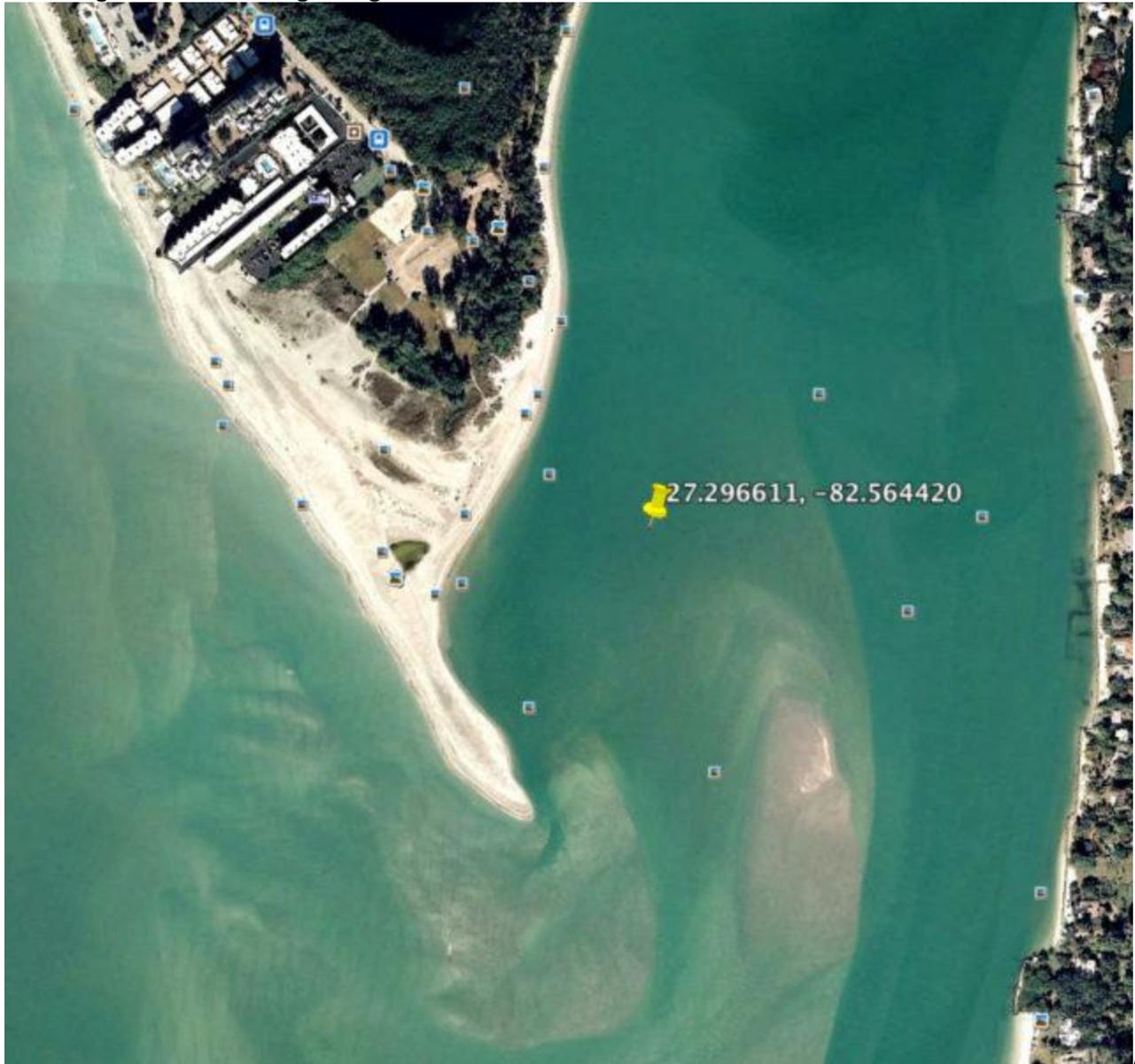


With state prepared to issue permit for Lido project, Sarasota County seeks extension of 14-day challenge period

December 29, 2016 by Rachel Brown Hackney, Editor & Publisher
Siesta organizations working on legal action



satellite image shows Big Pass and South Lido Key in December 2008. Image from the U.S. Department of Agriculture's Farm Service Agency via Google Earth

The Office of the Sarasota County Attorney has filed for a 10-day extension of the 14-day period during which a challenge may be submitted to the Florida Department of Environmental Protection (FDEP) regarding its Notice of Intent to issue a permit for the Lido Renourishment Project.

