CAYO COSTA STATE PARK

Opposition To Commercial Use At The Narrows South Dock



Submitted To The State of Florida

Acquisition and Restoration Council

Department of Environmental Protection

May 11, 2021

Prepared By

Margi Nanney

Cayo Costa State Park Management Plan Advisory Group Member

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INTRODUCTION

This document is being submitted to the Florida Department of Environmental Protection/Division of Parks and Recreation/Acquisition and Restoration Council (ARC) for consideration at the Cayo Costa State Park (CCSP) Unit Management Plan (UMP) June 11, 2021 hearing. This report represents the collective thoughts and research of a growing consortium of concerned stakeholders. Our group includes private boaters, residents, planners, environmental advocates, park visitors and others who are deeply concerned about the negative impacts of a FDEP mismanagement practice that has been going on since 2016 at "the narrows", the least resilient and most vulnerable section of the park.

Our goal is to convince the DEP/DRP to stop commercial activities at the "south dock" because they are negatively impacting the park's irreplaceable resources. Once eliminated, over time, the seagrass flats, pathway, beach dune damages and bird/turtle nesting patterns which have occurred since 2016 can be mitigated and begin to heal. Finally, trust can be rebuilt with local stakeholder communities.

Cayo Costa State Park is one of 175 award-winning Florida State Parks. It is unique in that is bridgeless and therefore, relatively remote. It is Florida's largest undisturbed barrier island and one of two barrier islands protecting Pine Island Sound, the Pine Island Aquatic Preserve and associated mainland areas. CCSP is a pristine "learning laboratory" that protects habitats for a number of listed species including a broad range of flora and fauna. The island, for the most part, appears just as is has over several thousand years.

With Florida's population growing at over 300,000+ persons per year, most seeking coastal sunshine and beaches, it is essentially important that we all work together to protect Cayo Costa State Park from any controllable human impacts. Lee County has one of the highest number of boat registrations in the state with extensive concentration in the Fort Myers, Cape Coral and Pine Island areas. All of these boaters think of Cayo Costa State Park as "their beach". Preserving this gem of a park from the increasing human impacts should be the mission of the FDEP's Division of Parks and Recreation.

This report, by design, relies heavily upon photographic evidence to substantiate claims. The text of this document is original with the exception of several quotations and images which are cited. The majority of the report's photographs are from the author's personal archives documenting the island over a period of many years. Though every effort has been made to reach out to DEP staff and other experts to gather scientifically accurate information for some areas of research, with a few exceptions, staff has not been responsive to lending assistance. Therefore, the document's content is based on available documents combined with 43 years of the author's empirical knowledge of Cayo Costa State Park and the collective knowledge of the aforementioned group's many years at the park.

It is our hope that the members of ARC will review our position with on open mind, free from bias and with the ability to see the big picture for the future of Cayo Costa State Park. This is a pivotal moment for "the narrows". Uncapped commercial use at the most fragile part of the park sets a dangerous precedent and is an unsustainable and irresponsible management practice.

BACKGROUND

Our group advocated for 4.5 years to close CCSP's south dock for a variety of reasons. In 2020 the DEP/ DRP reached consensus to close the dock admitting there damages to the resources due to the commercial impacts. The UMP language stated below was written and submitted for an October, 2020 ARC vote. After the concessionaire pushed back to Director Eric Draper, that decision was abruptly reversed. Below is a look at how this issue started:

The location of the "south dock" at the narrows has historically been a public access point used by local private boaters for many years. There was a small dock and boardwalk at the location built in the 1970s by the family who sold the property to the state in 1978. This dock was completely destroyed when Hurricane Charley made a direct hit at the narrows on August 13, 2004. After that time local boaters continued to tie up and use what was left of the boardwalk to access the beach but there was never another dock there until 2016.

Private property owners at the narrows became concerned beginning on January 9, 2016 when a barge with dock materials was seen anchored at "the narrows". By January 25, 2016, a new dock/landing was built by the DEP and a lock put on the gate. After public outcry from private boaters to the media, the DEP removed the lock. Park officials stated the south dock was a "pilot project". The path, once natural and obscure, was clear cut and raked.

Once built the park's concessionaire immediately began to bring as many as 100 people per day across the narrow 450' section of mangrove and dune using 50' commercial ferry boats. On February 23, 2016 the owner of the concession company hosted a private party for over 50 people where a 20' tent was erected over the sand dunes.

In depth research into the permitting process revealed the Park Manager and concessionaire owner had misinformed the permitting agencies when they applied for a permit to "re-deck and replace an existing 640 sq. ft. dock". There had not been a dock there for 11 years. Because of this they received an exemption from the Environmental Research Permit process. In essence they put in a new dock without the proper due diligence and changed the use to commercial. Adjacent property owners and other citizens received no notification that this site, traditionally used as a public access point for private boaters, was becoming an exclusive for-profit commercial landing.

The property where the "south dock" sits was purchased in 1978 using Environmentally Endangered Lands funds which are marked for preservation, not heavy commercial use. The former owner of the property has submitted a letter to ARC stating his opposition to this action when it was his intent to sell it so it could remain intact.

This irresponsible action on the part of the DEP has resulted in damages to park resources including seagrass beds, propeller dredging, sea oat and path destruction as well as the disruption of shorebird and turtle nesting patterns. The historic Faulkner Calusa Mound Complex has been exposed to thousands of people and this author and the owner have documented an increase in looting. Trespassing on nearby adjacent properties has been continuous along with associated liabilities. All of this has been ongoing since 2016.

