manatee speed zones in the area. In the absence of such zones, we believe that take of manatees is likely to occur if new watercraft access projects are authorized in this area. For these two new designations of "areas with inadequate protection" as well as the already designated Ten Mile Creek/Mullock Creek area; we believe that take of manatees is likely to occur for all new watercraft access projects, including single family docks, authorized in these three areas.

Conversely, the Imperial River in southern Lee County was originally designated as an area with inadequate protection. However, based on the 2001 data, watercraft-related manatee mortality is not a problem in the Imperial River. We believe that the inadequate protection designation for the Imperial River should be removed due to the absence of manatee deaths coupled with the year-round slow speed zone posted throughout the river.

Volusia County

See discussions on the Tomoka River in the Site-by-Site Discussion. As a result of this new information, the Service will modify specific areas on the maps of Volusia County and expand the area with inadequate protection as indicated in this summary.

We believe there needs to be a change to the current designation in the northern portion of the Halifax River. As such, we have changed the map to identify this area as an area with inadequate protection. The area extends from the Tomoka Basin to the north to the Main Street Bridge to the south. The Plaintiffs stated that the designation should be extended southward to the Ponce

de Leon Inlet. We have reviewed this area and have determined that in light of high levels of watercraft-related mortality last year in Volusia County (10), it is prudent at this time to extend the area with inadequate protection designation south to the A1A (Dunlawton) Bridge. We do not agree that the area between the A1A bridge and the Inlet warrants this designation. Our primary concern with this area of inadequate protection is the existence of two watersports zones in waters that are frequented by manatees. We have expressed this concern to Volusia County, which has expressed an interest in evaluating the possibility of eliminating these watersports areas. There are currently five pending Corps permit applications in the portion of the river we now consider to be an area with inadequate protection. All five applicants have been informed of our concerns.

Brevard County and Indian River County

See discussions on the Sebastian River. We find no evidence that the existing regulatory scheme is inadequate.

Collier County

See discussions for Everglades National Park, Ten Thousand Islands, and Faka Union Canal/Port of the Islands. We will continue to work with NPS in the development of their manatee strategy. Ten Thousand Islands may need additional protection, but first there needs to be an assessment to determine what areas should be designated. We will continue to monitor the area. The applicant in the Port of the Islands has expressed a willingness to restrict access to address concerns in this area.

Manatee Protection Areas and Other areas of concern

The Fish and Wildlife Service selected sites for inclusion in the proposed rule for the establishment of additional manatee protection areas from the list of sites developed through five preliminary meetings with State and Federal resource managers and manatee experts, and the information gathered from the public at six public workshops and in response to the advance notice of proposed rule-making. We based site selection on four factors: (1) evidence that the site is used by manatees; (2) historic evidence of take (harm or harassment) of manatees at the site due to waterborne human activities; (3) the potential for additional take based on manatee and human use of the site; and (4) a determination that we could implement effective measures at the site to address the identified problem.

In documenting manatee use and historic manatee harm and harassment, we relied on the best available data including aerial survey data and manatee mortality data, information from the Florida Marine Research Institute, Pathobiology Laboratory, and other information from State and Federal sources. These data were supplemented with information from manatee experts, the public, and our best professional judgment. In determining the potential effectiveness of our proposed actions, we considered the costs of managing sites versus the benefits to manatee

conservation. Costs associated with site management include installation and maintenance of appropriate signage, public education, and enforcement. In addition, designation of sanctuaries in the waters bordered by private property would entail additional administrative burdens in terms of identifying and providing access to affected residents. We considered these administrative burdens in selecting sites. Finally, we evaluated the effectiveness of our proposed actions against the likely effectiveness of actions by State and/or local governments. We have not proposed areas for which we have determined that identified threats to manatees can be most effectively addressed by State or local action. We made every effort to make our proposed designations consistent with the adjacent State or local designations.

Site-by-Site Discussion

The following is a discussion of each of the sites recommended by the Plaintiffs, many of which were discussed at the July 23, 2001, meeting between representatives of the Plaintiffs and the Service. These are the same sites that were discussed among the Plaintiffs, Interveners, Service and FWC at the January 8-9, 2002, meeting. Table 6 provides summary information regarding each of these sites.

Mulberry Cove

This site is located on the St. Johns River in Duval County (Figure 1 and 1a). The site is adjacent to Naval Air Station - Jacksonville, and is currently protected by a slow speed designation that extends 500 feet from the shoreline. As such, the majority of this small cove is currently protected by a manatee slow speed zone. There is currently a small marina in the cove. Manatees do use this area, although it is not an aggregation area. There has been limited manatee mortality in this area historically. The benefit of designating the cove as a sanctuary would be to ensure that this section of the St. Johns River (near Jacksonville) has at least one place with very limited boat traffic, to provide a reliable spot for manatees to shelter. The Plaintiffs stated at the July 23, 2001, meeting that they believe there is an urgent need for a sanctuary in this portion of the St. Johns River (between the Fuller Warren Bridge and the Buckman Bridge). This portion of the river currently receives relatively light boat traffic, so we do not necessarily agree with this assessment. The Mulberry Cove area in particular currently receives limited human use, so the immediate benefit of a sanctuary designation would be limited.

This cove has been evaluated for possible designation as a sanctuary before by the County, State and Navy. As the area currently receives limited public use, a sanctuary designation would probably be relatively non-controversial. It is possible that the cove has not been designated to date, because it is not a priority and has not been deemed as an urgent action. At this time, regulatory agencies have focused on higher priority sites. Additionally, the cove is currently off limits to the public due to heightened security around the naval air station. The simplest means of enacting long-term protection of the site would be for the Navy to establish a permanent security zone around the cove within their jurisdiction.

The Plaintiffs had recommended this site as a sanctuary in their October 2000 comments on our advance notice of proposed rulemaking. Mulberry Cove was not included in their recommended list of sites discussed at the July 23, 2001, meeting. We suggested the site as an alternative to their suggestion that Goodbys Creek be designated a manatee sanctuary (see below).

This sanctuary designation would only provide a small benefit to manatees, and could probably be accomplished with limited controversy through County or Navy measures. We will continue to work with the entities to provide alternative means of protection. The County and State are not currently considering action on this site. It would be a far better sanctuary than Goodbys Creek, but the site is a much lower priority than any of the sites included in our proposed rule. The Navy has agreed to initiate actions within their scope and authority for the protection of manatees in this area. We intend to convene a meeting of the County, State, Navy and us to further discuss options for this site.

Goodbys Creek

Goodbys Creek is a minor tributary to the St. Johns River in Duval County (Figure 1 and 1a). The creek is navigable, and there are currently many residences with docks and existing marinas along the creek. It receives some use by manatees, but is not an aggregation site. The entire creek is currently designated as a slow speed zone, and the County will soon be changing the designation to idle speed. There has been limited mortality of manatees in the creek and vicinity, and the idle speed designation will effectively minimize the risks of future take.

We have told the Plaintiffs that the site is a poor candidate for sanctuary designation due to the large number of residential docks along the creek. Virtually all boat traffic in the creek is residential, and because our sanctuary designations allow access for residents, a sanctuary designation would have little or no effect on boat traffic in the creek. At the July 23, 2001, meeting the Plaintiffs agreed that Mulberry Cove was a preferable site for a sanctuary. Inexplicably, they continued to recommend Goodbys Creek (and not Mulberry Cove) as a sanctuary in their October 2001 comments in response to our proposed rule.

Downtown Jacksonville

This site includes the St. Johns River between Reddie Point and the Fuller Warren Bridge (Figure 2 and 2a). The area is used as a travel corridor for boats and manatees, and because it is a relatively narrow waterbody, it has seen significant mortality. Historically, the area supported two warm water discharges that served as congregation areas for manatees, which most likely contributed to the high level of watercraft-related take in this area. These discharges no longer exist, so manatee use of the area is now largely restricted to the warm season.

Manatee protection measures in this area currently consist of shoreline slow speed buffers ranging between 300 and 600 feet in width. Prior to 2001, the area was designated as slow speed, with a 25 mph speed limit in the marked channel. We opposed the change in designation, stating that the new zones did not provide sufficient manatee protection; particularly given the limited amount of signage used to delineate the new zones. Given the relatively narrow width of the zones, it is our view that they must be very clearly marked in order to ensure that high speed boat traffic does not encroach upon the nearshore waters where manatees are most likely to occur. Due to the narrow width of the zones and the poor signage, we had already designated this stretch of the river as an area with inadequate protection; consequently, there will be no changes to the maps.

The Plaintiffs requested that the area be returned to the "slow speed, 25 mph channel" designation. We have stated that adequate protection in this area could be achieved through returning to the previous designation or improving the signage of the existing zones. Recently, two developers seeking to build marinas in this area have agreed to fund installation of additional signs that would meet our standards and resolve our concerns regarding the adequacy of these speed zones. With improved signage, and with the above-mentioned reduction in manatee use resulting from the elimination of the warm water discharges, we could consider this stretch of the river to be an area with adequate protection. However, until these actions have taken place the area will remain an area of inadequate protection.

Tomoka River

The Tomoka River is a narrow, winding, navigable waterway located in northern Volusia County (Figure 3 and 3a). The river currently has a variety of speed zones ranging from idle speed to 25 mph. The area is used by manatees, with highest use occurring during warm weather. There are no manatee aggregation areas on the river, although evidence indicates that the river is used as a calving area. Take has historically been limited, although in 2001 there were three watercraft-related mortalities on the river. County officials have told us that there may be a new waterskiing club using the river, which if true could explain the recent increase in manatee mortality.

The Plaintiffs have suggested that the entire river be designated as a slow speed zone. The State is not currently considering action at this site. At the time of the analysis for our proposed rule, the site was not considered to be a high priority. We believe we need to monitor the area to determine if elevated levels of take continue to occur, in order to properly assess if regulatory action needs to be taken. We had already identified the site as an area with inadequate protection, so there will be no changes to the map in this area.

Haulover Canal Observation Area

The Haulover Canal is a narrow, man-made waterway connecting the Mosquito Lagoon and Indian River Lagoon in Brevard County (Figure 4a, 4b, and 4c). The area is heavily used as a travel corridor for manatees and boats. The canal itself is currently regulated as a slow speed

zone, but the waters surrounding the canal are largely unregulated. As such, there has been a significant amount of take in this area. To address this concern, we have proposed establishing slow speed zones within 0.5 miles of each end of the canal. The State has also expanded the slow speed zones around the canal as part of their recent rulemaking for Brevard County.

In addition to serving as a travel corridor for manatees, there is a small area within the canal that seems to attract small numbers of manatees. The Merritt Island National Wildlife Refuge has established an observation platform at this location. The Plaintiffs believe that a sanctuary should be established at this site. This small aggregation area meets our basic criteria for a sanctuary, and the NWR supports such a designation. Any sanctuary would need to be very small in order to not impede navigation through the canal which is part of the Atlantic Intra-coastal Waterway (AIW). The benefits of such a sanctuary would be small, and the site has not been considered a high priority. It is certainly a lower priority than any of the 16 sites identified in our proposed rule. A sanctuary designation would most likely be non-controversial. The State and County are not considering any action at this site.

Barge Canal/Sykes Creek

We believe that all of the Plaintiffs concerns regarding these sites were addressed through our final rule designating the sites as slow speed zones. They are included here to ensure completeness in discussing all the sites included in their list. The only additional comment to be made at this time is that they have expressed concern about our intention of proposing to allow exceptions to the slow speed designation in the Barge Canal. As they have not yet seen our proposed rule, they have no specific concerns at this point.

Canaveral Sewer

This site is located on the Banana River in Brevard County, Florida (Figure 5, 5a, and 5b). This area is heavily used by manatees throughout the year. The fresh water from the sewer outfall serves as an attractant for manatees. There has been a limited amount of take in this area historically. The Plaintiffs have requested that the area be designated as a sanctuary. Prior to 2001, the area was designated as a slow speed zone by the State. In 2001, the State changed the designation of the area to idle speed, which should add an additional measure of protection.

Given the limited extent of historic mortality in this area and the reduced likelihood of future mortality with the State's recent idle speed designation, the site does not meet our basic criteria for designation as a federal manatee protection area. We agree with the State's action at this site, and do not feel additional action is warranted.

Sebastian River

The Sebastian River is a tributary to the Indian River Lagoon located on the Brevard County/Indian River County line (Figure 6 and 6b). Fresh water discharging from the C-54 canal

acts as a manatee attractant, and the area receives substantial use by manatees. There has been very limited take of manatees at this site in recent years. The majority of the river is a slow speed zone, and the area near the canal discharge is motorboat prohibited. The Plaintiffs claim that enforcement at this site is inadequate.

Given the near absence of mortalities at this site, we find no evidence to support a determination that the existing regulatory scheme, including enforcement, is inadequate. Devoting additional enforcement resources to this area would draw resources away from areas where mortality is occurring, which would be counter-productive. The State is not considering further action at this site.

Indian River Southeast of the Railroad Bridge

This site is located on the Indian River Lagoon, north of Titusville, in Brevard County, Florida (Figures 7, 7a, and 7b). The area is used by manatees, although there are no manatee attractants at the site. Until 2001, the site was designated as a slow speed zone by the State. As such, there has been no manatee mortality at this site. The waters north of the railroad bridge were not regulated by the State. In their recent rule-making for Brevard County, the State designated the waters north of the railroad bridge as slow speed zones, but removed the slow speed designation from the area southeast of the bridge, as a concession to watersports enthusiasts that use the area. The area to the southwest of the bridge has remained a slow speed zone throughout.

The Plaintiffs are concerned that the elimination of the slow speed zone southeast of the bridge will result in take of manatees that have become accustomed to the area being a slow speed zone. They suggested that the entire area around the bridge be designated as a slow speed zone. Given the lack of historic mortality, this site does not meet our criteria for designation as a manatee protection area. We will monitor the change in the designation to determine if removing the slow speed designation from this site has created additional mortality. It may turn out the manatees simply adjust their use patterns to the new slow speed zones north of the bridge, and/or to the slow speed zone southwest of the bridge. We do not believe we should impose additional Federal designation until the effects of the State's actions can be evaluated.

Riviera Beach Power Plant

This site is a warm water discharge site in Palm Beach County (Figures 8 and 8a). The area receives extensive use by manatees during winter months. The area in the immediate vicinity of the discharge is designated by the State as a motorboat prohibited area during winter months, and a limited amount of take has occurred at this site in the past. The problem with this site is that the warm water plume from the power plant extends beyond the motorboat prohibited area into the AIW, which is immediately adjacent to the motorboat prohibited area. As such, manatees

seeking warm water are loitering in the AIW which is heavily used by boats. Boat speeds in the AIW are currently not regulated.

As this warm water site becomes more popular with manatees, the potential exists for take to occur due to the close proximity of the warm water discharge to a high-speed boat corridor. The Plaintiffs requested that the AIW in the vicinity of the power plant be designated as an idle speed zone. This appears to be prudent; however, given the limited amount of mortality to date, we did not consider this site to be a high priority at the time we were preparing our proposed rule. We believe this is an area that needs to be monitored. To our knowledge, neither the State nor the County is considering action at this time.

Manatee River/Braden River

The Manatee River is located in Manatee County, Florida, and the Braden River is its major tributary (Figure 9). The area receives a fair amount of use by manatees. There are currently no manatee protection zones in Manatee County. Take has historically been fairly low, although over the last five years there has been an average of 1.2 manatees killed by watercraft per year in the county. Our concern is that the area around the Manatee and Braden rivers is developing rapidly as the Tampa/St. Petersburg area continues to expand. There are many pending permit applications for housing developments with associated docks and marinas along these rivers. Given the fact that some take has occurred, and more is expected with increased human use, we had already designated all of Manatee County as an area with inadequate protection. Therefore, there will not be any changes to the map in this area.

The Plaintiffs have suggested that the Manatee and Braden Rivers be designated as slow speed zones with a 25 mph speed limit in the marked channel. The State is not considering action in this area. Many of the developers that are currently seeking Corps authorization to build boat access facilities on the rivers are approaching the County about establishing speed zones, in response to our expressed concerns regarding the potential effects of their projects on manatees. To date, there is no indication that the County is interested in taking action, but this may change as pressure from the development community mounts.

Despite our concerns regarding the lack of speed zones in Manatee County, take in this area has not been as high as at the sites identified in our proposed rule, therefore, we did not consider it to be as high a priority. Additionally, this is a fairly large and complicated waterbody. As such, it would require substantial resources for us to effectively designate, post, and enforce the site. Given that we had already identified the Peace River and Lemon Bay as priority sites for Federal designation, which are also large and complicated sites with substantially higher rates of take, we decided that it was beyond our current capabilities to also take effective action at this site. As such, in light of the other actions included in our proposed rule, we determined that this site did not meet our fourth criterion for designation, in that we could not effectively manage a manatee protection area at this site in addition to our other responsibilities. The site will remain an area

with inadequate protection. We do, however, believe we need to continue to monitor the site to determine if it warrants additional action in the future.

Bokeelia Point

This site is located on the north end of Pine Island in Lee County (Figure 10). The site is frequented by manatees; although there are no aggregation areas in the vicinity. There are no speed zones in the vicinity and some take has occurred over the years. We are concerned about the increase in watercraft-related mortality in Lee County, particularly last year, and we believe this site needs to be identified as an area with inadequate protection and have changed the map accordingly.

The Plaintiffs requested that the area be designated as a slow speed zone. The State is not proposing specific action at this site, but it will be part of their overall evaluation of the speed zones in Lee County, which is to be completed by the fall of 2003. The site does meet our basic criteria for designation as a Federal manatee protection area, but is not considered to be a greater priority than the sites identified in our proposed rule. We will monitor the area to assess if elevated levels of mortality occur and determine if regulatory actions are necessary.