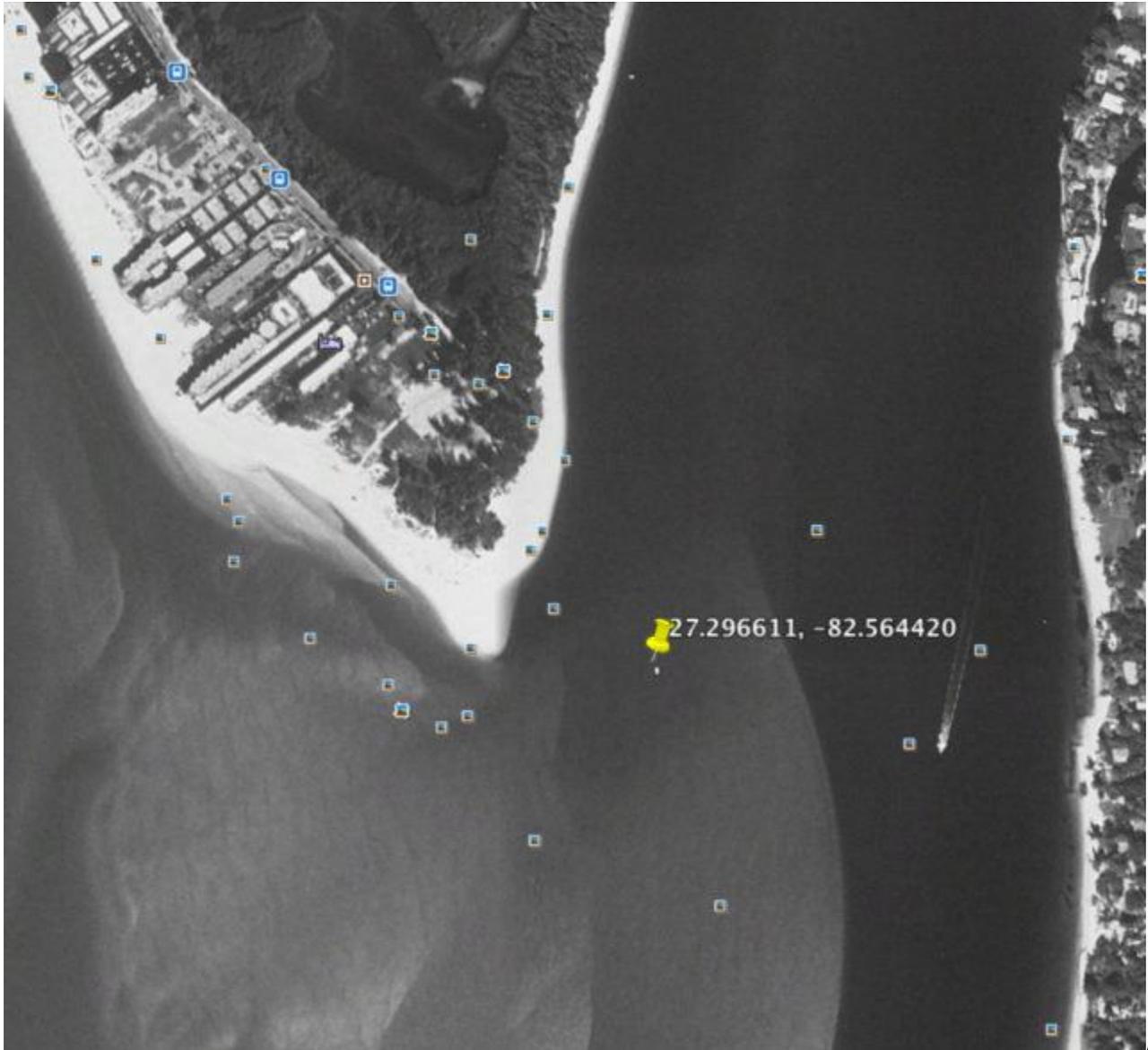
At the same time, the [Siesta Key Association](#) (SKA) is seeking a 14-day extension, Second Vice President Catherine Luckner told *The Sarasota News Leader* this week.

At 5:22 p.m. on Thursday, Dec. 22, the FDEP manager overseeing the Lido Renourishment Project sent a three-paragraph email to a variety of state, federal and City and County of Sarasota personnel.