For 4.5 years our group worked diligently with DRP staff. We made our opposition known through the Unit Management Plan Public Hearing Process. Two of us sat on the Advisory Committee, we vested ourselves in adhering to the public input protocols. We traveled to Tallahassee and made a presentation to Director Draper and staff, we researched and submitted an alternative landing sites document.

BACKGROUND CONTINUED

In late 2019, DRP staff reached consensus and wrote language into the UMP to close the south dock admitting the damages caused, see language below written for an October 2020 ARC vote:

> ***South Dock / Southern Gulf Beach Access*** *In 2016, the existing bayside dock located near the south end of Cayo Costa was designated for concession boats.* ***Visitor use impacts to the natural communities and shorebird/sea turtle nesting habitat have occurred on the beach side of the trail extending from the south dock, indicating the need for closure of this site for facilitated direct public access.*** *The dock and trail will be maintained for park support purposes only. As permitted in other remote areas of the park, this southern portion of the park will remain accessible for visitors by hiking or other authorized means from the Gulf, such as self-guided boating or paddling.* ***Reduced visitation at this site is expected to result in gradual recovery of the observed impacts. Due to resource impact concerns (i.e., seagrass beds and mangrove swamp) and poor navigability of the shallow waters along this segment of the island, alternative locations for a southern concession dock and beach access trail were determined infeasible. As additional parcels are acquired, depth conditions change, and new navigational information becomes available, alternative access points may be evaluated. Concession ferry access will continue to be facilitated through the docks at Pelican Bay."***

When the agenda for the October ARC meeting came out and did not include the Cayo Costa State Park Unit Management Plan, we asked for clarification. Subsequently we were told that the plan had been pulled because more information was needed about the south dock, some north end access issues and shorebird monitoring clarifications. We heard nothing back from DRP staff until January 22 , 2021 when Director Draper had Parks Small call to tell us the decision to close the dock to commercial use had been reversed and ferry service would continue at the south dock location.

Public records requests revealed the concessionaire had pushed back to the director in September, 2020, with legal counsel present. A meeting resulted in which a customer service survey was arranged. It was sent out by the concessionaire using their hand picked list. Photographs of a handicapped child in a beach wheel chair were submitted to the Director (we have never seen this at the south beach) and the director reversed the staff decision to close the dock, that was in December, however, we were not informed until January 22, 2021. A letter to Director Draper in March expressing our disbelief in the reversal of his decision was never responded to. This has resulted in a loss of trust in the system we followed and of the DRP's failure to follow the mission they are vested with.

Did the damages the DEP admitted were being done to the park resources as described in the above language disappear? We think not.

A FULL TIMELINE OF EVENTS FROM 2015—PRESENT FOLLOWS

SOUTH DOCK ISSUE TIMELINE 2015-PRESENT

2015 – CCSP finalizing contract with Captiva Cruises for multi-year concession agreement Captiva Cruises Owner Paul McCarthy and CCSP APM Chad Lach apply for permit stating "redecking of existing dock". SFWMD/ACOE/Lee Cty issue permit based on misinformation, there was no dock there since 2004. Environment Resource Permit Exemption granted circumventing public process, SFWMD did not advertise the Exemption, no stakeholder input.

January 9, 2016 – Nanney receives photo of barge with dock materials at south dock site

January 9-25 , 2016 – Innovative Marine completes construction of south dock

February 2016 – Captiva Cruises hosts private party for McCarthy's family and begins to bring 50' boats with up to 100 Passengers per day across dock

March 4, 2016 – Meeting with DEP Region 4 officials with Turkel, Nanney, Johnson and attorneys Charlotte Harbor Preserve, DEP Region 4 never follows up with anyone

March 2016 – Nanney & Turkel retain Ralf Brookes, Attorney to file Intent to sue and eventual lawsuit

June 27, 2017 – Lawsuit Filed by Turkel/Nanney

Sept 27, 2017 - Court hearing DEP Motion to Dismiss with DEP/Nanney/Turkel

November 8, 2017 – Case Dismissed for failure to show Cause of Action

March 9, 2018 – Nanney meeting at Gamble Mansion with DRP Asst Director Chuck Hatcher/Reg 4 Valinda Subic for full discussion. Nanney receives letter stating "we will bring this up during the UMP public process"

March 20-21, 2018 – Unit Management Plan (UMP) Public Hearing – Johnson, Turkel, Nanney participate in Public Hearing process, submit many letters, many speakers put forth opposing commercial use south dock

January 7 and various dates 2019 – Nanney updates Draper on continuing issues at South dock

February 2019 – State says they are not going to change the use, Nanney appeals to Draper for meeting

April 29, 2019 – Nanney, Johnson, Stuart fly to Tallahassee, Sara Kent joins us for Draper & Staff meeting

June/July, 2019 – State considering moving commercial use, requests information on alternative sites

August 6, 2019 – Johnson/Nanney submit alternative sites document to state officials from Tallahassee and Region 4. State group does a site visit.

Fall 2019-Spring, 2020 – State considers alternative sites and none will work, gets consensus to close dock to all but support services. – Nanney works to get stronger language in final UMP draft.