Caloosahatchee River

The Caloosahatchee River is located in Lee County (Figures 11, 11a, and 11b). It receives extensive use by manatees throughout the year, and is heavily utilized by boats. Watercraft-related manatee mortality has been a persistent problem on the river for many years. The State has established slow speed shoreline buffer zones, within 0.25 miles of each bank of the river, from the mouth upstream to the Edison Bridge. Upstream of the bridge is a major warm water aggregation site at the Fort Myers Power Plant, and the river has a variety of speed zones including slow speed bank-to-bank with a 25 mph speed limit in marked channel; idle speed bank-to-bank including the channel during winter months; and motorboat prohibited during winter months.

These speed zones appear to adequately cover the areas of the river most heavily used by manatees. The State has taken steps in recent years to improve signage of the speed zones; the State as well as the Service have allocated considerable resources to law enforcement in this area, and our agents report good levels of boater compliance in the area. Despite these actions, unacceptably high levels of take continue to occur. After the record high levels of watercraft-related mortality observed in Lee County in 2001, the FWC had a meeting with State biologists, researchers, enforcement officers, and management to attempt to identify the cause(s) of the problem and potential solutions. None were identified. The State is evaluating the situation and should present findings by the fall of 2002.

The Plaintiffs suggested that the entire river be designated as slow speed with a 25 mph speed limit in the channel. Given that all available information indicates that the existing speed zones

should be sufficiently protective (i.e., evidence indicates that most manatee use occurs within 0.25 miles of the shoreline), there is no indication that restricting high speed boat travel to the marked channel will be any more effective than the current regulations. Additionally, while the river easily satisfies our first three criteria for designation, it is a very large waterbody that would be extraordinarily difficult for us to manage. Designation of this site would all but preclude action at other sites. Any additional regulatory action in Lee County would be exceedingly controversial.

We will continue to focus law enforcement in this area and should encourage the State and County to do the same. However, based on the continuing increase in watercraft-related manatee mortalities, we believe the map for the Caloosahatchee River/San Carlos Bay area will need to be designated as an area with inadequate protection (see map).

Ten-mile Canal/Mullock Creek

Mullock Creek is a tributary to Estero Bay in Lee County (Figure 12). Ten-mile Canal drains into Mullock Creek. Mullock Creek receives some use by manatees. There are two borrow pits on the canal which act as a warm water aggregation area for manatees during winter months, and appear to receive some year-round use. Both waterbodies also receive a fair amount of boat traffic. There has been some watercraft-related mortality on these waterbodies over the years. The canal and creek are currently regulated as slow speed zones; however, in response to complaints by residents, the State recently changed the designation on Mullock Creek such that high speed boat travel is permitted during low tide so that boats may proceed on plane over the many shallow areas of the creek. This designation has not yet been implemented.

The Plaintiffs stated that the designation of Mullock Creek should be changed back to slow speed. They also want the borrow pits to be designated as sanctuaries. The State is evaluating watercraft-manatee interactions on Mullock Creek and should have findings prepared by fall of 2002. In the mean time, they have asked that the new designation for Mullock Creek be given a chance to work. They are not considering action on the Ten-mile Canal.

While there has been some historical mortality of manatees at these sites over the years, it has not been as significant as at other sites, including those identified in our proposed rule. We did not support the tidally influenced speed zone designation for Mullock Creek, but we do not believe we have the justification to take action to overturn the designation. Similar to the case with the railroad bridge in Brevard County, we do not intend to take action to essentially overrule a State action until we have evidence that the State action was in fact detrimental to manatees. These types of actions will be monitored. We had already designated Mullock Creek as an area with inadequate protection due to our concerns about the speed zone. As for the Ten-mile Canal, this site is not as significant an aggregation area as the warm water sites identified in our proposed rule, and the threat of mortality is not as great. Therefore, this is not a priority action at this time.

Southern San Carlos Bay

San Carlos Bay is located at the mouth of the Caloosahatchee River in Lee County (Figures 13 and 13a). The area receives considerable use by manatees throughout the year and is also heavily used by boats. The northern portion of the bay is regulated as slow speed with a 25 mph speed limit in the marked channels. The southern portion of the bay is not regulated. There were six watercraft-related manatee mortalities in San Carlos Bay between 1996 and 2000, with five of those carcasses being recovered in the southern portion of the bay.

The Plaintiffs suggested that the southern portion of San Carlos Bay also be designated as a slow speed zone with a 25 mph speed limit in the channels. The FWC is evaluating the adequacy of the speed zones in this area as part of the broader evaluation of Lee County and should present findings in the fall of 2003. We have not done an in-depth analysis of boat travel patterns in this area, and we do not know how complicated a rule-making might be. We believe this site does satisfy some of our criteria for designation as a Federal manatee protection area, and the Plaintiffs recommendations appear reasonable. This action is not a priority at this time, but we will monitor the area. Given the level of controversy with any rule-making in Lee County, the rule-making process itself would require substantial resources and would be a lengthy process unquestionably involving judicial review.

Everglades National Park

Everglades National Park is located in Collier and Monroe Counties (Figure 14). The area receives extensive use by manatees and, though the area is fairly remote, there is a fair amount of boat traffic, particularly near Everglades City. As such, watercraft-related mortality is concentrated in the area in and around Chokoloskee Bay, near the Collier County/Monroe County line. There have been numerous watercraft-related mortalities in this area over the years. The waters within the Park are currently unregulated.

The Plaintiffs stated that a 25 mph speed limit should be imposed for all waters within the Park. It is our view that speed zones are needed within the Park, and we have asked the NPS to develop effective speed zones for Park waters. We believe that the 25 mph speed limit suggested by the Plaintiffs would be ineffective at reducing watercraft-related mortality, as demonstrated by the failure of the 25 mph speed zones in the Barge Canal.

The NPS has expressed a desire to take action and have stated their intent to develop manatee protection measures as part of their General Management Plan for the Park, which is currently under development. They also understand that they will need an effective manatee protection plan for the Park in order to ensure that their activities are in compliance with the Marine Mammal Protection Act. The Everglades National Park is a very large and complicated waterbody, and the NPS has stated that they need our expertise and assistance in developing an effective manatee protection strategy. We have offered our assistance and are ready to work with the NPS on this issue.

Ten Thousand Islands

The Ten Thousand Islands area includes the Chokoloskee Bay area mentioned above and the other waters of southern Collier County (Figures 14 and 14a). Manatee use and boating patterns are as described above for the Everglades National Park. Aside from the above-mentioned concentration of manatee mortalities in and around Chokoloskee Bay, there is also a history of watercraft-related mortality in the Faka Union Canal and Faka Union Bay. Most of the waters outside the Park Boundaries are currently regulated as 30 mph inside marked channels and 20 mph outside marked channels, which we believe may be ineffective in terms of manatee protection. The Faka Union Canal and the northern part of Faka Union Bay are slow speed zones, which appears to have addressed the historic watercraft-related mortality problem in this area. The Port of the Islands area at the head of Faka Union Canal is an idle speed zone. This area is discussed further below.

The Plaintiffs have requested that action be taken immediately to address watercraft-related mortality in the Ten Thousand Islands area, although they have made no specific recommendations. We agree that the existing speed zones are inadequate in some areas and some areas are designated as such. We had already identified the Chokoloskee Bay area as an area with inadequate protection and there were no changes to the maps. The FWC is evaluating the Ten Thousand Islands area and should present findings in the fall of 2004. As with the Everglades National Park, this is a vast and complicated waterbody. To our knowledge, no one has developed a good strategy for effectively designating manatee protection measures in this area. The FWC evaluation will hopefully serve as a basis for developing an effective plan. Additionally, given the size and complexity of the waterbody, it would be an extremely difficult area for us to regulate, even considering that there is a National Wildlife Refuge in the area, which could provide a base for operations. A final consideration in this area is the level of controversy that will arise with regulatory action based on feedback from the local boating community. We believe that even the most modest rule-making proposal will be vigorously protested by the local community and that it could take years to establish any type of designation.

Faka Union Canal/Port of the Islands

The Faka Union Canal drains into Faka Union Bay in the Ten Thousand Islands area of Collier County (Figures 14 and 14a). The Port of the Islands is at the head of the Canal. The area is heavily used by manatees and the Port of the Islands generates considerable boat traffic. As such, there has been a long history of watercraft-related manatee mortality in the canal and surrounding waters of the Ten Thousand Islands. Faka Union Canal and the northern portion of Faka Union Bay are slow speed zones, which appears to have addressed the historic watercraft-related mortality problem in this area.

Manatees are attracted to the fresh water that empties into some of the fingers of the Port of the Islands. These areas may also be slightly deeper and warmer than surrounding waters, which also helps to attract manatees. The Port of the Islands is currently an idle speed zone, and there is currently limited take in this specific area, and the current speed zones appear to be effective.

The Plaintiffs suggested that one or two small sanctuaries be established where manatees congregate in the Port of the Islands. This action does not appear warranted given the low level of mortality. Additionally, all boat traffic in this area is generated by local residents. The Port of the Islands is a point of origin for boat trips, not a destination. We have explained to the Plaintiffs that because our regulations allow access for residents, a sanctuary designation by the Federal government would have no effect on boat traffic patterns.

Additionally, we are working with an applicant for a Corps permit that has expressed a willingness to restrict access to one area to only a few boats, which may address the Plaintiffs concerns and provide benefits to the manatee. In a letter dated January 4, 2002, the applicant agreed to modify the Port of the Islands project by (1) constructing the Port of the Islands facility in phases; (2) replacing the 40 boat slips destroyed by Hurricane Andrew in phase 1; and (3) conducting a one year manatee speed zone compliance study of the Faka Union Canal area after completing phase 1. If the results of the survey reveal no statistically significant increase in manatee deaths in the Faka Union Canal, the Service will provide a letter to the Corps stating that the construction of the additional 37 slips, as described in the Public Notice, is consistent with the project description and the potential effects to manatees were considered. If authorized, this project could add a total of 77 watercraft to the Faka Union Canal.

The applicant has agreed to install two "Keep Out" buoys at the mouth of the northernmost section of the Faka Union Canal system to restrict vessel use in this manatee aggregation area. These buoys will be installed prior to commencing phase 1 of the project. The 12 replacement slips associated Dock H will be within this "Keep Out" area. These slips are intended for larger, motor-yacht vessels, and will require hotel check-in approval prior to their use and will be the only watercraft permitted within this area.

Permit Issues

Pineda Boat Ramp

We had written a concurrence letter on this project, based on our determination that proposed improvements to this existing facility would not increase boat traffic. The ramp, which is being structural improved is located in Brevard County in a location we had already determined to be an area with inadequate protection. The current situation is that the formal parking is limited so people park their trailers along the road. The County proposes to establish a parking lot and eliminate roadside parking as a matter of public safety. We asked the County to demonstrate that the current number of vehicles parking on the road is greater than or equal to the number of parking spaces that would be provided. They conducted surveys and presented data demonstrating that such was the case; therefore, the improvements would not increase boat access.

The Plaintiffs claimed that the County only conducted their survey during one holiday weekend, so the survey does not reflect typical conditions. The Plaintiffs claims are false. Surveys were

conducted during holiday and non-holiday weekends, and are perfectly valid. We stand by our determination.

Explanations for Table 1:

- 1a. Number of registered vessels in the State by county on 01/01/00.
(http://floridaconservation.org/law/boating/2000stats/allVessel_ByCounty1.pdf)
- 1b. Number of registered vessels in the State by county on 01/01/01. [Data provided by Florida Department of Highway Safety and Motor Vehicles, Bureau of Vessel Registrations]
- 1c. Number of registered vessels in the State by county on 01/01/02. [Data provided by Florida Department of Highway Safety and Motor Vehicles, Bureau of Vessel Registrations]
- 2a. Number of existing LE positions available for manatee protection by county on 01/01/00. [Data not available].
- 2b. Number of additional positions resulting from the reorganization of the State's Division of Law Enforcement (DLE) by county on 01/01/01. [Data from DLE's Uniform Patrol Deployment Structure]
- 2c. Number of additional positions resulting from the reassignment of LE personnel available for manatee protection by county on 07/01/01. [Data from DLE's Uniform Patrol Deployment Structure]
- 2d. Number of LE positions available for manatee protection by county on 01/01/02. [Data from DLE]
- 3a. Number of vacant LE positions by county on 01/01/00. [Data not available]
- 3b. Number of vacant LE positions by county on 01/01/01. [Data not available]
- 3c. Number of vacant LE positions by county on 01/01/02. [Data from DLE]
- 4a. Number of vessels per officer by county on 01/01/00. [Incomplete data to run the calculation]
- 4b. Number of vessels per officer by county on 01/01/01. Example: Brevard County = 33,930 vessels / 8 officers = 4,241 vessels per officer.
- 4c. Number of vessels per officer by county on 01/01/02. Example: Brevard County = 33,930 vessels / 21 officers = 1,857 vessels per officer.
- 5a. Percent decrease in vessels per officer by county from 01/01/00 to 01/01/01. [Incomplete data to run the calculation]
- 5b. Percent decrease in vessels per officer by county from 01/01/01 to 01/01/02. Example: Brevard County = $4,241 - 1,857 / 4,241 = a 56\%$ decrease in number of vessels per officer.
- 6a. Officers work 1,920 hours annually with 4 weeks vacation. Officers as of 01/01/00 spend 30% of their time on manatee protection by county. The 30% is the amount of time estimated by DLE (meeting dated June 19, 2001) [Incomplete data to run the calculation]
- 6b. Officers as of 01/01/01 spend 30% of their time on manatee protection by county. Example: Brevard County = 1,920 hours x 0.3 = 576 hours of manatee protection per officer; 576 hours / 4,241 vessels = 0.135 hour / vessel x 60 minutes = 8.1 minutes per vessel.
- 6c. Officers as of 01/01/02 spend 30% of their time on manatee protection by county. Example: Brevard County = 1,920 hours x 0.4 = 576 hours of manatee protection per officer; 576 hours / 1,857 vessels = 0.310 hour / vessel x 60 minutes = 18.6 minutes per vessel.

- 7a. Percent increase in minutes per vessel from 01/01/00 to 01/01/01 by county. [Incomplete data o run the calculation]
- 7b. Percent increase in minutes per vessel from 01/01/01 to 01/01/02 by county. Example: Brevard County = $18.6 - 8.1 / 8.1 = a 128\%$ increase in number of officer minutes per vessel.
- 8a. Number of new slips resulting from single family docks with NLAA concurrence from the Service by county in 2001.
- 8b. Number of new slips resulting from multi-slip projects with NLAA concurrence from the Service by county in 2001.
- 8c. Number of total new slips with NLAA concurrence from the Service by county in 2001.
- 9a. Watercraft-related manatee mortality by county in 1999.
- 9b. Watercraft-related manatee mortality by county in 2000.
- 9c. Watercraft-related manatee mortality by county in 2001.

Table 2: MANATEE ACTIVITY REPORT FY2001 & FY2002 (COAST GUARD)

| | <u>LOCATION CODE</u> | <u>DIVISION LOCATION</u> | <u>VIOLATIONS - 2001</u> | <u>VIOLATIONS - 2002 *</u> |
|----|----------------------|--------------------------|--------------------------|----------------------------|
| 1. | MF13 | ORLANDO | 41 | 3 |
| 2. | MF21 | TAMPA | 55 | 38 |
| 3. | MF50 | FT. MYERS | 27 | 20 |
| 4. | MF80 | OCALA | 54 | 1 |
| 5. | SF8 | PALM BEACH | 10 | 0 |
| 6. | SF15 | FT. LAUDERDALE | 10 | 4 |
| 7. | SF16 | MIAMI | 504 | 20 |
| 8. | SF17 | FT. PIERCE | 10 | 0 |
| | TOTALS | | 711 | 86 |

* Totals as of 03/04/02; cases are down considerably due to the events of 9/11/01

Table 3: ANNUAL LAW ENFORCEMENT MANATEE ACTIVITY REPORT FY2001 (FWS ONLY)

| | <u>DETAIL DATE</u> | <u>LOCATION</u> | <u>#VIOL</u> | <u>#VESSELS</u> | <u>#AGENTS</u> | <u>#INSP</u> | <u>#REFUGE</u> | <u>#OTHER</u> |
|-----|--------------------|-----------------|--------------|-----------------|----------------|--------------|----------------|---------------|
| 1. | NOV 4/5, 00 | FT. MYERS | 35 | 3 | 5 | 0 | 1 | 0 |
| 2. | JAN 27/28, 01 | FT. MYERS | 33 | 3 | 3 | 1 | 3 | 0 |
| 3. | FEB 24/25, 01 | NAPLES | 42 | 4 | 6 | 0 | 1 | 1 |
| 4. | MAR 17/18, 01 | ST JOHNS RIVER | 15 | 2 | 4 | 0 | 0 | 0 |
| 5. | MAR 17/18, 01 | NAPLES | 43 | 2 | 4 | 0 | 0 | 0 |
| 6. | MAR 31/APR 1 | SARASOTA | 30 | 3 | 8 | 0 | 0 | 0 |
| 7. | APR 14/15, 01 | TITUSVILLE | 41 | 3 | 5 | 0 | 1 | 0 |
| 8. | APR 28/29, 01 | ST. JOHNS RIVER | 32 | 4 | 5 | 1 | 2 | 0 |
| 9. | MAY 12/13, 01 | NAPLES | 30 | 3 | 5 | 1 | 1 | 0 |
| 10. | MAY 26/27/28 | TITUSVILLE | 85 | 4 | 8 | 1 | 2 | 1 |
| 11. | JUL 4-8, 01 | TITUSVILLE | 140 | 5 | 8 | 1 | 5 | 2 |
| 12. | SEP 1-3, 01 | NAPLES | 75 | 4 | 3 | 1 | 4 | 0 |
| | TOTALS | | 601 | 40 | 64 | 6 | 20 | 4 |