In it, Greg Garis wrote that FDEP's "Beaches, Inlets and Ports Program announces issuance of a Notice of Intent to Issue a Joint Coastal Permit for the Lido Key Beach Nourishment Project, File No. 0333315-001-JC."

A 29-page letter from Lainie Edwards, administrator of the Beaches, Inlets and Ports Program, to many of the same recipients — also written on Dec. 22 — formally announced the department's readiness to issue a 15-year joint coastal permit, and to grant a letter of consent, for the City of Sarasota and the U.S. Army Corps of Engineers (USACE) to use sovereign submerged lands for the proposed \$19-million project on an approximately 1.6-mile segment of South Lido Key. The permit says the sand would come primarily from Big Sarasota Pass and its ebb shoals, though "New Pass may be used [under another FDEP permit] as a supplemental sand source, subject to the sand sharing agreement between the City of Sarasota and the Town of Longboat Key."

The construction of two groins on South Lido Key to help hold the sand in place between renourishments remains part of the project, the formal public notice says.



A 1994

satellite image shows South Lido Key and Big Pass. Image from the U.S. Geological Survey via Google Earth
In the Dec. 27 county motion, Assistant County Attorney David Pearce writes that the draft permit is 39 pages long “and includes eleven general conditions, nine general consent conditions and thirty special conditions,” which staff needs to evaluate. Those most in need of county evaluation, he indicates, regard the use of “staging and access areas for construction and storage of equipment.” Pearce adds, “It is the County’s understanding that permittees seek to use the County’s [Ted Sperling Park on Lido Key] as a staging and access area.”

Pearce points out that because of the holiday season, county staff “will not have adequate time to review the draft permit prior to the end of the fourteen-day challenge period,” as county offices were closed on Dec. 23 and 26 and they will be closed on Jan. 2, 2017. He adds that the County Commission is in recess and will not conduct regular meetings until Jan. 10 and 11, 2017.

“This is a very positive sign of County concern and involvement,” Peter van Roekens, chair of [Save Our Siesta Sand 2 \(SOSS2\)](#), wrote in a Dec. 28 email to members of the organization. SOSS2 is a nonprofit that has been fighting the proposed dredging of Big Pass from the outset of the 2013 announcement of the renourishment project.

Van Roekens and Luckner have pointed out numerous times that Sperling Park, on the southernmost part of Lido Key, also could suffer adverse effects from the renourishment project and the installation of the groins. Those are among the issues, Luckner said, "that [the county leaders] are best able to address in a meaningful way."

Last week, while Sarasota City Manager Tom Barwin was emailing the news about the Notice of Intent to the city commissioners, both SOSS2 and the SKA were finalizing plans for a legal challenge of the permit.

At 8:06 p.m. on Dec. 22, Barwin sent the city commissioners a copy of a statement he had written. It began, "We are pleased that after years of research, analysis and public input, [FDEP] has approved the permit to protect the Lido Key Shoreline. ... The many conditions included with the permit resulted from the City, [USACE], and FDEP listening to the public and addressing their concerns as we move forward."