June, 2020 – Final UMP draft ready to submit to ARC for October vote, dock to be closed to commercial

August 23, 2020 – Johnson/Nanney meet with Region 4 staff at Boca Grande on number of issues and all agree dock to be closed

Sept 3, 2020 – Captiva Cruises appeals to Eric Draper, sends images of wheelchair child,, asks for a survey of their clients, lawyer involved

October – November – survey prepared & sent out 11/23 to 1,000 emails given by CC. CC sends out survey

January 9, 2021 – Nanney sends DRP an update , Johnson replies, no indication of reversal of position

January 22, 2021 – Parks Small calls Nanney, tells her they are keeping dock open

January 23, 2021 – Save Cayo Costa is organized to raise awareness to all stakeholders re: south dock

February 20, 2021 – SCC Summit meeting to prepare for ARC vote, appeals to DEP/DRP

March 5, 2021 – Daniel Alzenster sends Nanney email stating new UMP Plan going to ARC for June vote

March 16, 2021—Nanney sends letter to Draper, never gets a response

April-Present – SCC actively engaging all stakeholder and growing base, preparing submittals for ARC vote

Balancing Recreational Use with Responsible Management Practices



The DRP Is Vested With Protecting Cayo Costa State Park

In accordance with Chapter 258, Florida Statutes and Chapter 62D-2, Florida Administrative Code, The ***Division of Recreation and Parks*** *(Division) is charged with the responsibility of developing and operating Florida's recreation and parks system. These are administered in accordance with the following policy:*

It shall be the policy of the Division of Recreation and Parks to promote the state park system for the use, enjoyment, and benefit of the people of Florida and visitors; to acquire typical portions of the original domain of the state which will be accessible to all of the people, and of ***such character as to emblemize the state's natural values; conserve these natural values for all time;*** *administer the development, use and maintenance of these lands and render such public service in so doing,* ***in such a manner as to enable the people of Florida and visitors to enjoy these values without depleting them****; to contribute materially to the development of a strong mental, moral, and physical fiber in the people;* ***to provide for perpetual preservation of historic resources.”***

The Management Issue At the Narrows is Balance

“In the management of a state park, a ***balance*** *is sought between the goals of maintaining and enhancing natural conditions and providing various recreational opportunities. Natural resource management activities are aimed at* ***management of natural systems****. Development in the park is directed toward providing public access to and within the park, and to providing recreational facilities,* ***in a reasonable balance****,* ***that are both convenient and safe.”***

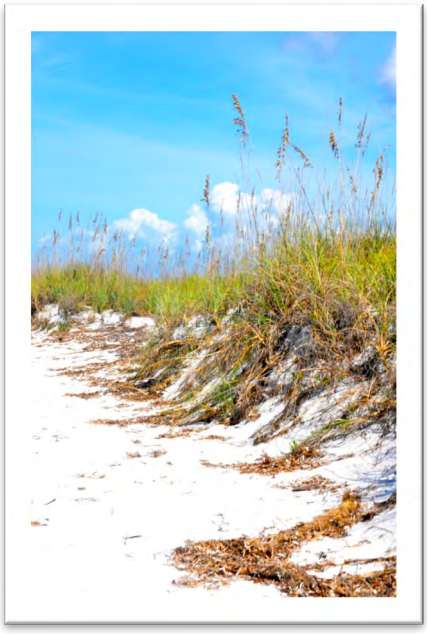
- --2021 Draft Unit Management Plan

Cayo Costa State Park Should Be A Model For The DEP's Resilience and Coastal Protection Program



"The beach and dune system is the first line of defense against storms because it acts as a buffer between the storm waves and coastal development or infrastructure. During storms, waves encounter the beach and dunes prior to reaching upland property, therefore absorbing wave energy and reducing the damage suffered to upland structures." ***—-Office of Resilience & Coastal Protection***

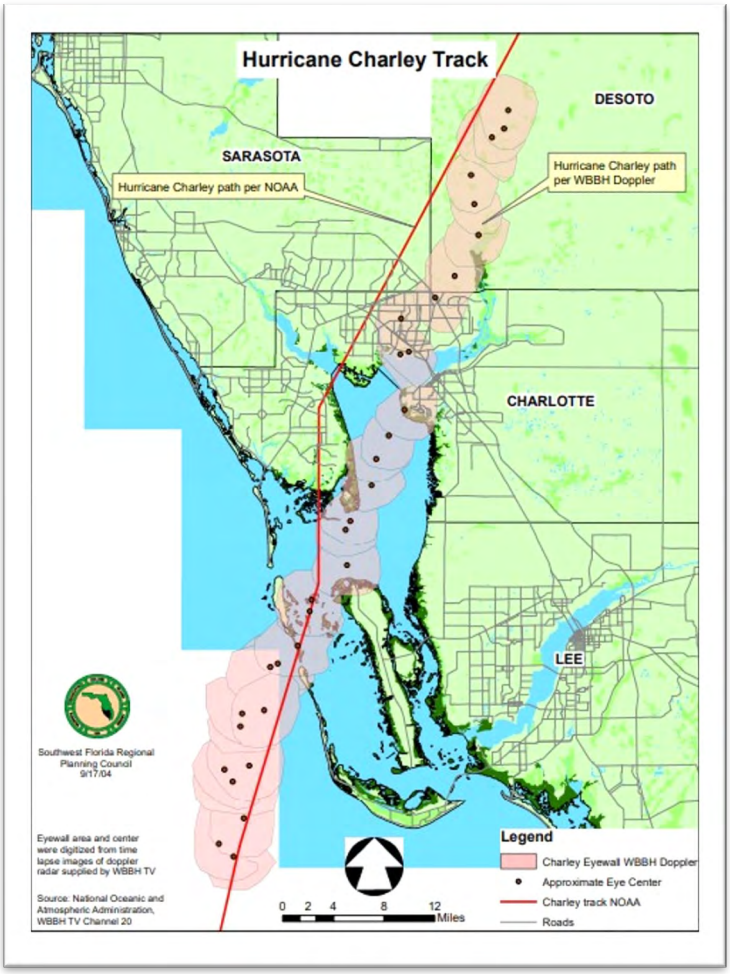
In 2019 The FDEP created the Office of Resilience and Coastal Protection (ORCP) as a proactive response to planning for threats from future storms, coastal erosion, sea level rise and coastal flooding. Preservation is the division's key to management protocols which should invariably be ***proactive, not reactive.***