Table 4: ANNUAL LAW ENFORCEMENT MANATEE ACTIVITY REPORT FY2002 (FWS/LE ONLY)

| DETAIL DATE | LOCATION | #VIOL | #VESSELS | FWS PERSONNEL | | | START HOURS | OVERALL COMPLIANCE |
|-------------------|-------------|-------|----------|---------------|-------|---------|-------------|--------------------|
| | | | | #AGENTS | #INSP | #REFUGE | | |
| 1. DEC 01/02, 01 | LEE | 21 | 2 | 3 | 0 | 1 | 58 | GOOD |
| 2. JAN 12/13, 02 | LEE | 19 | 3 | 4 | 0 | 3 | 129 | GOOD |
| 3. FEB 09/10, 02 | LEE/COLLIER | 36 | 3 | 3 | 0 | 2 | 106 | GOOD |
| 4. FEB 23/24, 02 | LEE | 32 | 4 | 7 | 0 | 3 | 145 | GOOD |
| 5. MAR 23/24, 02 | COLLIER | | | | | | | |
| 6. APR 20/21, 02 | VOLUSIA | | | | | | | |
| 7. MAY 25/26/27 | BREVARD | | | | | | | |
| 8. JUNE 22/23, 02 | SARASOTA | | | | | | | |
| 9. JULY 4/5/6/7 | BREVARD | | | | | | | |
| 10. AUG 10/11, 02 | LEE | | | | | | | |
| 11. AUG 31/SEPT/2 | COLLIER | | | | | | | |
| TOTALS | | 108 | 12 | 17 | 0 | 9 | 438 | |

Table 5: Number of citations issued by State and local law enforcement agencies

| County | Agency | 2001 Citations |
|---------------------|-------------------------------------|----------------|
| Brevard | | 283 |
| | FWC-DLE | 235 |
| | Brevard County Sheriffs Office | 44 |
| | Police Departments | 4 |
| Broward | | 326 |
| | FWC-DLE | 224 |
| | Broward County Sheriffs Office | 69 |
| | Police Departments | 33 |
| Citrus | | 218 |
| | FWC-DLE | 217 |
| | Citrus County Sheriffs Office | 1 |
| Clay | | 8 |
| | FWC-DLE | 6 |
| | Clay County Sheriffs Office | 2 |
| Collier | | 203 |
| | FWC-DLE | 120 |
| | Collier County Sheriffs Office | 82 |
| | Police Departments | 1 |
| Dixie | | 0 |
| | Dixie County Sheriffs Office | 0 |
| Duval | | 109 |
| | FWC-DLE | 109 |
| Hillsborough | | 36 |
| | FWC-DLE | 35 |
| | Hillsborough County Sheriffs Office | 1 |
| Indian River | | 55 |
| | FWC-DLE | 55 |
| Lee | | 389 |
| | FWC-DLE | 341 |
| | Lee County Sheriffs Office | 2 |
| | Police Departments | 46 |
| Levy | | 42 |
| | FWC-DLE | 42 |

Table 5: Number of citations issued by State and local law enforcement agencies

| County | Agency | 2001 Citations |
|--------------------|------------------------------------|----------------|
| Martin | | 123 |
| | FWC-DLE | 94 |
| | Martin County Sheriffs Office | 26 |
| | Police Departments | 3 |
| Miami-Dade | | 1,291 |
| | FWC-DLE | 456 |
| | Miami-Dade Metro Police Department | 379 |
| | Police Departments | 456 |
| Palm Beach | | 198 |
| | FWC-DLE | 109 |
| | Palm Beach County Sheriffs Office | 67 |
| | Police Departments | 22 |
| Putnam | | 8 |
| | FWC-DLE | 8 |
| Sarasota | | 125 |
| | FWC-DLE | 90 |
| | Sarasota County Sheriffs Office | 32 |
| | Police Departments | 3 |
| St. Johns | | 1 |
| | FWC-DLE | 1 |
| St. Lucie | | 67 |
| | FWC-DLE | 44 |
| | St. Lucie County Sheriffs Office | 22 |
| | Police Departments | 1 |
| Volusia | | 647 |
| | FWC-DLE | 403 |
| | Volusia County Sheriffs Office | 240 |
| | Police Departments | 4 |
| Grand Total | | 4,129 |

Table 6. Comparison of sites recommended by SMC at the July 23, 2001, meeting to our manatee protection area site selection criteria.

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|---------------------------------|---------|----|----|----|----|--|
| Mulberry Cove | Duval | X | X | ? | X | Not mentioned by SMC, but mentioned by FWS as alternative to Goodby's Creek. Limited historic or potential continued take, but would make nice sanctuary. FWC not considering action in this area. Potential for action with Navy. |
| Goodby's Creek | Duval | X | | | | SMC recommended sanctuary. Currently slow speed, County will make it idle speed soon. No FWS action warranted (see Mulberry Cove). FWC not considering action. |
| Downtown Jacksonville | Duval | X | X | | | SMC recommends slow speed with 25 mph channel (return to previous designation). Would be more effectively addressed through County MPP. County currently improving signage, to resolve FWS concerns. FWC believes current plan should be given time to work, and will evaluate the area in 2003. |
| Tomoka River | Volusia | X | X | X | X | SMC wants slow speed throughout. Low mortality historically, but three deaths in 2001. Low priority but worth looking at. FWC is not considering action. |
| Haulover Canal Observation Area | Brevard | X | X | X | X | SMC wants small sanctuary. Low priority, but worth looking at. FWS NWR favors establishment. FWC is not considering action. |
| Barge Canal/Sykes Creek | Brevard | X | X | X | X | SMC wants slow speed. Fixed per recent State and/or federal rules. |
| Canaveral Sewer | Brevard | X | X | | | SMC wants sanctuary. Low Priority, limited potential for current or future take. FWC not considering action. |
| Sebastian River | Brevard | X | | | | SMC claims enforcement is inadequate. Limited evidence of recent take. Little or no potential for future take. FWC is not considering action. |

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|------------------------------------|------------|----|----|----|----|--|
| Indian River SE of Railroad Bridge | Brevard | X | | ? | ? | SMC wants slow speed zone. FWC recently converted from slow speed to high speed use. FWC rule not yet implemented, and ramifications of rule change uncertain. FWS should monitor, but action not warranted at this time. |
| Rivera Beach Power Plant | Palm Beach | X | X | X | X | SMC wants seasonal idle speed in AIW. Continued potential for take with current regulations. Low priority but potentially worth looking at. FWC is not considering action. |
| Manatee River/Braden River | Manatee | X | X | X | ? | SMC wants slow speed with 25 mph channel. Currently unregulated. Potential for future take increasing with rapid development of area. Worth looking at, but size of waterbody may prove difficult for us to regulate effectively. FWC not considering action. Potential for County action. |
| Bokeelia Point | Lee | X | X | X | X | SMC wants slow speed zone. Low priority but potential for future consideration. FWC will evaluate in 2003. |
| Caloosahatchee River | Lee | X | X | ? | ? | SMC wants slow speed with 25mph channel. Current zones appear adequate, but high levels of take continue. Cause of problem not apparent. Size of waterbody would prove difficult for us to regulate effectively. FWC is evaluating. FWS should also evaluate. |
| Ten-mile Canal/Mullock Creek | Lee | X | X | X | ? | SMC wants slow speed zone in creek and sanctuary in borrow pits. Recently adopted FWC zones have not been implemented, but would weaken existing protections in creek. May pose risk of increased take. FWC will evaluate, wants to give new zones a chance to work. FWC not considering sanctuary. FWS should monitor new FWC zone. |

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|--------------------------------------|--------------------|----|----|----|----|--|
| Southern San Carlos Bay | Lee | X | X | X | X | SMC wants slow speed zone with 25 mph channel. Continued potential for take with existing regulations. Probably worth future consideration. FWC will evaluate. |
| Everglades National Park | Monroe/ Collier | X | X | X | | SMC wants 25 mph speed limit. This would be ineffective. Continued potential for take with existing regulations. FWS could not take effective action. Best dealt with through NPS regulations, which they have committed to do. FWC is not considering action. |
| Ten Thousand Islands | Collier | X | X | X | ? | SMC wants action, but has no recommendation. Existing zones inadequate. Potential for continued take, but effective solution is not apparent. FWC will evaluate. FWS should also evaluate. |
| Faka Union Canal/Port of the Islands | Collier | X | X | ? | | SMC wants small sanctuaries in finger canals. Effectiveness of such designations in this area questionable. FWC will evaluate. |

Criteria:

C1 = Evidence of manatee use

C2 = History of take

C3 = Continued potential for take

C4 = Potential for effective FWS management

(An 'X' indicates that this criteria is met for this site, a '?' indicates that it cannot be determined whether this criteria can be met)