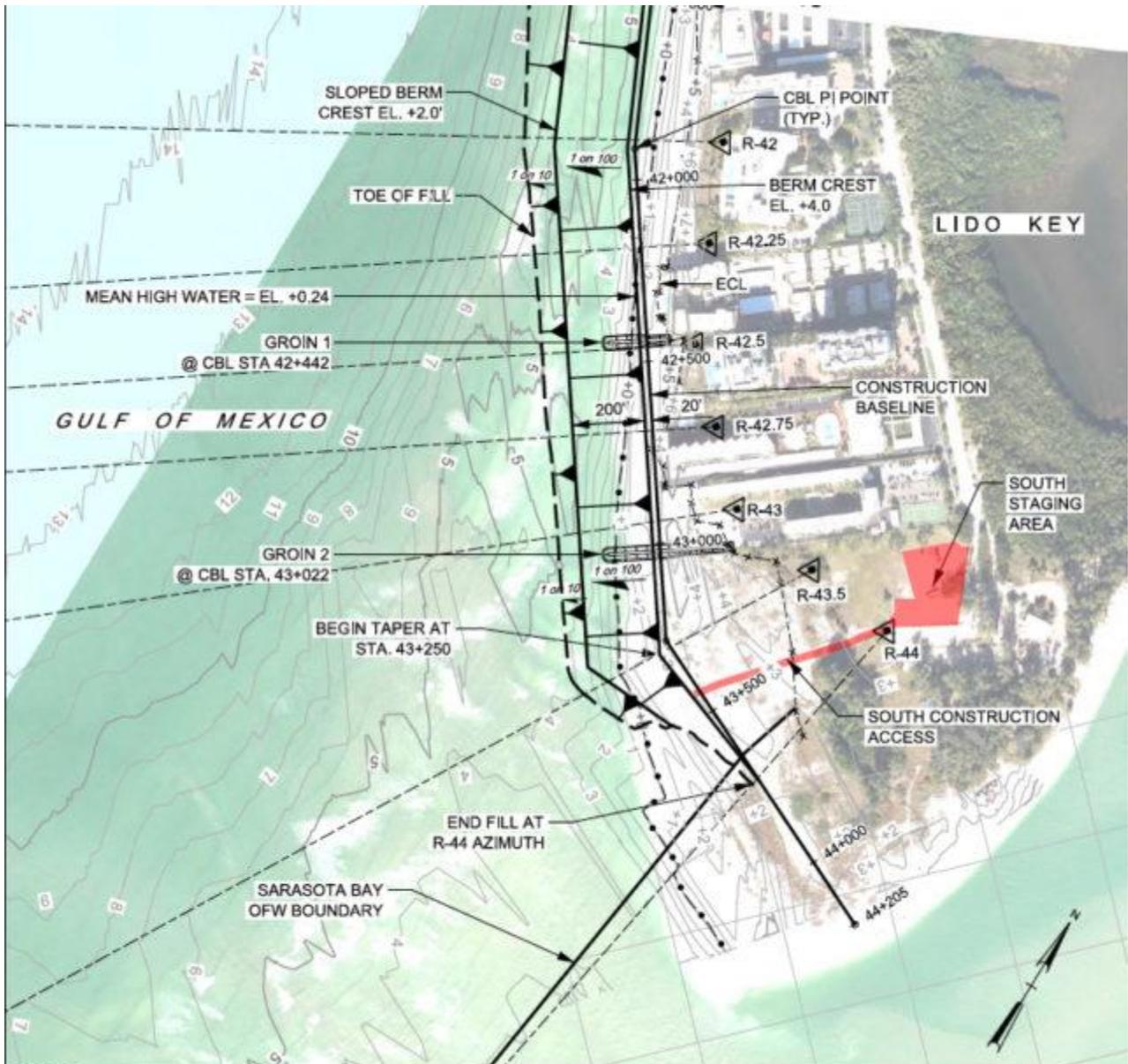
Barwin added, "The science and technology which has been committed to the project, along with the monitoring which we have committed to, virtually assures the public that no harm will come from this critical public safety project. As all local citizens know, Lido is in a precarious situation and just one tropical storm or one season away from serious property and infrastructure damage."

As of Dec. 27, the only response from a city commissioner appearing in the city's public access email folder was from Mayor Willie Shaw. Just after 10 p.m. on Dec. 22, Shaw wrote Barwin, "[T]his is great news for all Sarasota county as your response noted shoreline protection is vital to the quality of life that we have become accustomed to."

By the *News Leader's* count, approximately 500 residents and organizations took one final opportunity to email comments on the project to FDEP after the city and the department hosted a Nov. 30 open house meeting in Sarasota on the proposal.

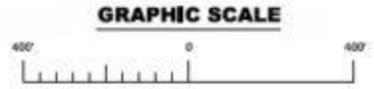
Among those was one from a Lido couple who own a home on Ben Franklin Drive. "It's time we move forward with this project and restore Lido beach to health," they wrote. "This will not only protect both property and natural habitat, but ensure Lido remains a vibrant destination for both residents and tourists (and turtles!) for years to come ... something I fear we are in jeopardy of losing."

Another couple, who own a condominium on Ben Franklin Drive, began their email, "The short version: We need sand!"



NOTES:

1. SEE PLATE 01 FOR GENERAL PROJECT INFORMATION
2. SEE PLATE 04 FOR BEACH SURVEY NOTES.
3. BERM CREST WIDTH IS 20' FROM CBL THEN SLOPED PUSH BERM BEGINS AND EXTENDS 200' ON A 1 ON 100 SLOPE.