The 2016 introduction of intense human impacts at the island's least resilient "narrows" constitutes gross mismanagement of the resources and puts the state at liability should there be a breach during a storm event. Add to that the fact that the state conducted no due diligence and received no public input when the south dock was questionably permitted and changed from preservation to commercial use and the implications are very troubling.

Cayo Costa State Park should be the ***"poster child"*** for the ORCP. If unchecked commercial activity and precedent setting mismanagement practices become the norm at CCSP the future of the park will be threatened for future generations.

Proactive Coastal Hardening at Cayo Costa State Park Is A Must



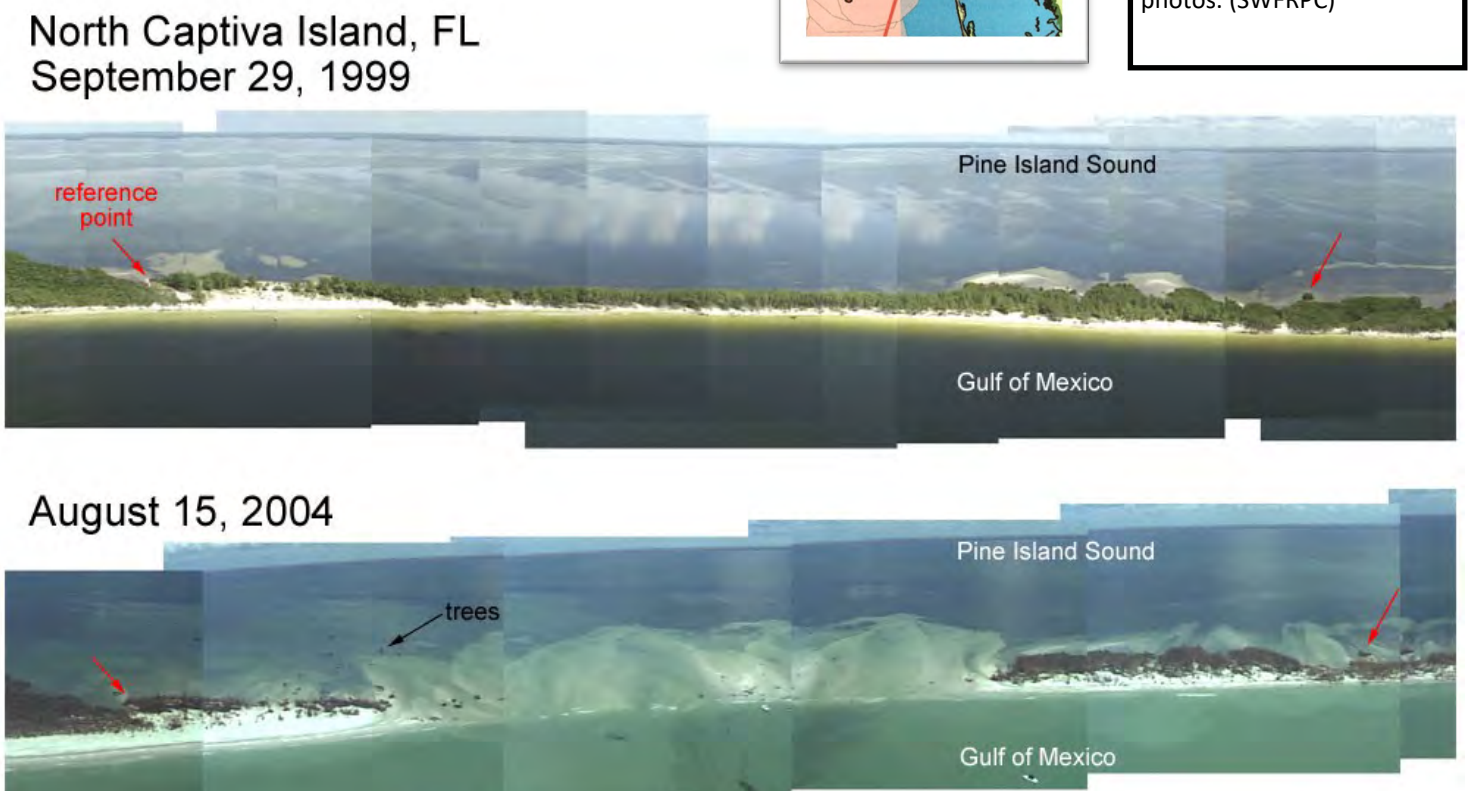
On Friday, August 13, 2004 Hurricane Charley came ashore on south Cayo Costa State Park. The eye passed over "the narrows'. The eyewall passed over North Captiva, packing 150+ mph winds breaching the park's North Captiva property. Experts speculated if the storm's eyewall had been just north of this point, a similar breach at "the narrows" could have occurred. As luck would have it, Charley was not a storm surge/water event. The DEP should proactively alleviate controllable human impacts at the "narrows" and protect native dune and vegetation defense systems which can assist in preventing such occurrences from happening in the future.