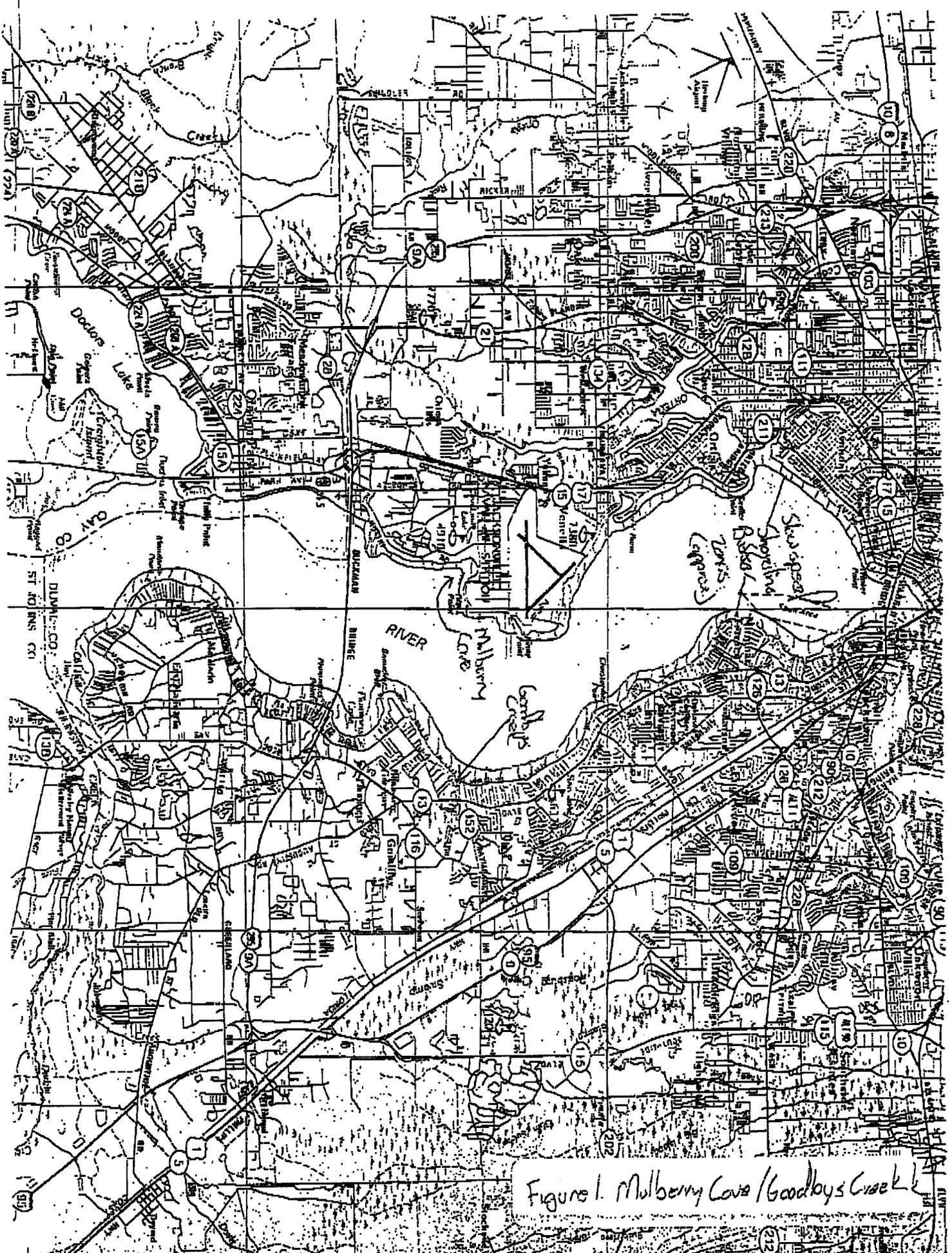


Figure 1. Mulberry Cove / Goodboys Creek

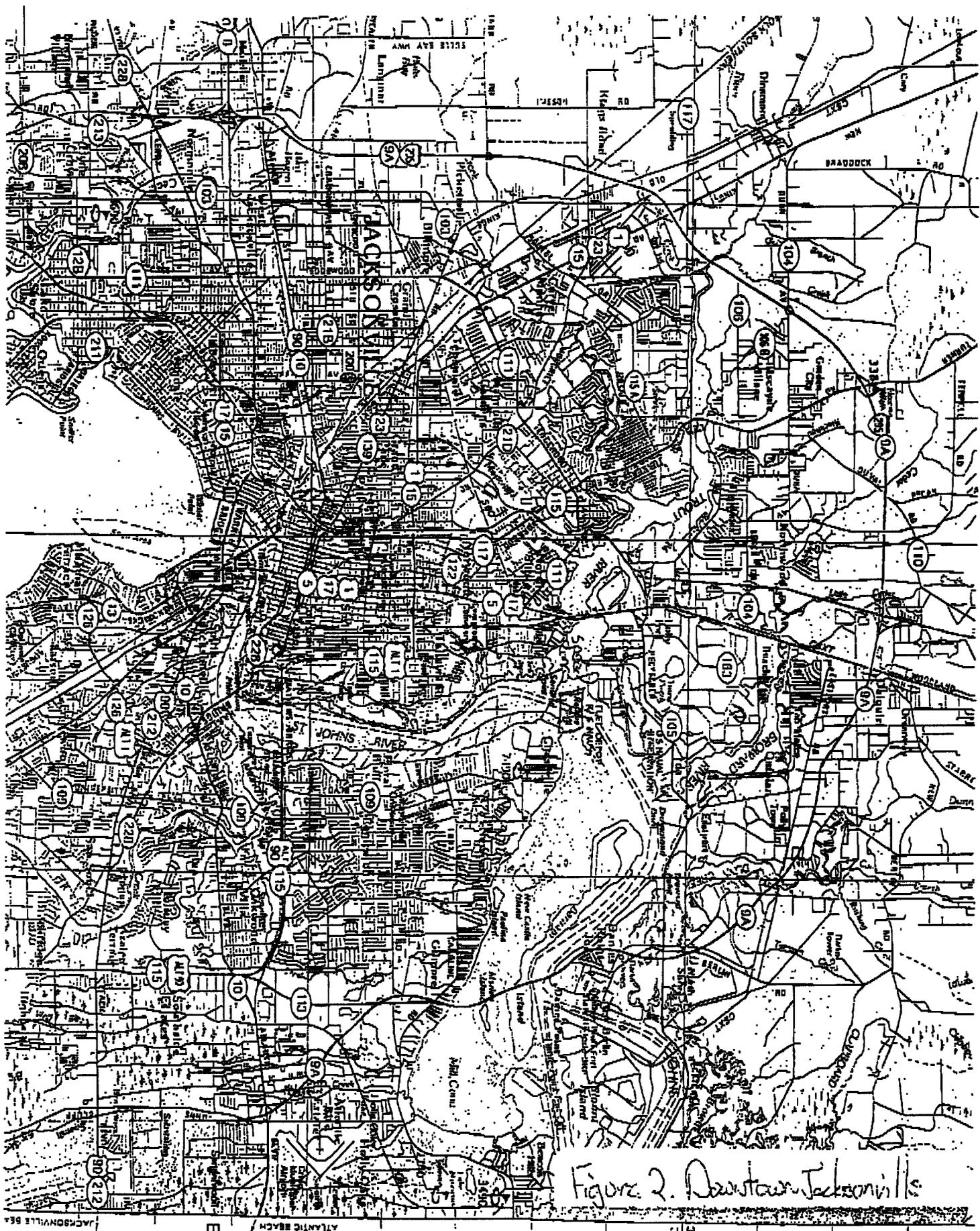


Figure 2. Downtown Jacksonville

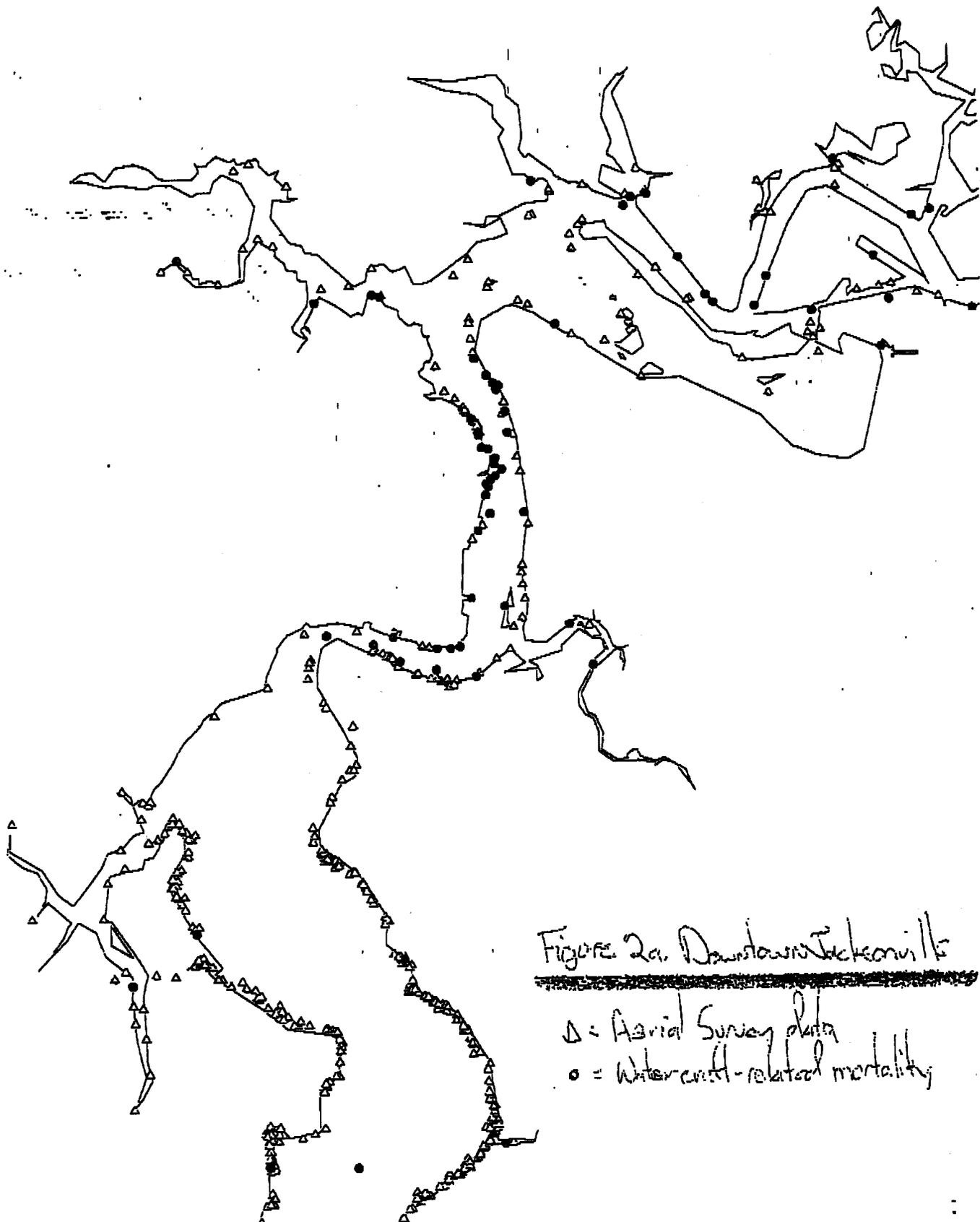


Figure 2a. Downtown Jacksonville

△ = Aerial Survey data
○ = Watercraft-related mortality

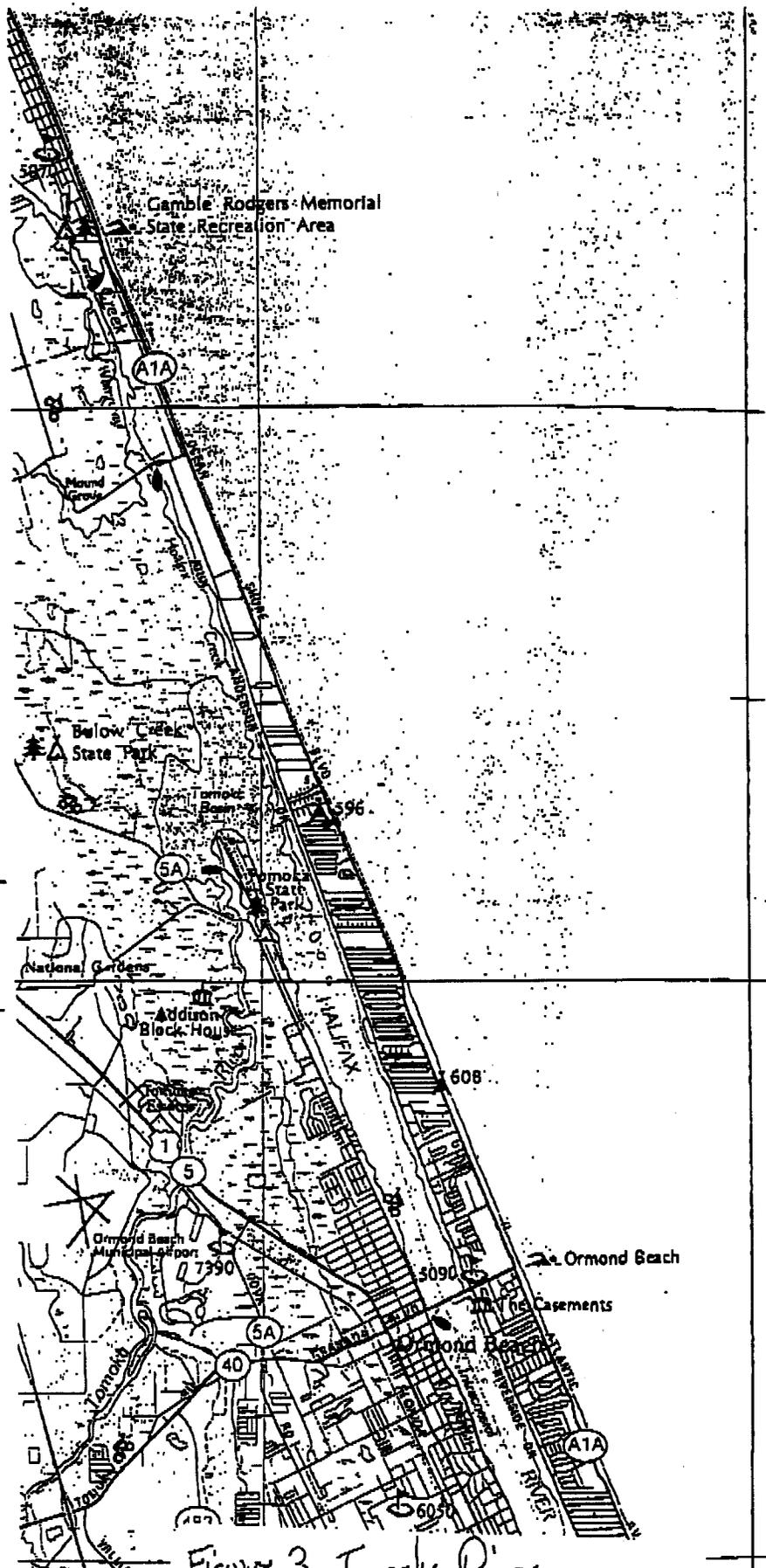
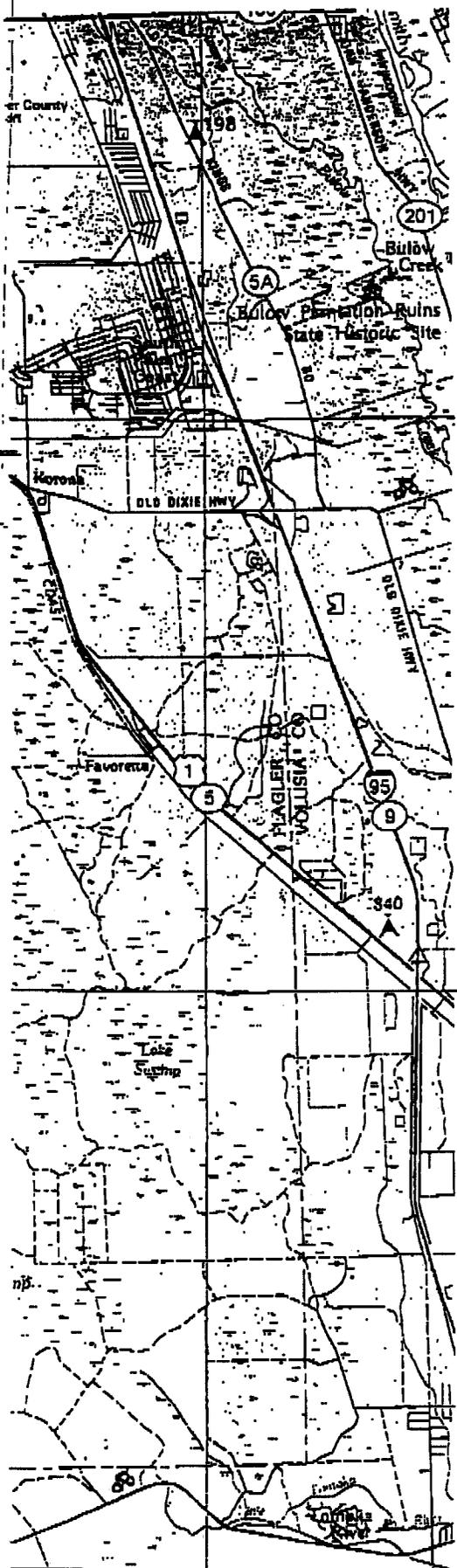
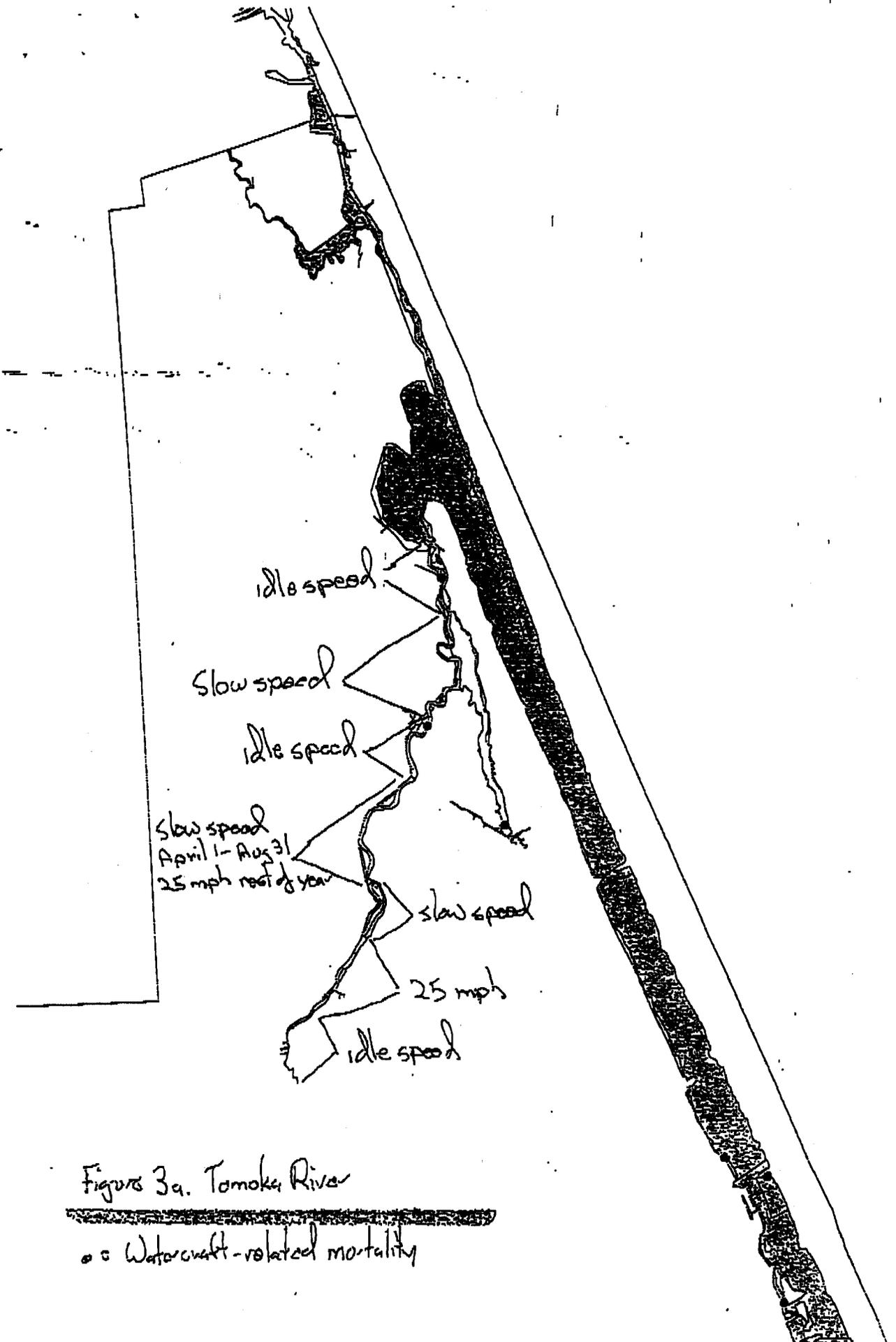


Figure 3. Tomoka River



Figures 3a. Tomoka River

• • Watercraft-related mortality

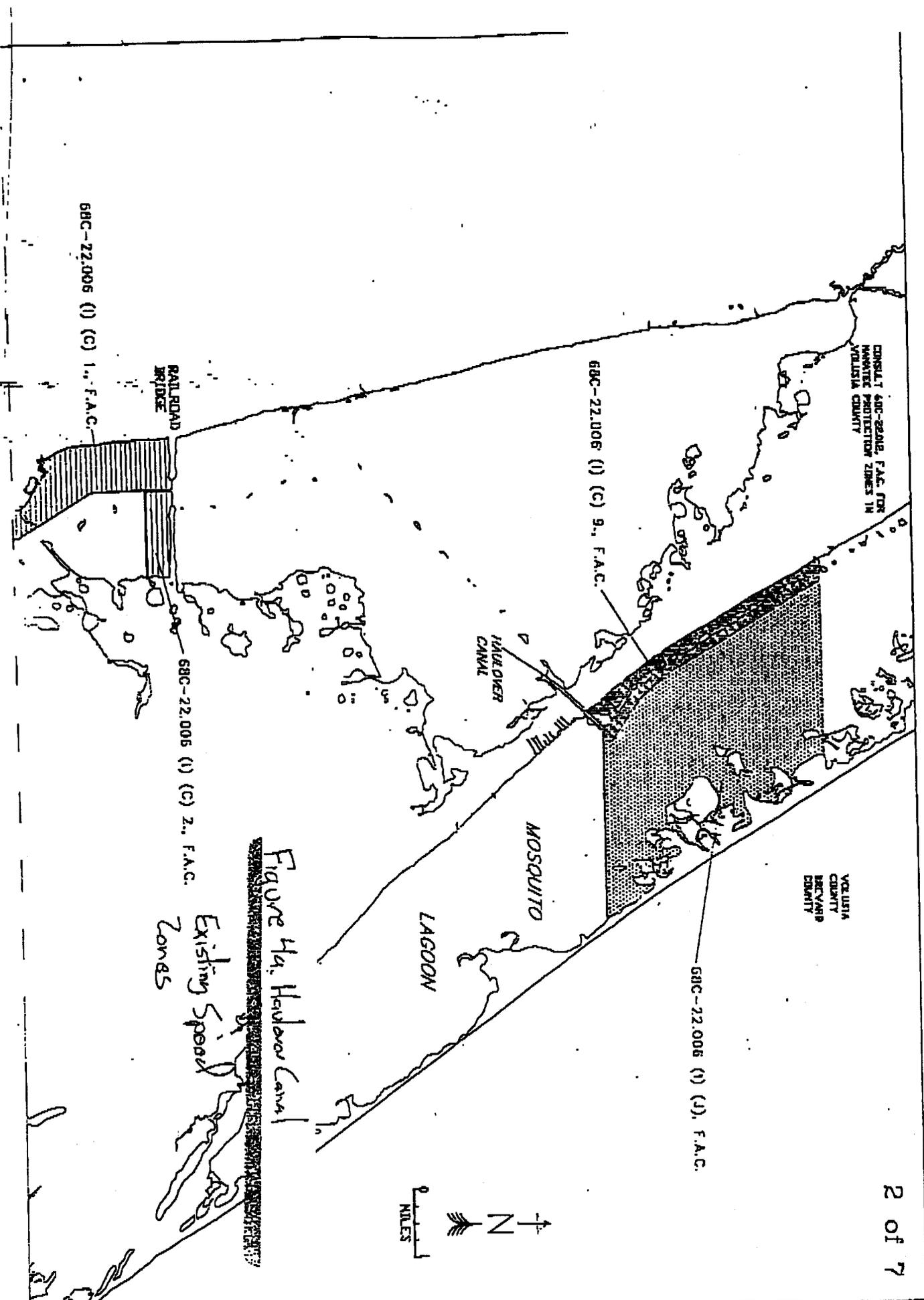
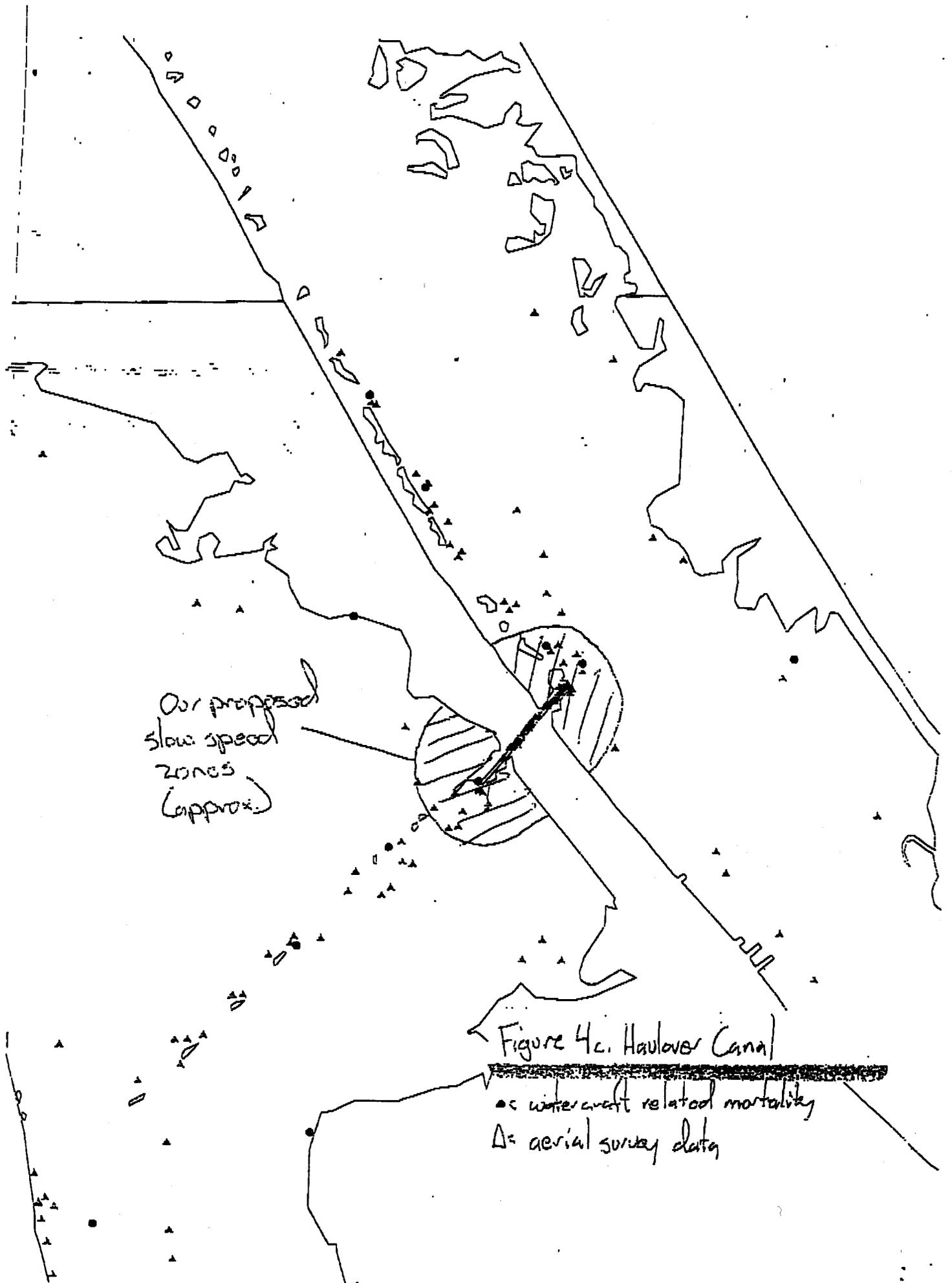