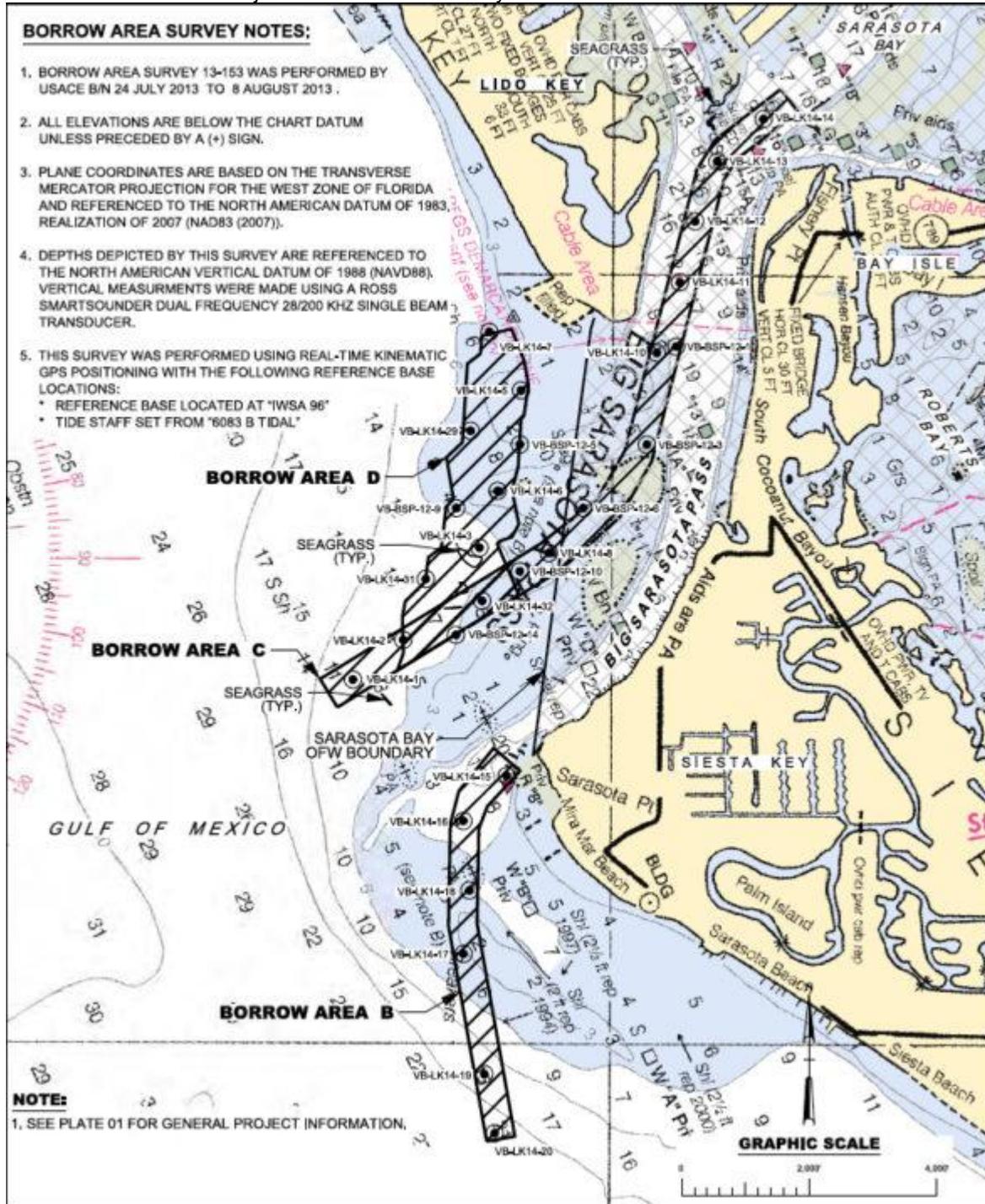
A permit

sketch in the FDEP file shows facets of the Lido Renourishment Project on Lido Key. Image courtesy FDEP
 Yet a third property owner on Ben Franklin Drive wrote, "The recent storms have eroded the beaches to the point that the ocean now endangers some of the condominiums and other buildings on the beach. At high tide, the water is up against one of the building's pools. Beach restoration would safeguard people's homes. All the condominium owners on the beach feel the same way that I do. The current situation endangers hundreds of millions of dollars of property."