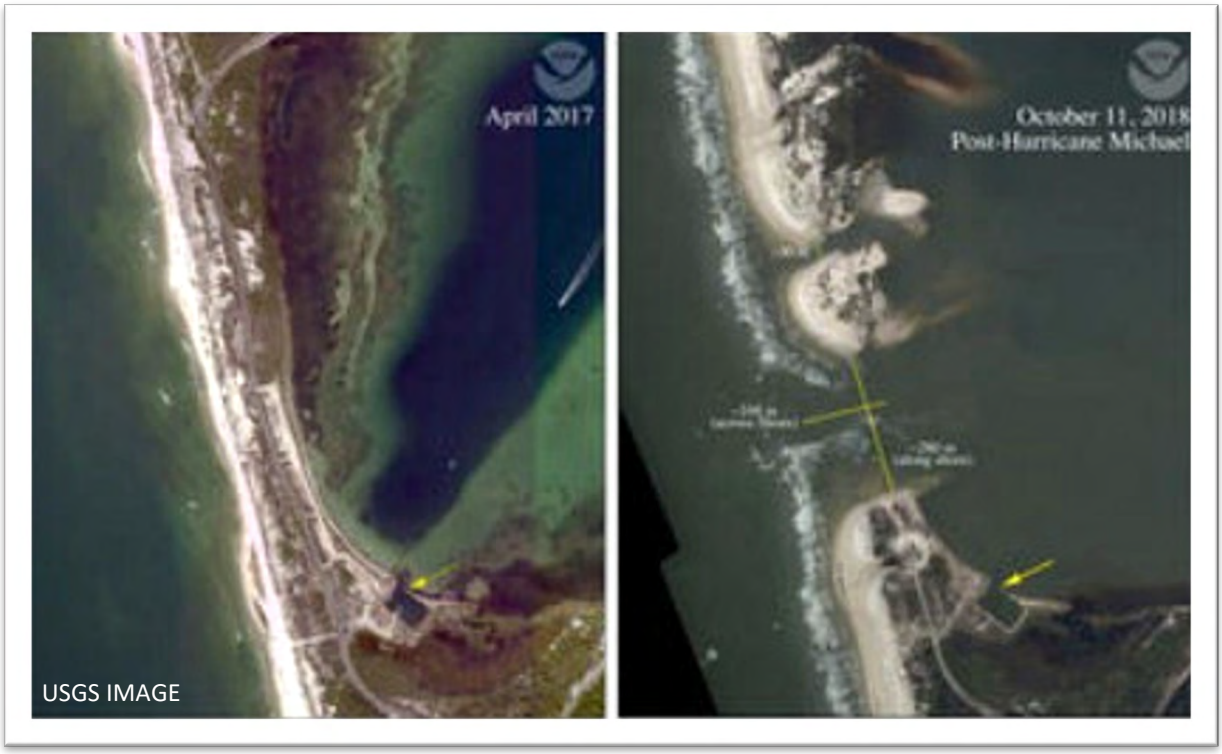
FAR LEFT: Compilation of Hurricane Charley tracks (SWFRPC)

LEFT: "The Narrows" was ground zero for landfall

BELOW: "Charley Pass" before and after 1999, 2004 photos. (SWFRPC)



Coastal Hardening Can Help Prevent Catastrophic & Costly Shoreline Destruction



St Joseph's Penisula State Park Breach

In October, 2018, Hurricane Michael came ashore in Florida's panhandle creating a new breach in the peninsula. Michael was the first category 5 hurricane to hit US shores since the destructive Andrew in 1992. Very rough waves and over wash destroyed a road and surrounding dune systems. Part of the park became an island. The storm models did not predict the level of destruction that occured. This has been a very costly and time consuming project to mitigate for Florida.



Keewayden Island

When Hurricane Irma struck Florida's west coast in September, 2017, Keewayden Island near Marco Island received catastrophic damage. The photo on the left shows overwash and wind blown areas after the storm.

Hardening of these coastal areas through the nurturing of native plants elimination of invasive species such as Australian Pines, is a way to defend such occurrences from leveling as much costly damage.

Cayo Costa State Park

Florida's Largest Undisturbed Barrier island



Significance & Purpose of the Park

"The purpose of Cayo Costa State Park is to protect, maintain, and preserve the unique subtropical island of Cayo Costa acquired through the Environmentally Endangered Lands and Save our Coast programs, which were established to protect Florida's unique and irreplaceable lands for conservation purposes."

CCSP 2021 Draft Unit Management Plan

CAYO COSTA STATE PARK LOCATOR MAP



CAYO COSTA STATE PARK PROTECTS THE PINE ISLAND SOUND AND AQUATIC PRESERVE



The “south dock” is located at “the narrows”, the least resilient and most vulnerable area of the park. It is bordered by private properties on both sides. There are no facilities at the location.

The southern half of the island including Pejuan Point, the “hook” along the bayside, s in a constant state of erosion and subject to storm surge and washover.



Cayo Costa State Park encompasses about 2,600 acres and is between 8 and 9 miles long. Because it is a barrier island, it is in a constant state of flux due to ever changing weather conditions.

The north end is over a mile wide and is the location for the park’s infrastructure. Commercial visitors, campers and private boaters enter through Pelican Bay where they load and unload on ADA compliant docks. At the landing there is there is a tram that runs a regular schedule taking people back and forth to the beach, camp grounds, kayak rentals, shelters and new bathhouse. A network of trails, interpretive signs, a concessions store and ranger station provide many opportunities for visitors to have a full and safe park experience.