Figure 4a. Hawdock Canal
Existing Speed Zones



Our proposed
slow speed
zones
(approx.)

Figure 4c. Haulover Canal

● = watercraft related mortality
△ = aerial survey data



Figure 5b. Canajohar Sewer

Δ = Aerial Survey data
 \bullet = Watercrab Mortality

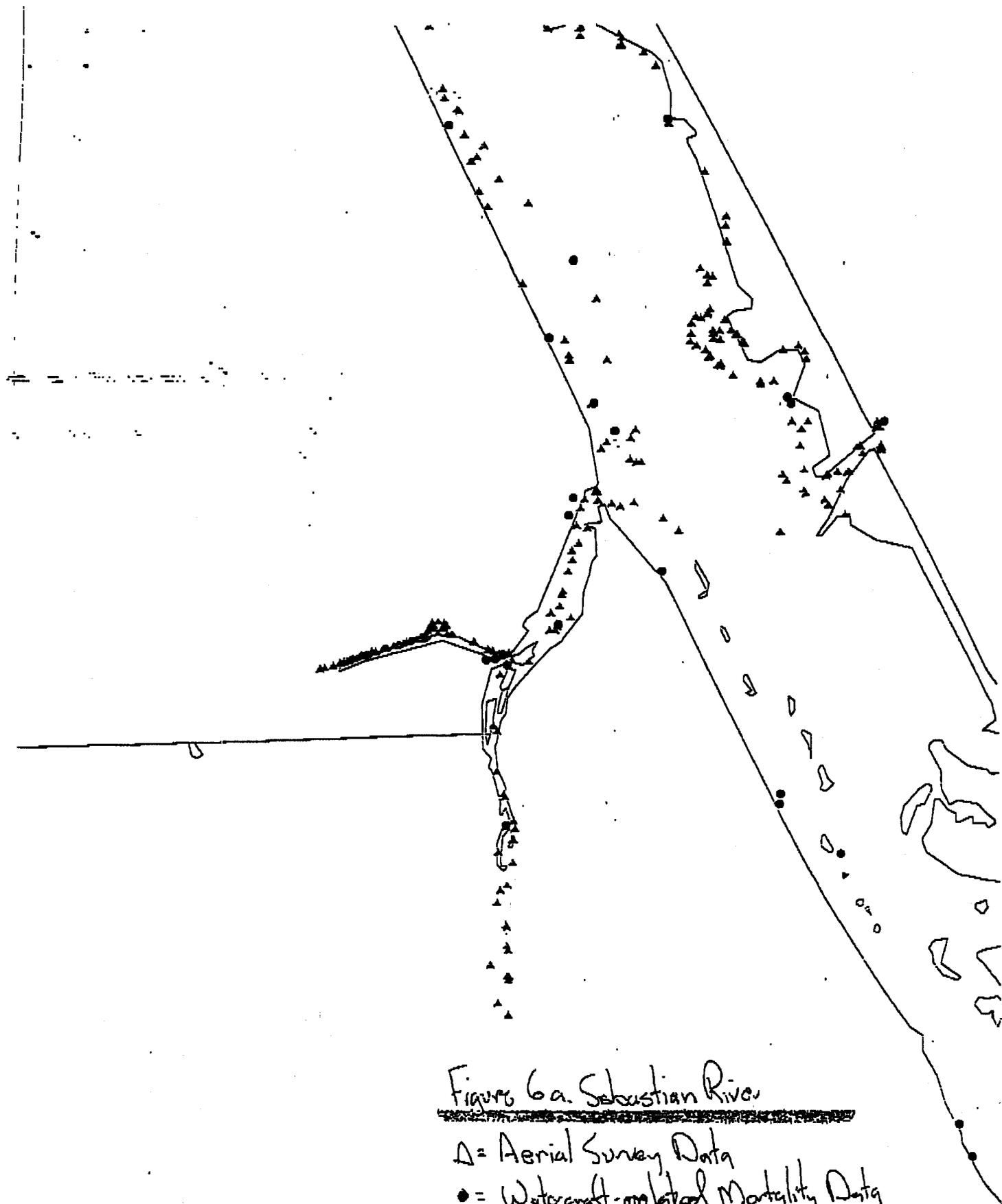


Figure 6a. Sebastian River

△ = Aerial Survey Data

● = Watercraft-related Mortality Data

Figure 7. Railroad Bridge

Existing FWC
speed zones

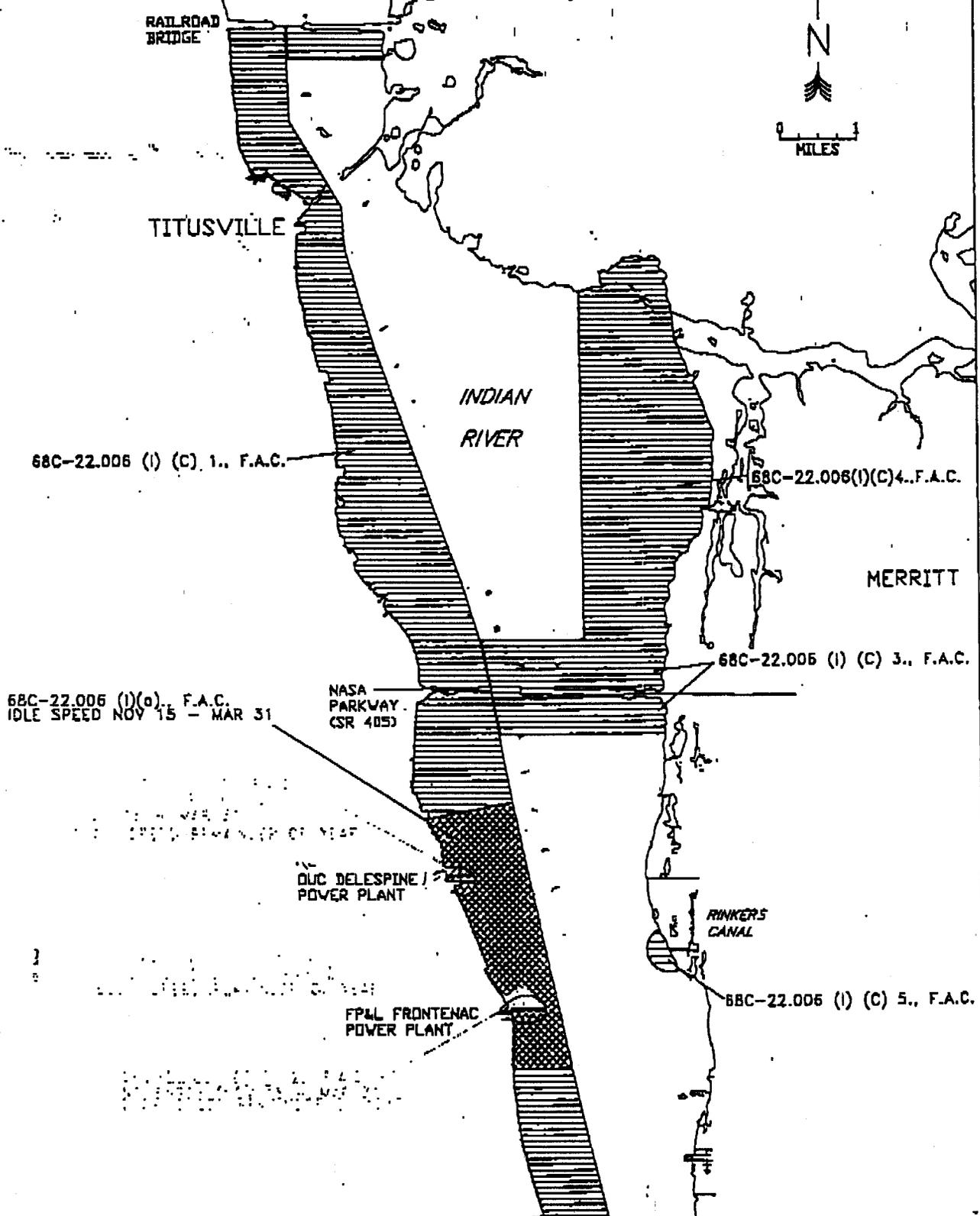
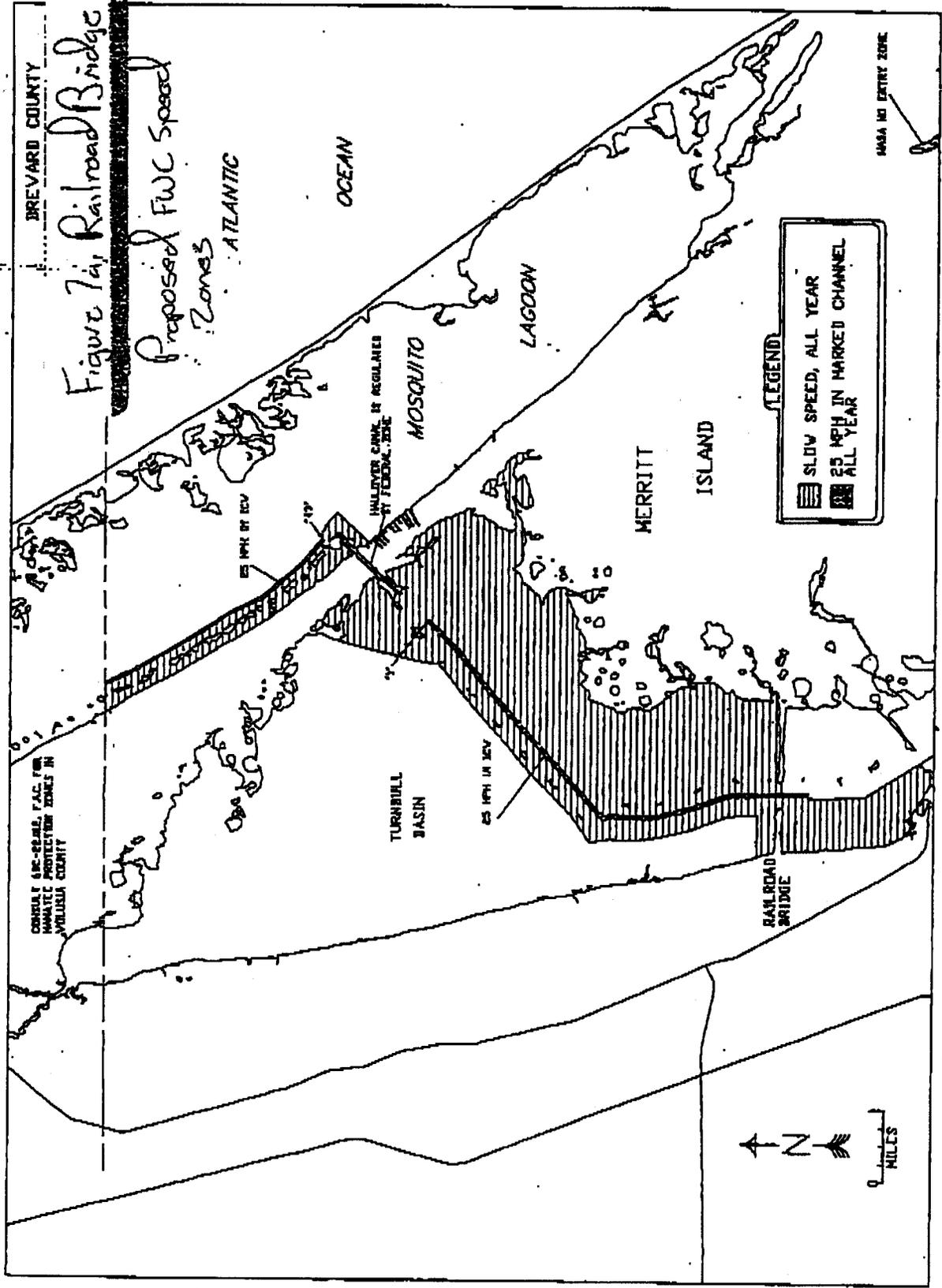


Figure 7a, Railroad Bridge



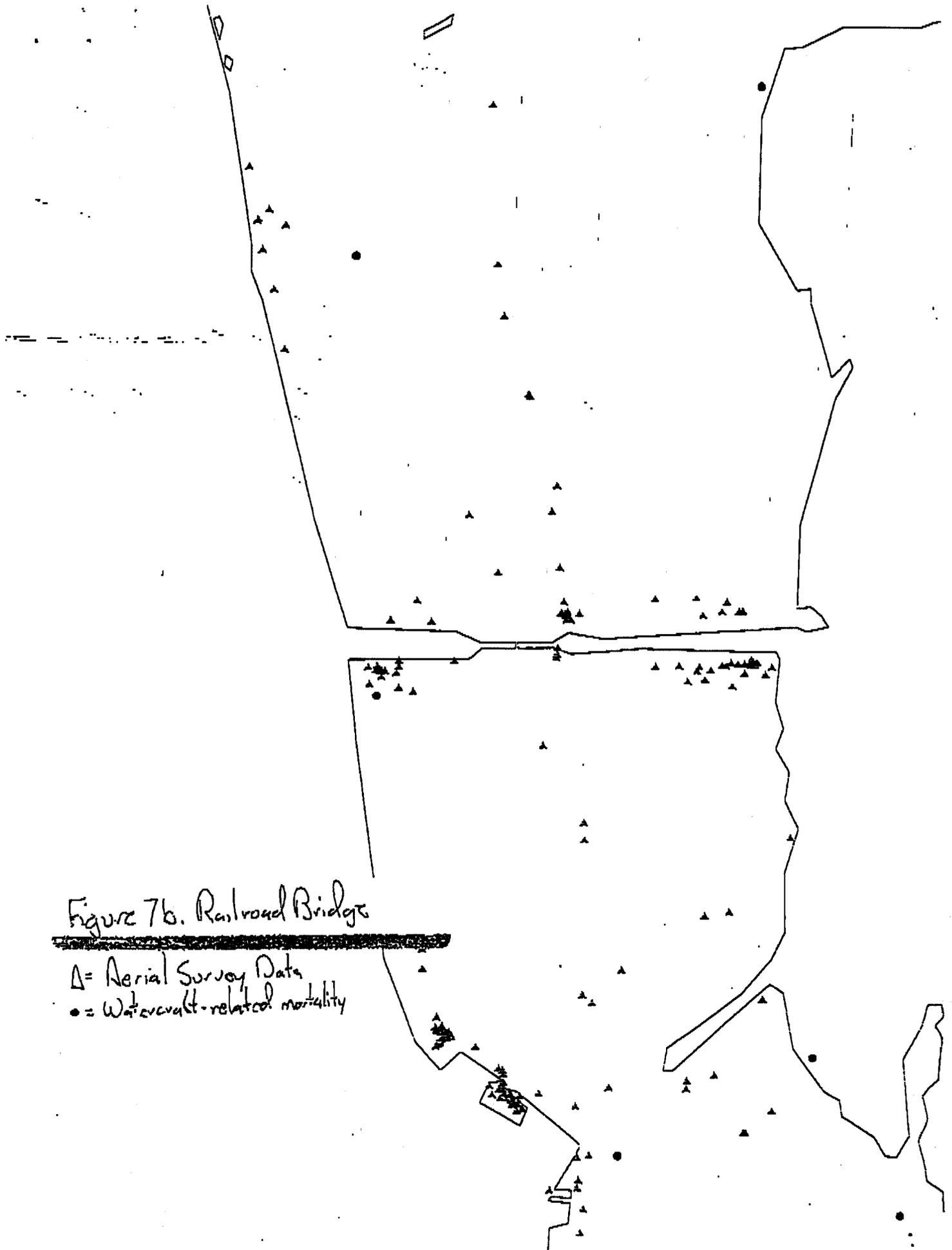
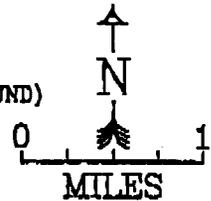