Yet, Siesta property and business owners have continued to question the USACE's modeling and research. They also have argued that the Big Pass ebb shoal provides significant protection to their island. Dredging, they say, will lead to navigation problems in the channel and, worse, to storm damage on Siesta's beach. [They also point out that Siesta businesses accounted for almost one-third of the county's record-breaking \\$20 million in Tourist Development Tax revenue during the 2016 fiscal year.](#)

Monitoring requirements

The FDEP file containing the department's Notice of Intent includes a document titled *Sediment Quality Control/Quality Assurance Plan*. Dated August 2015, it says that the USACE and the City of Sarasota have "conducted geotechnical investigations that provide adequate data concerning the character of the sediment and the quantities available within the spatial limits of the permitted borrow area(s). ... Based upon this information and the design of the borrow area(s), [FDEP] has determined that use of the sediment ... will maintain the general character and functionality of the sediment occurring on the beach and in the adjacent dune and coastal system."



An engineering sketch shows details of the borrow areas. Image courtesy FDEP

Another document — dated August 2016 — dictates that a survey of water depth in the borrow area and ebb shoal complex of Big Pass must be conducted within 90 days prior to the start of construction, "unless a waiver is granted to use

a prior borrow area survey.” Such surveys — along with those of the Lido Beach profile — also will have to be undertaken within 60 days following completion of the project. Additional studies will be required every two years, the document continues, beginning within one year after the first renourishment.

The document explains that the survey grid lines must be spaced so as “to provide sufficient detail for accurate volumetric calculations ...”

Yet other monitoring specifications are called for in the five-page document, including hydrodynamic measurements landward and seaward of the borrow areas.

Challenging the FDEP decision

If the county and the SKA are unsuccessful in winning an extension of the challenge period, the SKA will be prepared for immediate legal recourse, Second Vice President Luckner told the *News Leader* on Dec. 27. Two property owners in Sandy Hook on the northern part of Siesta Key plan to join the association in a lawsuit, Luckner noted. Sandy Hook, she pointed out, “is right there on the [the pass],” so the property owners would be among those most affected by the project if it were allowed to proceed. “These are real people, and people have real issues,” she added.

Not only do they own land on the island, she said of the Sandy Hook residents, but they also own adjacent submerged parcels on Big Pass.

Table 1. Physical Monitoring Schedule

Monitoring Event*	Topographic & Bathymetric Surveys	Groin Monitoring Surveys	Borrow Area & Ebb Shoal Surveys	Borrow Area Hydrodynamic Measurements	Engineering Monitoring Reports & Data Transmittal
Pre-Construction	x	x	x	x	
Post-Construction	x	x	x	x	x
Year 1	x	x	x	x	x
Year 2	x	x			x
Year 3	x	x	x	x	x
Year 4					
Year 5	x	x	x	x	x

*Monitoring will continue biennially until the next beach nourishment event or the expiration of the project life.

A table

provided by FDEP shows timelines for project monitoring surveys. Image courtesy FDEP

Van Roekens, chair of SOSS2, told the *News Leader* in a separate Dec. 27 telephone interview, “We’re planning to file [a challenge], and we’ll have it in on time.”

A hearing before an administrative law judge will be the first step, both Luckner and van Roekens explained. The judge will consider only whether FDEP followed all the correct steps in the application process, Luckner said.

The City of Sarasota and the USACE submitted their application to FDEP in March 2015. On two occasions, the department issued requests for more information, as FDEP staff sought specific details about the proposal.

The Dec. 22 FDEP public notice says, “A person whose substantial interests are affected by the Department’s action may petition for an administrative hearing in accordance with [the Florida State Statutes].” It adds, “Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for [a] hearing may result in a modification of the permit or even a denial of the application.”

If the administrative law judge rules that everything was done properly, Luckner continued, then the next step will be a challenges in state court.

Carl Shoffstall, president of the [Lido Key Residents Association](#), told the *News Leader* on Nov. 30 that his organization and the St. Armands Residents Association also were considering engaging legal counsel to protect their members' interests.

Still seeking county intervention

And while both SOSS2 and the SKA — along with the Siesta Key Chamber of Commerce — have appealed in recent weeks to the Sarasota County Commission to renew [a request for an in-depth Environmental Impact Statement \(EIS\) on the project](#), the board did not address the matter during either of its final meetings of the year, held Dec. 13 and Dec. 14.