Rangers are on duty at the North Park facilities in case of emergencies.



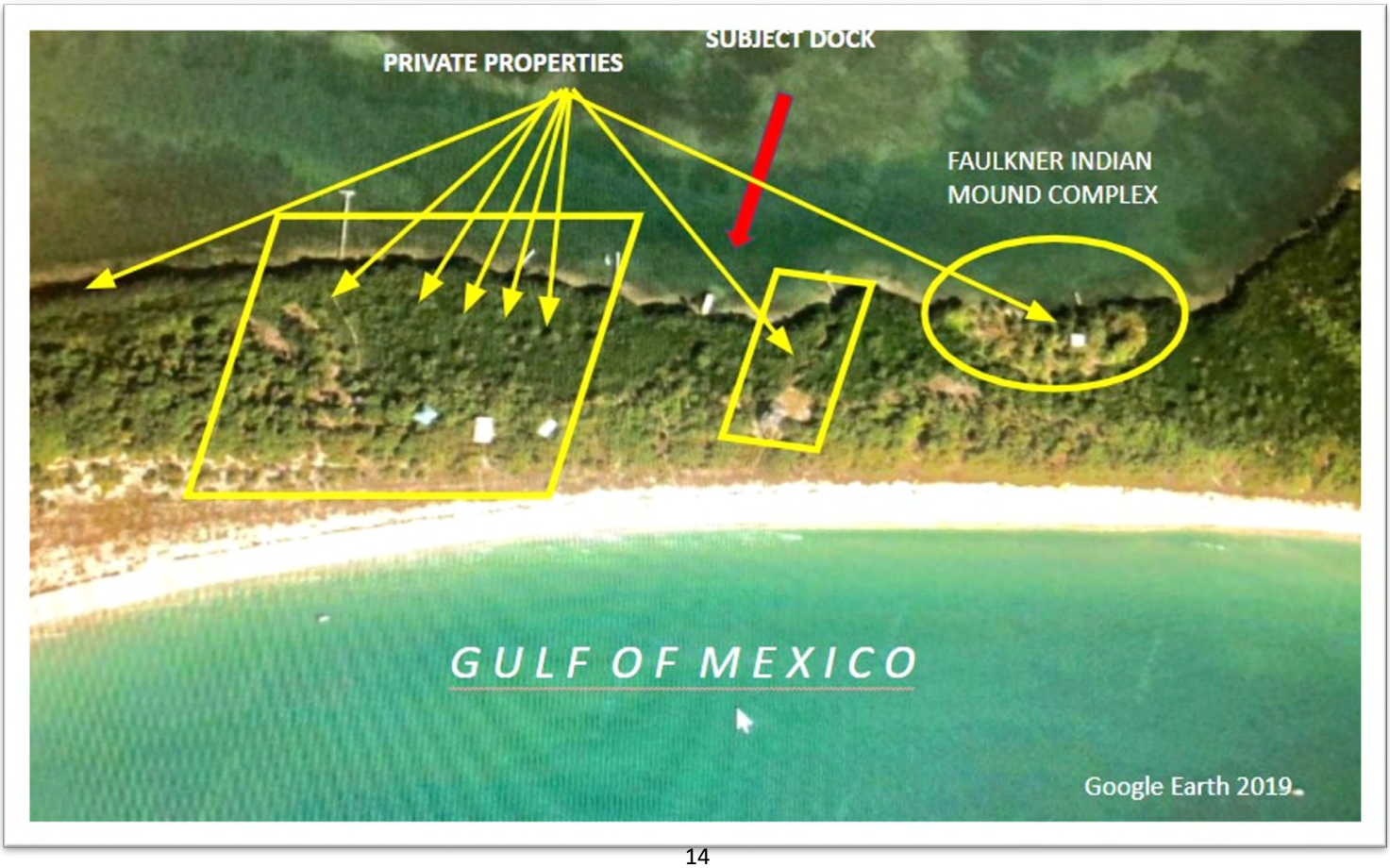


THE SOUTH DOCK IS LOCATED AT THE NARROWS ...THE LEAST RESILIENT AND MOST FRAGILE PART OF THE PARK



The aerial on the left was taken around 2008 before the south dock was built when the narrows was still healing from Hurricane Charley. Note the rich sea grass patterns on the bayside. Below is a diagram showing how narrow the island is here. To the right is the 50' ferry which gives scale to the image. The trampled path is evident as are breaks in the dune line, this was taken in 2019. Prop scarring is evident behind the ferry. The photo below shows all of the subject locations including the Faulkner Mound Complex, which has been subject to intense exposure since 2016.





Cayo Costa State Park's

South Beaches Are Subject to Erosion & Breach



"The coastal sandy beach system is home to many species of plants and animals dependent upon the beaches, dunes and near shore waters for all or part of their lives. For example, beaches are used by resident and migratory shorebirds for resting, foraging and nesting, and during the summer months, marine turtles come ashore to nest on the beach. "