Figure 7b. Railroad Bridges

Δ = Aerial Survey Data
 \bullet = Watercress-related mortality

JUNO BEACH



68C-22.009(1)(c)13.
SLOW SPEED (YEAR-ROUND)

68C-22.009(1)(c)15.
SLOW SPEED (YEAR-ROUND)

68C-22.009(1)(c)11.b.
50' SLOW SPEED
SHORELINE BUFFER

68C-22.009(1)(c)11.a.
50 FT. SLOW SPEED BUFFER (YEAR-ROUND)
EXCLUDING ICW CHANNEL

68C-22.009(1)(g)1.
30MPH (JUN 1 - SEPT 30)
25MPH (OCT 1 - MAY 30)
FOR AREAS OUTSIDE BUFFER

68C-22.009(1)(c)13.
SLOW SPEED (YEAR-ROUND)

68C-22.009(1)(c)13.
SLOW SPEED (YEAR-ROUND)

68C-22.009(1)(c)7.
SLOW SPEED (YEAR-ROUND)
ICW CHANNEL EXCLUDED

68C-22.009(1)(c)7.a.
SLOW SPEED (YEAR-ROUND)

NORTH PALM BEACH

SLOW SPEED
WEST TO
STRUCTURE
8-44

SR 850

LAKE PARK

68C-22.009(1)(c)7.b.
SLOW SPEED (YEAR-ROUND)

68C-22.009(1)(c)14.
SLOW SPEED (YEAR-ROUND)

68C-22.009(1)(c)7.e.
SLOW SPEED (YEAR-ROUND)

68C-22.009(1)(c)8.
SLOW SPEED (YEAR-ROUND)
ICW CHANNEL EXCLUDED

68C-22.009(1)(d)5.
SLOW SPEED
(NOV 15 - MAR 31)

Figure 8. Riviera Beach Power Plant

Existing Speed
Zones

PORT OF PALM BEACH

RIVIERA BEACH POWER PLANT

68C-22.009(1)(e)
MOTORBOATS PROHIBITED
ZONE (NOV 15 - MAR 31)

LAKE WORTH INLET

68C-22.009(1)(c)2.
IDLE SPEED ZONE
(YEAR-ROUND)

68C-22.009(1)(b)
IDLE SPEED
(NOV 15 - MAR 31)

68C-22.009(1)(a)1.
IDLE SPEED ZONE
(YEAR-ROUND)

68C-22.009(1)(d)1.
SLOW SPEED
(NOV 15 - MAR 31)

68C-22.009(1)(c)4.
SLOW SPEED (YEAR-ROUND)
EXCLUDING SPECIFIED CHANNELS

68C-22.009(1)(c)3.
SLOW SPEED
(YEAR-ROUND)

SR 809

I-95



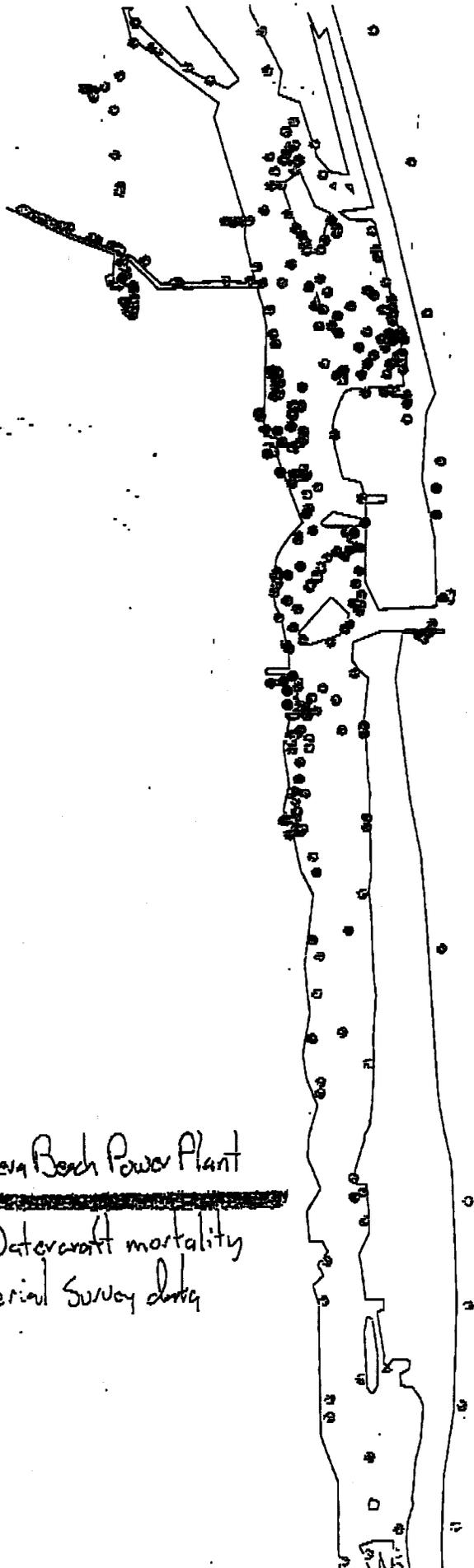


Figure 8a. Riviera Beach Power Plant

Dark dots = Watercraft mortality
Light dots = Aerial Survey data

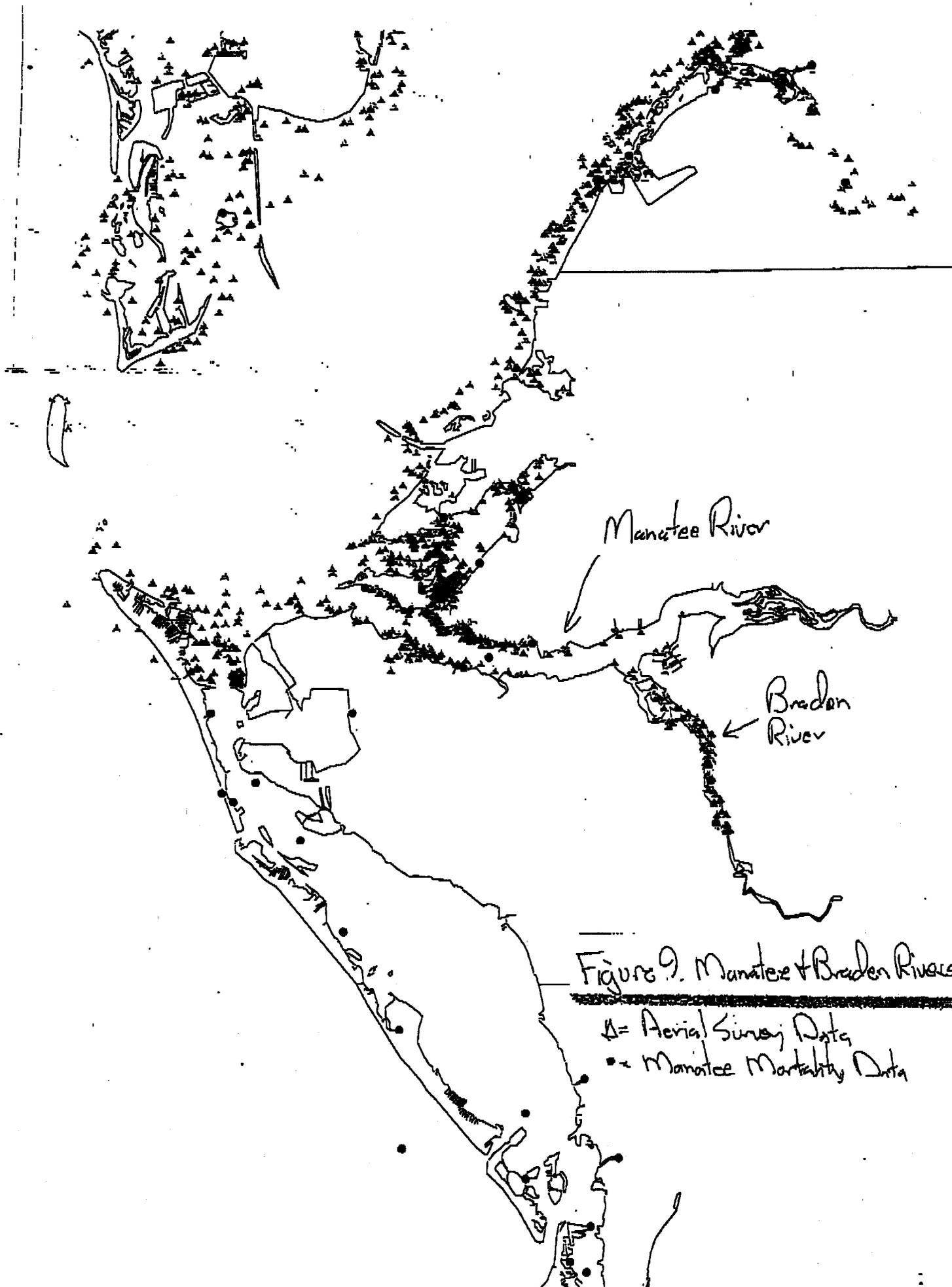
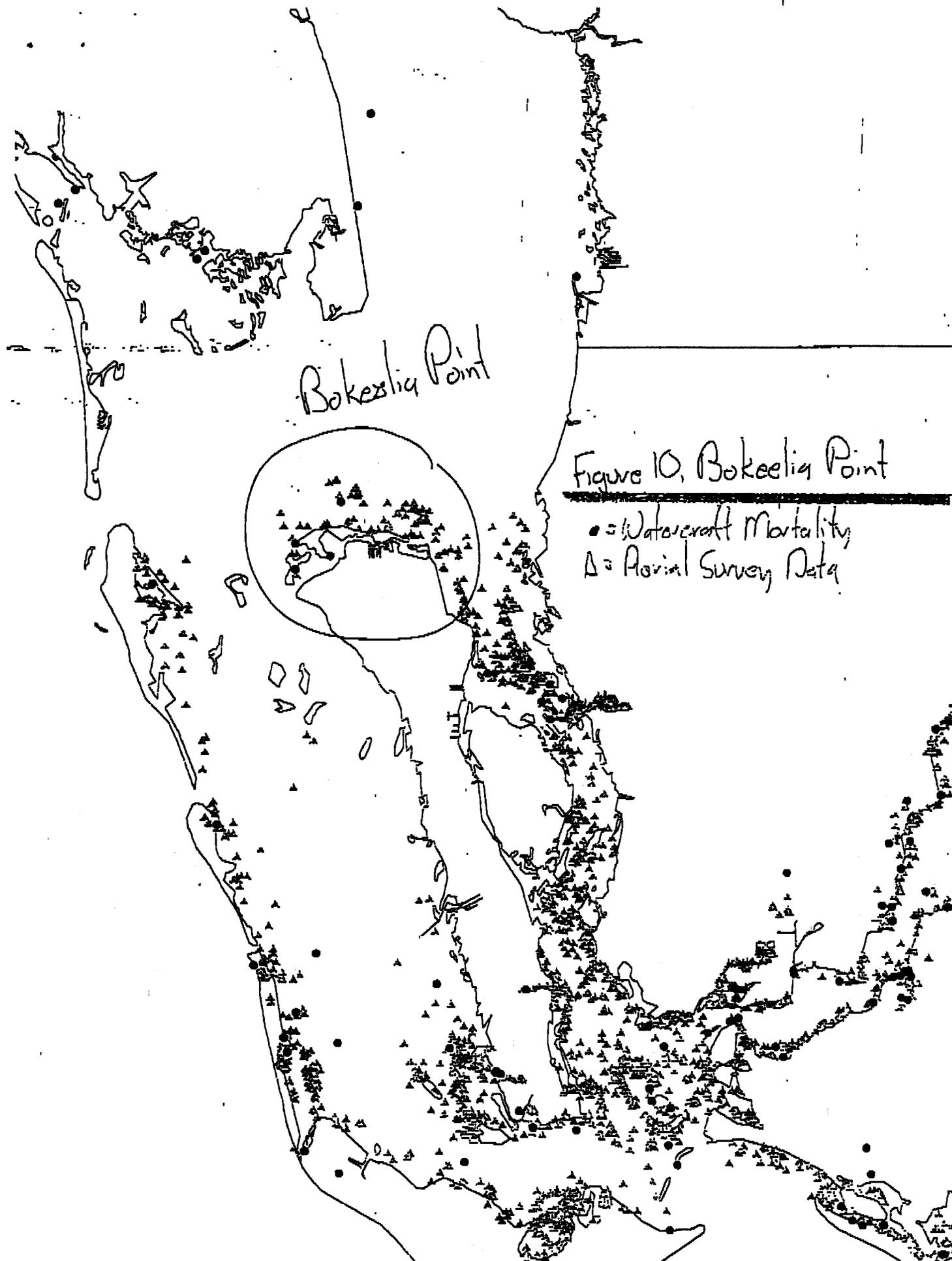


Figure 9. Manatee + Braden Rivers

- △ = Aerial Survey Data
- = Manatee Mortality Data



Bokerliq Point

Figure 10, Bokerliq Point

● = Watercraft Mortality
▲ = Aerial Survey Data

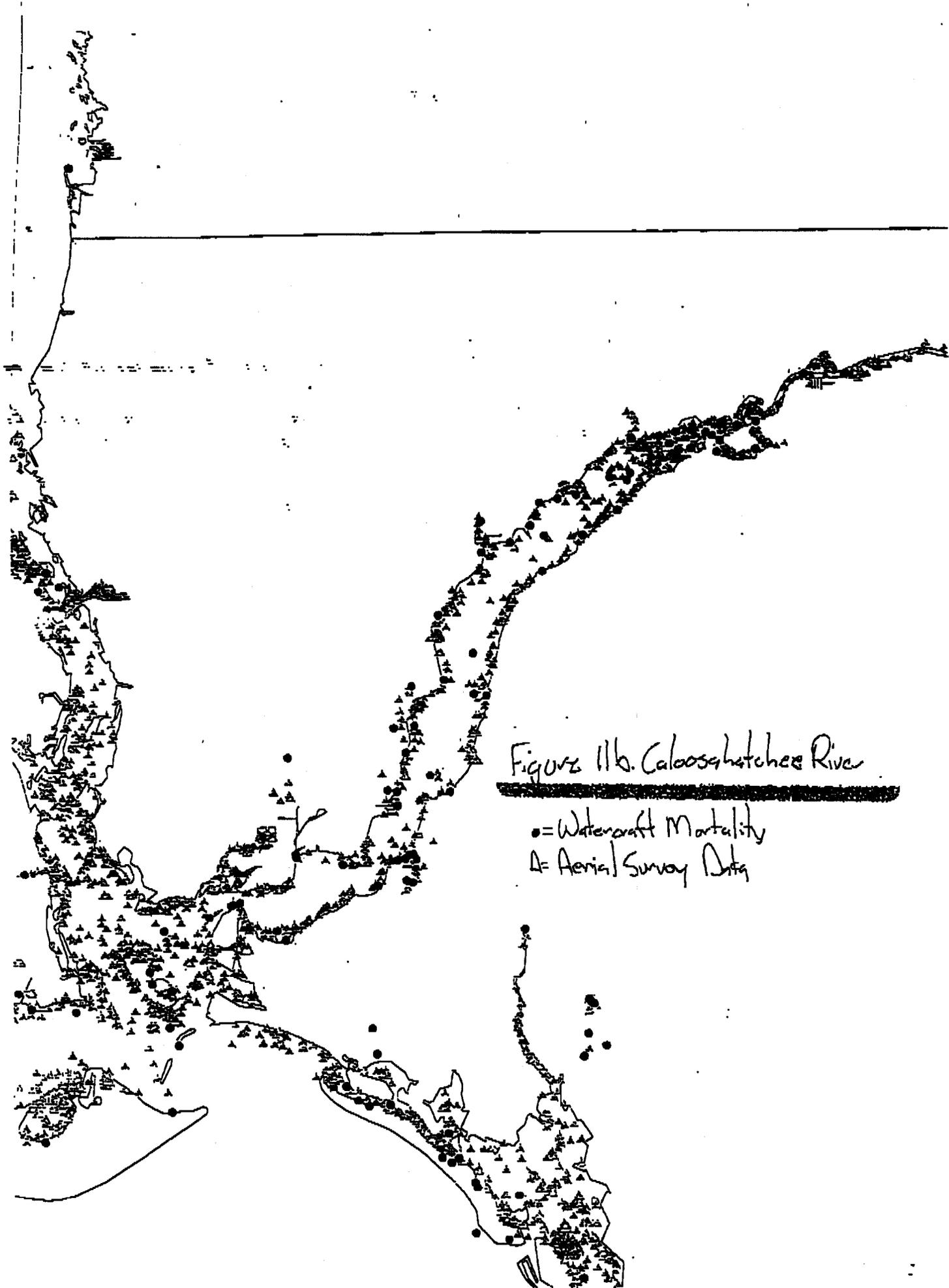
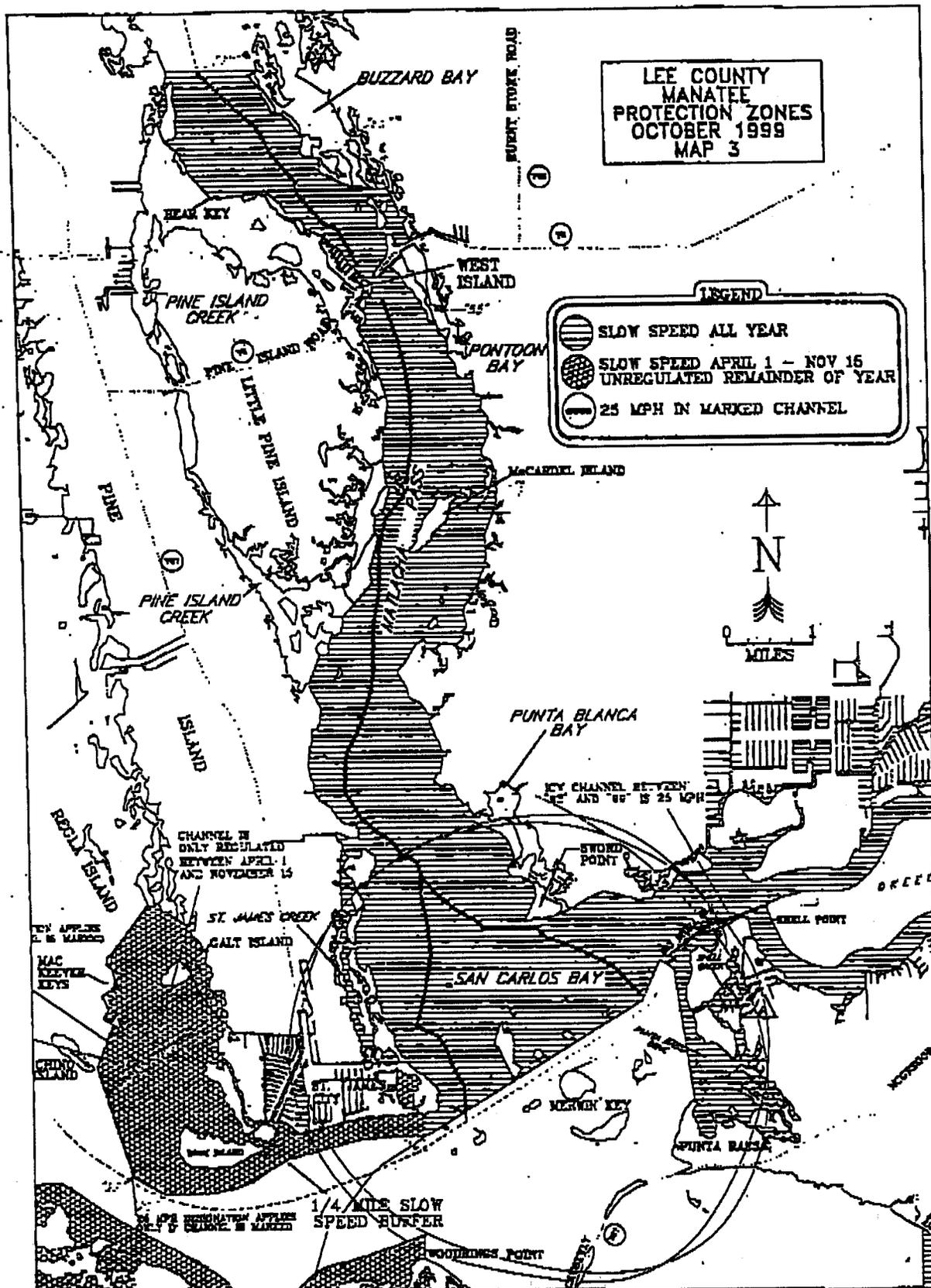