Ted Sperling Park is on South Lido Beach. Photo courtesy

Sarasota County

SOSS2 has sent three recent emails to the board — starting on Nov. 23 — to point out that if the dredging of Big Pass goes forward, and problems arise, the damage cannot be undone. In his Nov. 23 letter, van Roekens wrote, “The [County Commission] should examine all means to stop the permitting of this proposed project until fundamental questions have been answered. We believe that you have the regulatory power to do so,” he added. “Once Pandora’s Box has been opened, there is no going back.”

In his most recent email — dated Dec. 23 — van Roekens wrote that he had met with Assistant County Administrator Jonathan Evans, at the commissioners’ suggestion, “to discuss this permitting and jurisdiction issue ... We had a good conversation but I believe the policy decision needs to come from the commission. Would you please let us know the plans?”

Luckner told the *News Leader* this week, “We look to the county for support and for advocacy of our [county] Comprehensive Plan and protection of our coastal inlet waters.”

Alan Maio, chair of the board through Dec. 31, was not expected back in the office until Jan. 3, 2017, his assistant told the *News Leader* this week. Maio, who represents Siesta Key as part of his district, has been the commission chair this year. As of Jan. 1, 2017, Commissioner Paul Caragiulo will hold that position.

Funding the challenges

Posts



Siesta Key Association shared their photo.

2 hrs · 🌐

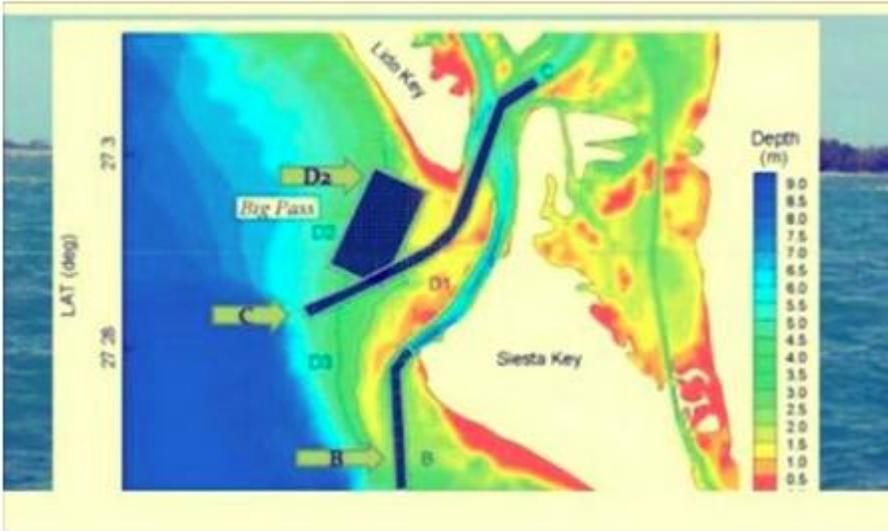
Sharing this again for all who love our beautiful natural Big Pass!
The FDEP issued a Notice of Intent to grant a Dredge Permit within our Big Pass. We have 14 days from 5:24p 12/22 to appeal. SKA needs you to help support our appeal and time extension.

Please join us as a Member \$30/yr.

www.siestakeyassociation.com

If you're able, any donation will help for the legal challenge. If you're a business, an incorporated entity or have Trusts that include property on Siesta Key, your donation may be tax deductible.

Thanks Friends!



On its Facebook page, the Siesta

Key Association discusses contributions for a legal challenge. Image from the SKA Facebook page SOSS2, which began raising money in earnest during the summer in preparation for a legal challenge, renewed its call for contributions in its 31st newsletter, issued on the night of Dec. 22. Emphasizing the timeline within which the nonprofit has to be ready to file suit, the newsletter said, "We need your help now to ensure that we can sustain this challenge against this Goliath who sadly is funded by your tax dollars. So much for big government!! Please send your tax-free donations now to Save our Siesta Sand at <http://www.soss2.com/donate>. The newsletter added, "Do it now, before the end of the tax year! We want to thank everyone who has given so generously, and ask that you and your friends do so again, if you possibly can to stop this dredge. Think of the damage to your property values if we lose what we have." The SKA posted a note on its Facebook page on Dec. 27, asking supporters who are able to do so to help fund its legal challenge.