—-FDEP Office of Resilience & Coastal Protection

CAYO COSTA ISLAND SHORELINE COMPARISONS

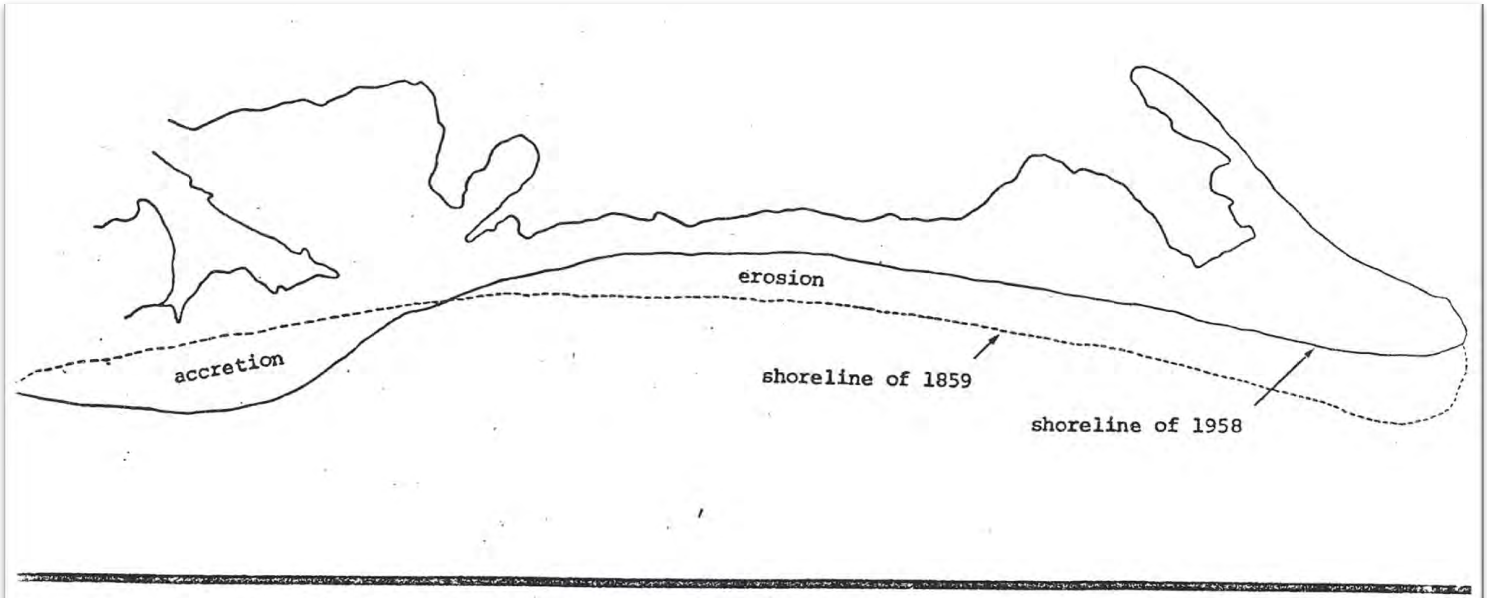


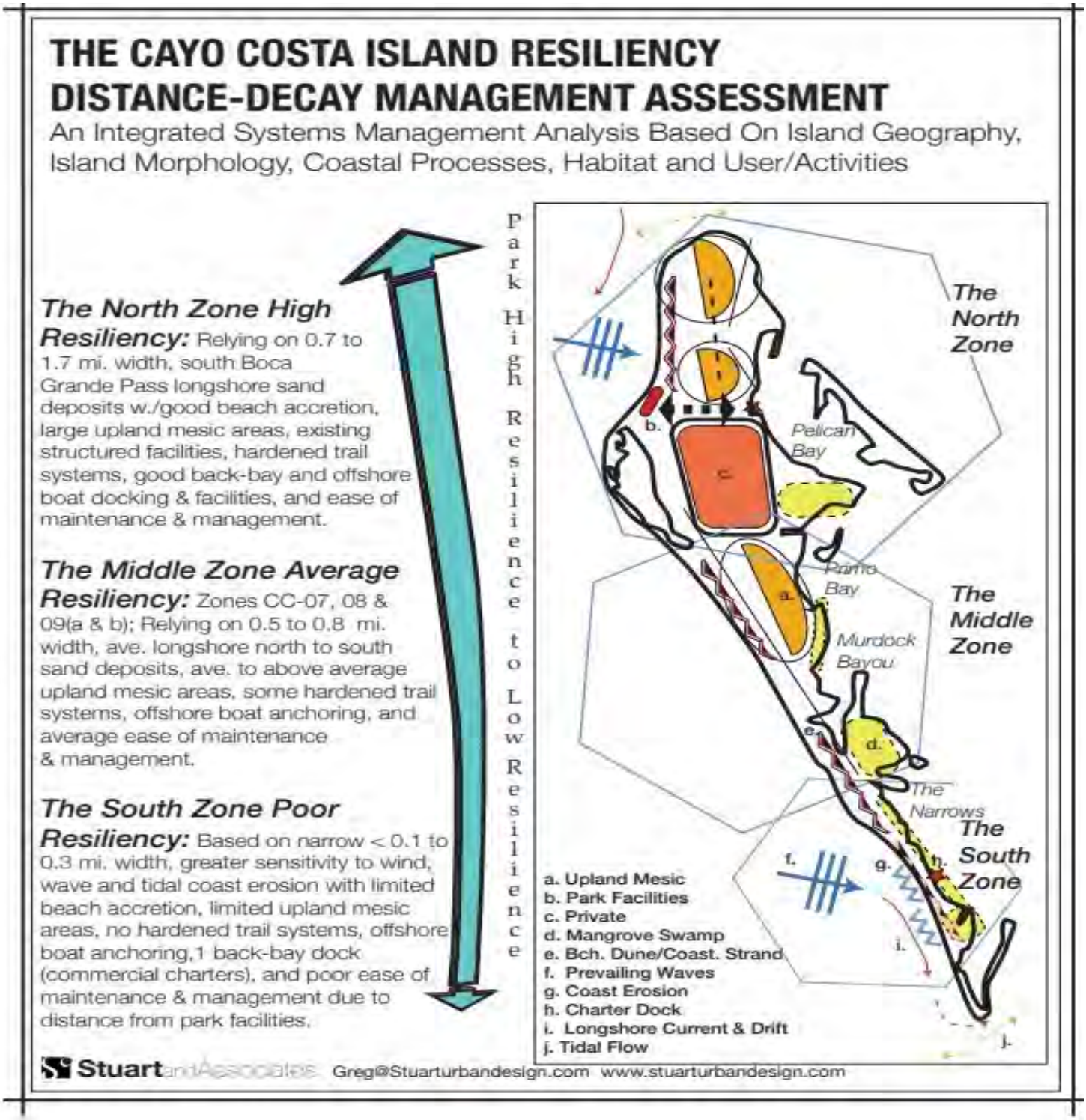
Figure 20. Shoreline changes on the southern half of Cayo-Costa Island (adapted from surveying data by Johnson Engineering Inc.).