Figure 11b. Caloosahatchee River

● = Watercraft Mortality

▲ = Aerial Survey Data

Figure 13. San Carlos Bay



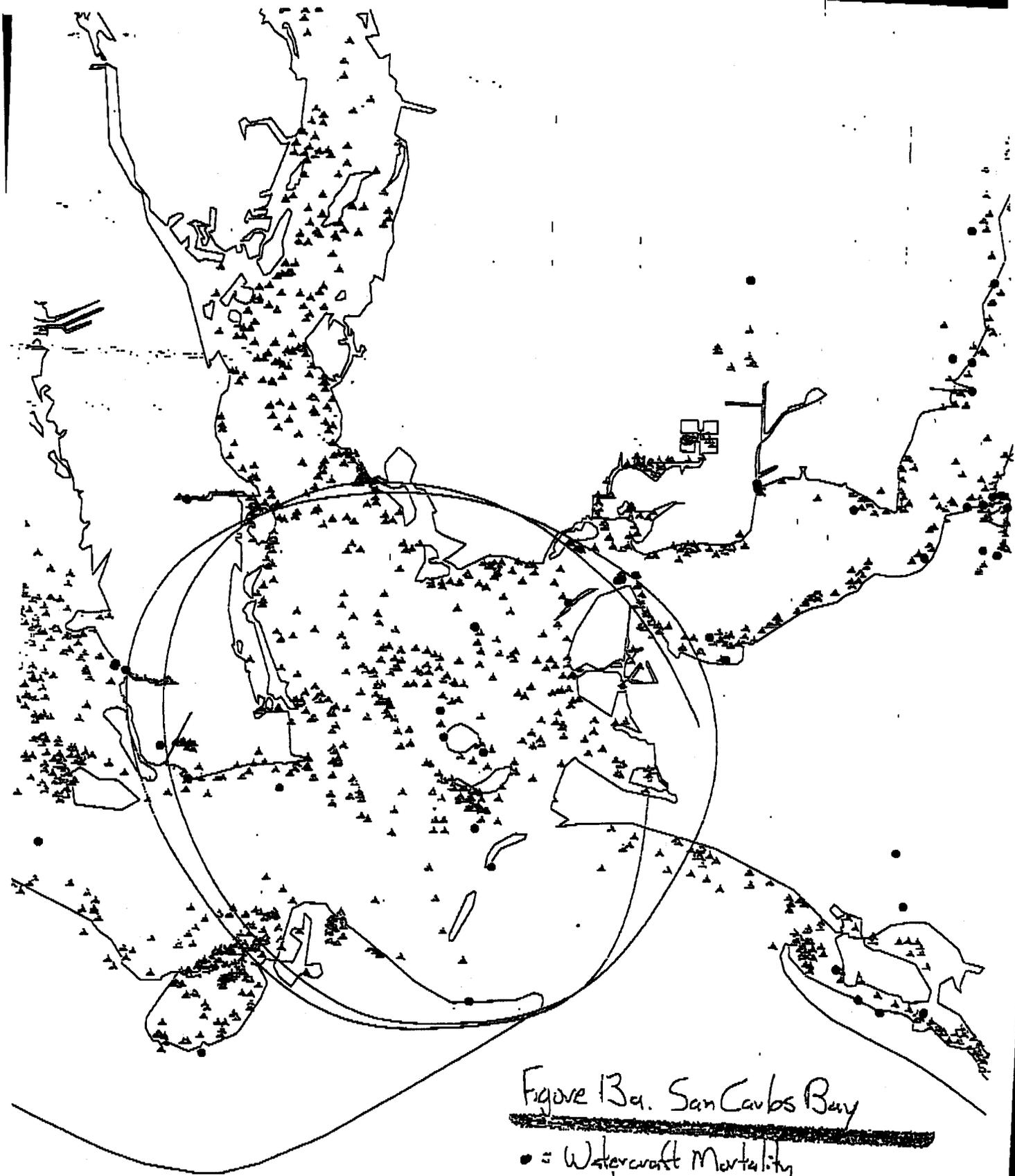


Figure 13a. San Carlos Bay

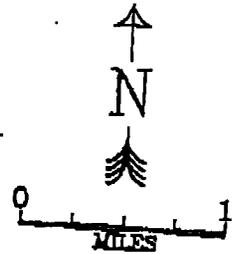
● = Watercraft Mortality
▲ = Aerial Survey data

22.023(1)(e)5.
5 MPH IN CHANNEL,
1 MPH OUTSIDE
CHANNEL ALL YEAR



PORT OF
THE ISLANDS

68C-22.023(1)(b)7.
IDLE SPEED ALL YEAR
(CHANNEL INCLUDED)



US 11

Figure 14.

Everglades National Park, Ten Thousand
Islands, Faka Union Canal (Part of the Is.)

FAKA
UNION
CANAL

68C-22.023(1)(c)6.
SLOW SPEED ALL YEAR
(CHANNEL INCLUDED)

68C-22.023(1)(e)8.
30 MPH IN CHANNEL,
20 MPH OUTSIDE
OF CHANNEL ALL YEAR

FAKA
UNION
BAY

ENP
BOUNDARY

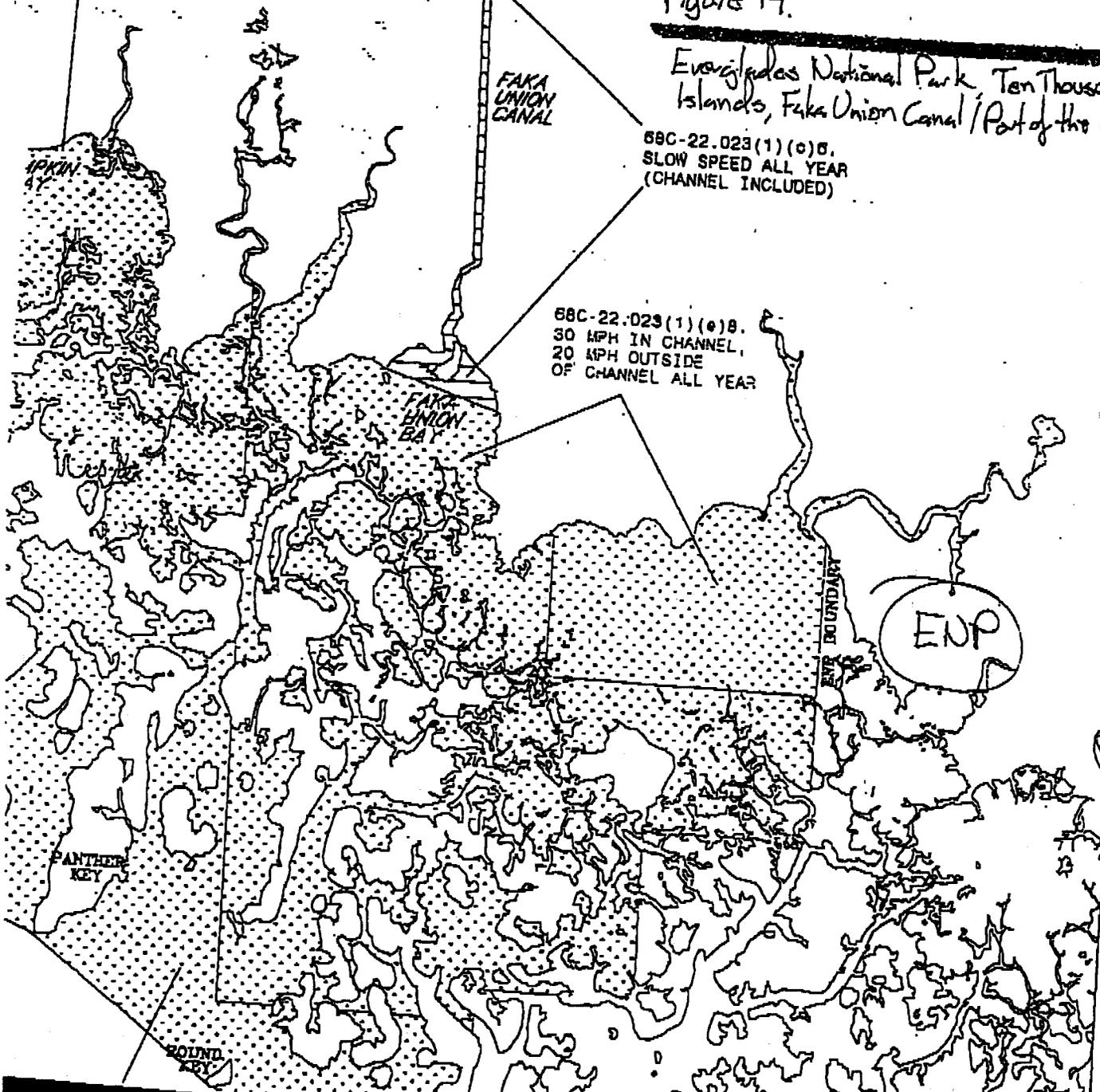
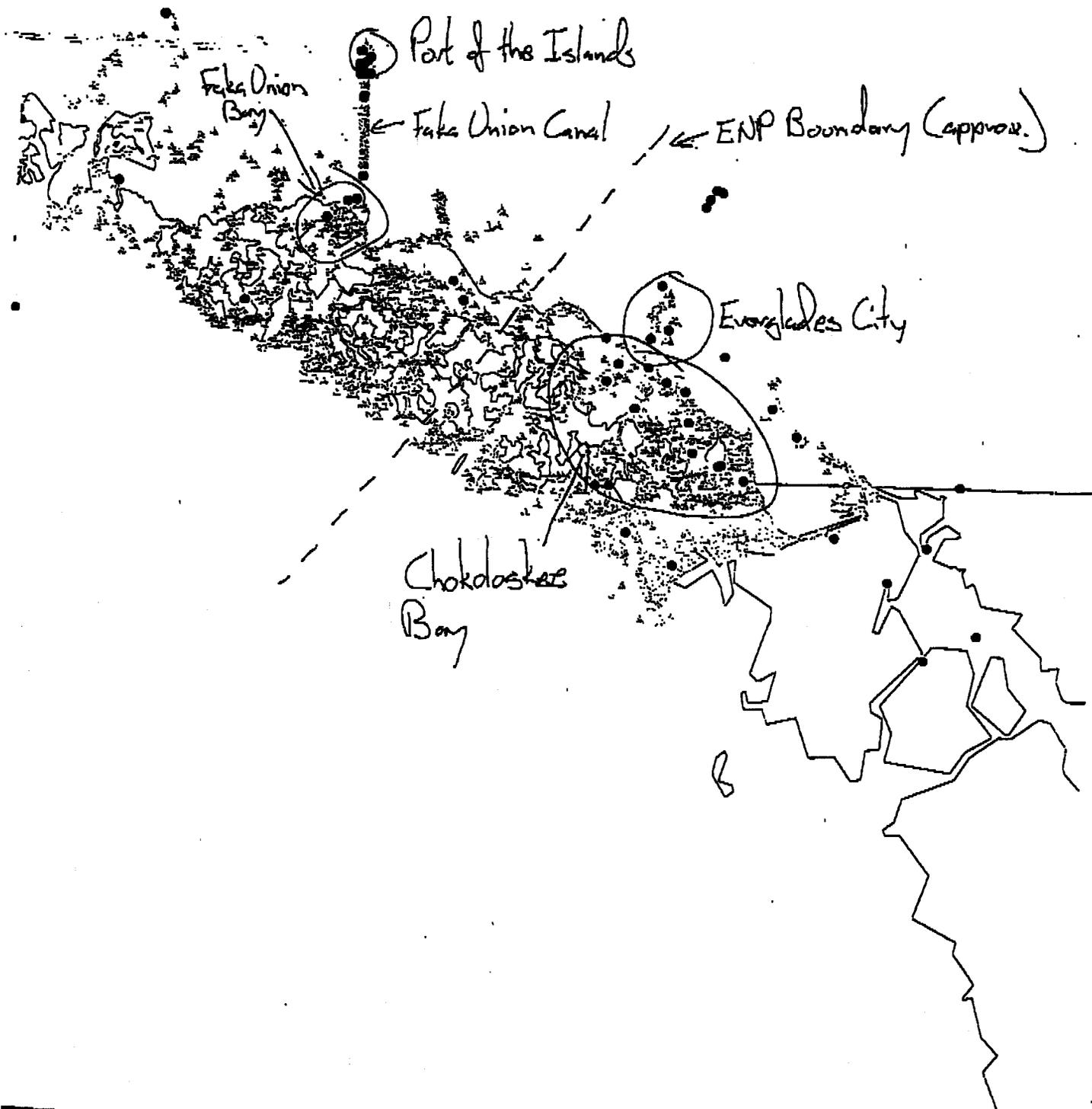


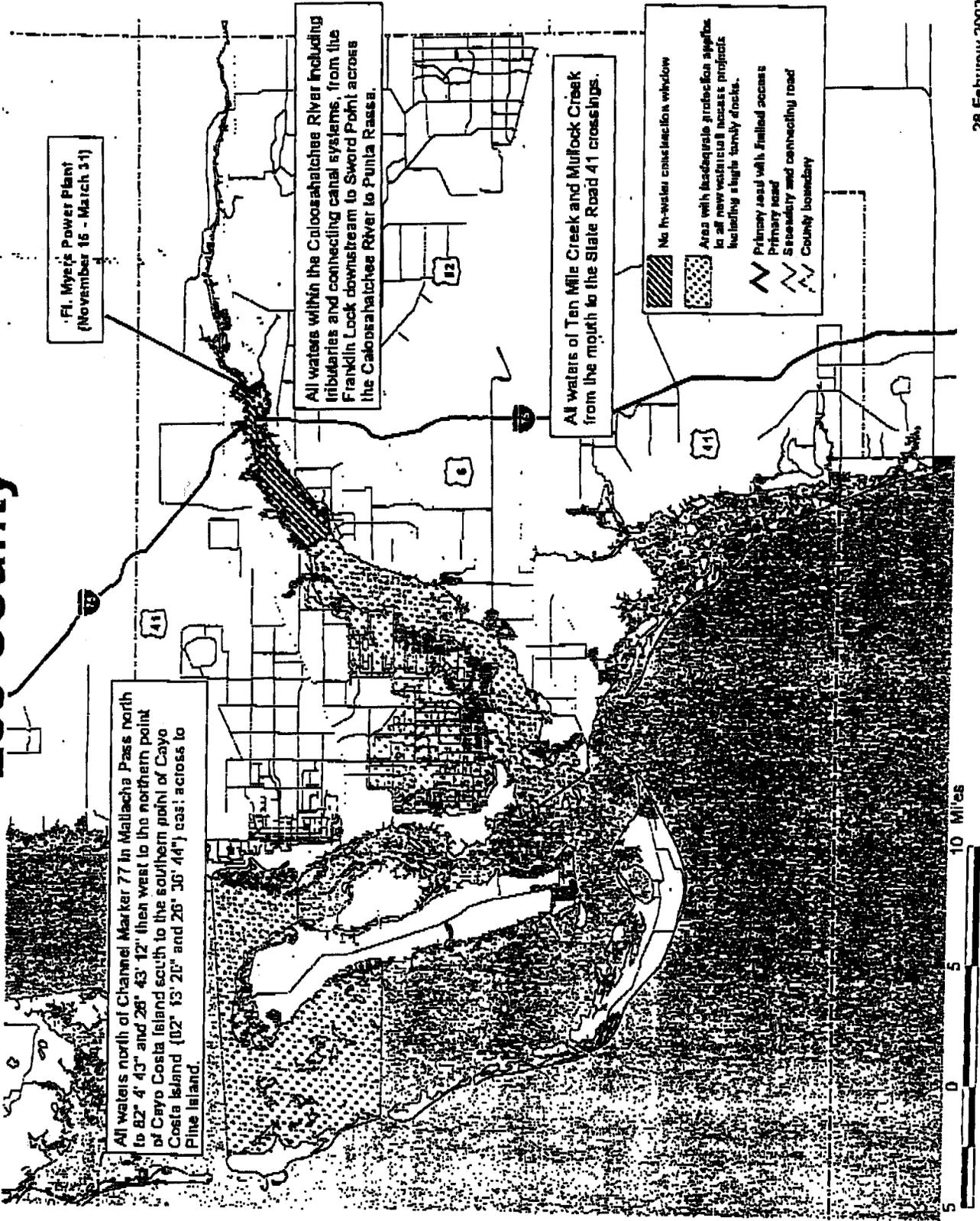
Figure 14a.

Everglades National Park, Ten Thousand Islands, Faka Union Canal/Part of the Is.

- = Watercraft-related mortality
- △ = Aerial Survey data



Lee County



Ft. Myers Power Plant
(November 16 - March 31)

All waters north of Channel Marker 77 in Matlacha Pass north to 82° 4' 43" and 28° 43' 12" then west to the northern point of Cayo Costa Island south to the southern point of Cayo Costa Island (82° 13' 21" and 26° 36' 44") east across to Pine Island.

All waters within the Caloosahatchee River including tributaries and connecting canal systems, from the Franklin Lock downstream to Sword Point across the Caloosahatchee River to Punta Raesa.

All waters of Ten Mile Creek and Mullock Creek from the mouth to the State Road 41 crossings.

No in-water construction without

Area with inadequate protection applies to all new structural increase projects including single family dwellings.

Primary road with limited access
 Primary road
 Secondary and connecting road
 County boundary



Attachment 3

**U.S. Fish and Wildlife Service (Internal Use)
Criteria for Evaluation of Potential Manatee Protection Areas
December 20, 2001**

The Fish and Wildlife Service selected sites for inclusion in the draft proposed rule for the establishment of additional manatee protection areas from the list of sites developed through five preliminary meetings with State and Federal resource managers and manatee experts, and the information gathered from the public at six public workshops and in response to the advance notice of proposed rule-making. We based site selection on four factors--(1) evidence that the site is used by manatees; (2) historic evidence of take (harm or harassment) of manatees at the site due to waterborne human activities; (3) the potential for additional take based on manatee and human use of the site; and (4) a determination that we could implement effective measures at the site to address the identified problem. In determining the potential effectiveness of our proposed actions, we considered the costs of managing sites versus the benefits to manatee conservation. Costs associated with site management include installation and maintenance of appropriate signage, public education, and enforcement. In addition, designation of sanctuaries in the waters bordered by private property would entail additional administrative burdens in terms of identifying and providing access to affected residents. We considered these administrative burdens in selecting sites. Finally, we evaluated the effectiveness of our proposed actions against the likely effectiveness of actions by State and/or local governments. We have not proposed areas for which we have determined that identified threats to manatees can be most effectively addressed by State or local action. We made every effort to make our proposed designations consistent with the adjacent State or local designations.

Comparison of Save the Manatee Club's Recommended Sites to FWS Criteria

Criteria

C1 = Evidence of manatee use

C2 = History of take

C3 = Continued potential for take

C4 = Potential for effective FWS management

(An 'X' indicates that this criteria is met for this site,

a '?' indicates that it cannot be determined whether this criteria can be met)

Table 1. Comparison of sites recommended by SMC in October 2000 to our site selection criteria. Sites in bold were discussed at July 23, 2001 meeting with SMC representatives.

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|-------------------------------|---------------|----------|----------|----------|----|--|
| Mulberry Cove | Duval | X | X | | | Not mentioned by SMC, but mentioned by FWS as alternative to Goodby's Creek. Limited historic or potential continued take, but would make nice sanctuary. FWC not considering action in this area. Potential for action with Navy. FWS (Benjamin) will contact Navy. |
| Downtown Jacksonville | Duval | X | X | X | ? | SMC recommends slow speed with 25 mph channel (return to previous designation). Would be more effectively addressed through County MPP. County currently improving signage, to resolve FWS concerns. FWC believes current plan should be given time to work, and will evaluate the area in 2003. |
| Goodby's Creek | Duval | X | | | | SMC recommended sanctuary. Currently slow speed, County will make it idle speed soon. No FWS action warranted (see Mulberry Cove). FWC not considering action. |
| Doctors Lake and Inlet | Clay | X | X | | | |
| Welaka Spring | Putnam | X | | | | Minimal evidence of take, proposed for State action |
| Salt Spring | Marion | X | | | | Minimal evidence of take, proposed for State action |

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|--|---------|----|----|----|----|--|
| Silver Glen Spring | Lake | X | X | X | | Limited evidence of take, proposed for State and/or Forest Service action |
| Bethune Beach Park | Volusia | X | X | X | | |
| Tomoka River | Volusia | X | X | X | X | SMC wants slow speed throughout. Low mortality historically, but three deaths in 2001. Low priority but worth looking at. FWC is not considering action. |
| DeLeon Spring | Volusia | X | | | | minimal evidence of take, proposed for State action |
| Lake Woodruff | Volusia | X | X | | | Existing speed zones adequate |
| The Lagoon south of Blue Spring run | Volusia | X | | | | minimal evidence of take |
| Haulover Canal | Brevard | X | X | X | X | SMC wants small sanctuary. Low priority, but worth looking at. FWS NWR favors establishment. FWC is not considering action. |
| OUC | Brevard | X | X | | | Existing speed zones adequate |
| Barge Canal/Sykes Creek | Brevard | X | X | X | X | SMC wants slow speed. Fixed per recent State and/or federal rules. |
| Banana River between Barge Canal and Federal no-motor zone | Brevard | X | X | X | X | |
| Cocoa Beach Canals | Brevard | X | X | X | | Fixed per recent State rule |
| Canaveral Sewer | Brevard | X | X | | | SMC wants sanctuary. Low Priority, limited potential for current or future take. FWC not considering action. |
| Berkley Canal | Brevard | X | X | X | X | Fixed per recent State rule |
| Grand Canal - Lake Shepard | Brevard | X | X | X | X | Fixed per recent State rule |
| Crane Creek | Brevard | X | X | X | X | Fixed per recent State rule |
| Eau Gallic River | Brevard | X | X | X | X | Fixed per recent State rule |
| Turkey Creek | Brevard | X | X | X | X | Fixed per recent State rule |

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|--|--------------|----|----|----|----|---|
| Mullet Creek | Brevard | X | X | X | X | Fixed per recent State rule |
| Sebastian River | Brevard | X | | | | SMC claims enforcement is inadequate. Limited evidence of recent take. Little or no potential for future take. FWC is not considering action. |
| Vero Beach Power Plant | Indian River | X | X | X | | Limited opportunities for effective federal action, proposed for State action |
| Little and Big Mud Creeks | St. Lucie | X | | | | minimal evidence of take, proposed for State action |
| Taylor Creek | St. Lucie | X | | | | Currently Idle speed |
| C-24 canal | St. Lucie | | | | | |
| Manatee Pocket | Martin | X | X | | | Currently slow speed |
| Earman River/C-17 Canal/N. Palm Beach Waterway | Palm Beach | X | | | | Currently slow speed |
| Munyon Island and Little Munyon Island | Palm Beach | X | X | | | Currently slow speed/slow speed channel exempt, proposed for State action |
| Boynon Canal (C-16) | Palm Beach | X | | | | Currently slow speed |
| C-15 Canal | Palm Beach | X | | | | Currently slow speed |
| Hillsboro Canal (C-14) | Palm Beach | X | | | | Currently slow speed |
| Whiskey Creek | Broward | | | | | |
| Downstream of S-27 on Little River | Dade | X | | | | Currently seasonal no entry/idle speed |
| Blue Lagoon | Dade | X | | | | Currently slow speed, proposed for State action |
| Sky Lakes | Dade | X | | | | Currently slow speed, proposed for State action |

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|--------------------------------------|----------|----|----|----|----|--|
| Oleta River | Dade | X | | | | Currently idle speed |
| Whitewater Bay | Monroe | X | | | | |
| Wakulla River | Wakulla | X | | | | minimal evidence of take |
| Manatee Springs Run | Levy | X | | | | minimal evidence of take |
| Blue Waters | Citrus | X | X | X | X | Proposed for State action |
| Kings Bay watersports zone | Citrus | X | X | X | X | Take is limited, low priority but perhaps worth looking at |
| Weekee Wachee Spring Run and Canals | Hernando | X | | | | minimal evidence of take |
| Jenkins Creek | Hernando | X | | | | minimal evidence of take |
| Anclote Power Plant | Pasco | X | | | | |
| Spring Bayou | Pinellas | X | | | | |
| Bartow Power Plant | Pinellas | X | X | X | X | Proposed for State action |
| Weedon Island | Pinellas | X | | | | Proposed for State action |
| Coffee Pot Bayou | Pinellas | X | | | | Proposed for State action |
| Hillsborough River | Hills | | | | | Proposed for State action |
| Tampa Bay - Alafia to Little Manatee | Hills | X | X | X | X | Proposed for State/County action |
| Cockroach Bay/Little CB | Hills | X | X | X | X | Proposed for State/County action |
| Terra Ceia Bay | Manatee | X | X | X | X | Proposed for State action |
| Bishop Harbor | Manatee | | | | | |
| Miguel Bay | Manatee | | | | | |
| Manatee River/Bradon River | Manatee | X | X | X | ? | SMC wants slow speed with 25 mph channel. Currently unregulated. Potential for future take increasing with rapid development of area. Worth looking at, but size of waterbody may prove difficult for us to regulate effectively. FWC not considering action. Potential for County action. |

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|----------------------------|-----------|----|----|----|----|---|
| City Island(Pansy Bayou) | Sarasota | X | X | X | X | Proposed for State action |
| Roberts Bay | Sarasota | X | | | | Limited evidence of take, Low priority but potential for future consideration |
| Warm Mineral Springs | Sarasota | X | X | X | | Limited potential for effective federal action, proposed for State action |
| Dona Bay/Roberts Bay | Sarasota | X | | | | |
| Bull Bay | Charlotte | X | | | | |
| Lemon Bay | Charlotte | X | X | X | X | proposed for State action |
| Turtle Bay | Charlotte | X | | | | proposed for State action |
| Pirate Harbor | Charlotte | | | | | |
| Burnt Store Isles | Charlotte | | | | | |
| Peace River | Charlotte | X | X | X | X | proposed for State action |
| Waters of Ding Darling NWR | Lee | X | | | | proposed for State evaluation |
| Safety Harbor | Lee | X | | | | limited evidence of take, proposed for State evaluation |
| Bokeelia Point | Lee | X | X | X | X | SMC wants slow speed zone. Low priority but potential for future consideration. FWC will evaluate in 2003. |
| Canals at Matlacha Isles | Lee | X | | | | limited potential for effective federal action |
| Caloosahatchee River | Lee | X | X | ? | ? | SMC wants slow speed with 25mph channel. Current zones appear adequate, but high levels of take continue. Cause of problem not apparent. Size of waterbody would prove difficult for us to regulate effectively. FWC is evaluating. FWS should also evaluate. |
| Deep Lagoon | Lee | X | | | | current zones adequate, proposed for State evaluation |

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|--------------------------------------|---------|----|----|----|----|---|
| Ten Mile Canal/Mullock Creek | Lee | X | X | X | ? | SMC wants slow speed zone in creek and sanctuary in borrow pit. Recently adopted FWC zones have not been implemented, but would weaken existing protections in creek. May pose risk of increased take. FWC will evaluate, wants to give new zones a chance to work. FWC not considering sanctuary. FWS should monitor new FWC zone. |
| Faka Union Canal/Port of the Islands | Collier | X | X | | | existing zones effective, proposed for State evaluation |
| Ten Thousand Islands | Collier | X | X | X | ? | proposed for State evaluation |

Table 2. Sites recommended by SMC in October 2001, but not mentioned in October 2000. Sites in bold were discussed with SMC representatives at July 23, 2001, meeting.

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|---------------------------------|-------------------|----------|----------|----------|----------|--|
| Southern San Carlos Bay | Lee | X | X | X | X | SMC wants slow speed zone with 25 mph channel. Continued potential for take with existing regulations. Probably worth future consideration. FWC will evaluate. |
| Rivera Beach Power Plant | Palm Beach | X | X | X | X | SMC wants seasonal idle speed in ICW. Continued potential for take with current regulations. Low priority but potentially worth looking at. FWC is not considering action. |

| Site Name | County | C1 | C2 | C3 | C4 | Comments |
|-------------------------------------|----------------------------|----------|----------|----------|----------|---|
| Indian River Railroad Bridge | Brevard | X | | ? | ? | SMC wants slow speed zone. FWC recently converted from slow speed to high speed use. FWC rule not yet implemented, and ramifications of rule change uncertain. FWS should monitor, but action not warranted at this time. |
| Everglades National Park | Monroe/ Collier | X | X | X | | SMC wants slow speed with 25 mph channel. Currently unregulated. Potential for future take increasing with rapid development of area. Worth looking at, but size of waterbody may prove difficult for us to regulate effectively. FWC not considering action. Potential for County action. regulations |

Discussion

All of the above-mentioned sites, and others, were considered at some point in our evaluation process. Of the sites specifically discussed with SMC representatives at the July 23, 2001, meeting (indicated on the above tables in bold), some (such as the Goodby's Creek, and the Canaveral sewer outfall) did not meet our criteria for further consideration because there are currently adequate protective measures in place at these sites and the likelihood of future take at these sites is limited, provided the existing regulations are appropriately enforced. Others (such as Caloosahatchee River, Everglades National Park, and Ten Thousand Islands/Chokoloskee Bay) did not meet our criteria for designation at this time because it is as yet unclear, based on current information, what additional protective measures could be implemented to effectively reduce on-going watercraft-related manatee mortality in these areas; however, we agreed that these sites needed further study. We could not agree with SMC regarding the need for additional action at Bokeelia Point (the FWC is proposing to evaluate this area as part of their broader evaluation of Lee County).

We note that the SMC, who recommended we take immediate action in the Ten Thousand Islands/Chokoloskee Bay area, could offer no specific recommendation as to what to do in this area. In the Everglades National Park, SMC recommended an area-wide 25 mph speed limit, which would be completely ineffective in reducing watercraft-related mortality, as demonstrated by the ineffectiveness of 25 mph speed limits in other waters such as the Barge Canal and the Tomoka River. Further, we note that they only developed recommendations for the Faka Union Canal/Port of the Islands area after we published the proposed rule. We agreed that the Port of the Islands may warrant consideration for a sanctuary designation in one very small portion of the area; but this was not a high priority compared to the sites identified in our proposed rule. It is also interesting to note that the SMC considered Mulberry Cove to warrant "immediate" action in their comments of October 2000, but this site was not mentioned by SMC during the July 23 meeting. We had to remind them of this area, at which point they agreed that it was a better site for a sanctuary than Goodby's Creek, which they agreed at that time would not make a good sanctuary. Amazingly, Goodby's Creek is recommended as a sanctuary in their October 2001 comments.

We agreed that the remaining sites discussed with SMC representatives at the July 23 meeting (the St. John's River in downtown Jacksonville, the Tomoka River, the Haulover Canal observation area, the Indian River southeast of the railroad bridge causeway, the Riviera Beach power plant outfall, the Manatee and Braden Rivers, San Carlos Bay, and Mullock Creek/Ten Mile Canal) do, or may, warrant further consideration, particularly if State or local efforts to improve manatee protection at these sites are unsuccessful, and if manatees do not make satisfactory progress toward recovery. However, we do not agree with the SMC that action at any of these sites is any more urgent than the actions identified in our proposed rule. Additionally, we made it clear that we would prefer State or local action; particularly in downtown Jacksonville, and that we would need more data before agreeing that action is needed at the Indian River southeast of the railroad bridge causeway.