""Much of Cayo –Costa south of the Johnson Shoals has been subject-ed to severe erosion over the past 40 years. Shoreline comparison of Cayo-Costa in 1958 to Cayo-Costa in 1859 reveal how the entire sector of the Island south of Murdock Lagoon was over 500 feet wider and much less concave (figure 20) " -Stanley Herwitz, 1978



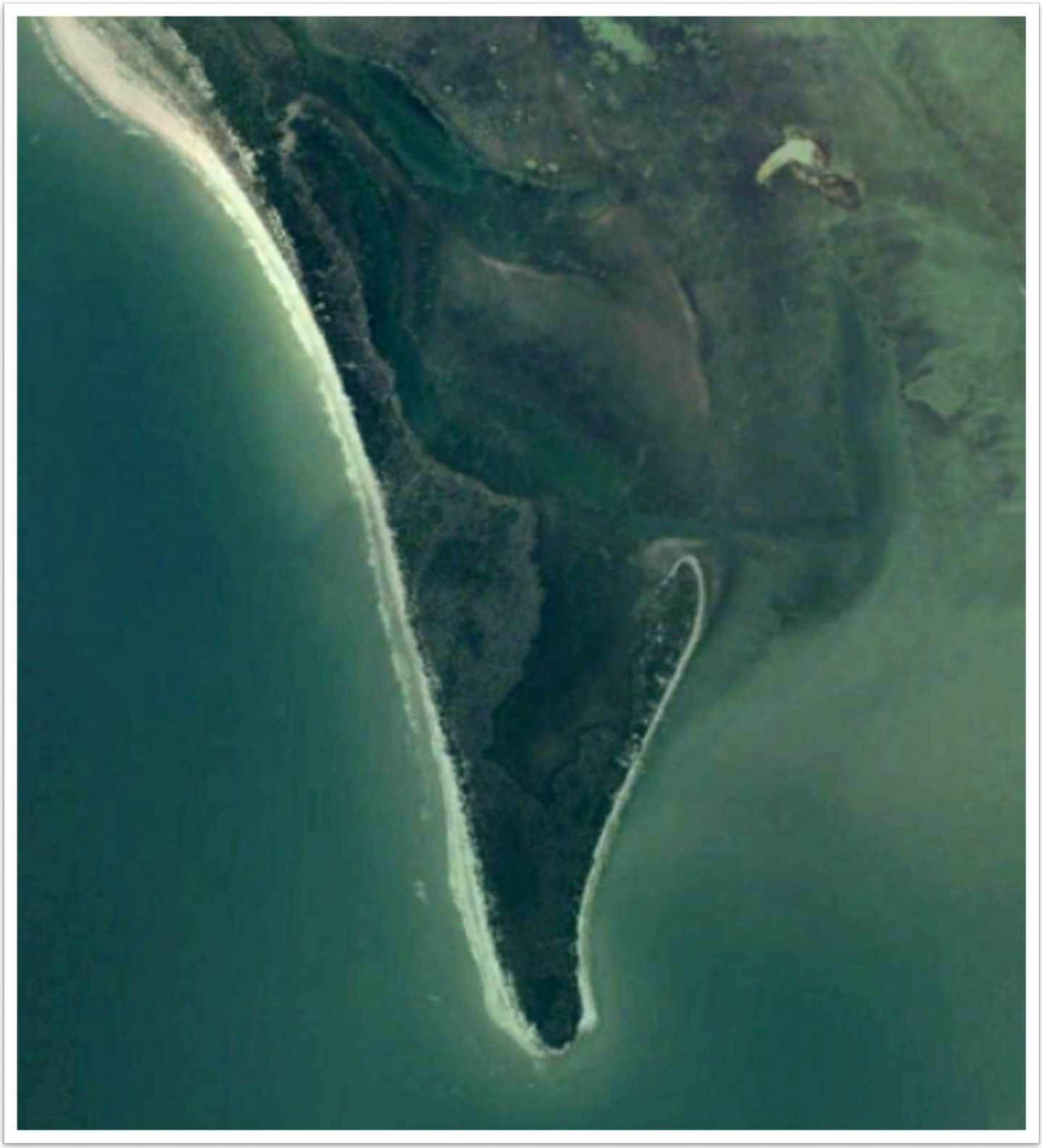


LEFT—Cayo Costa Island looking north 1970s, note the location of the "lake" toward the pass; RIGHT: Cayo Costa Island shortly after a direct hit from Hurricane Charley in 2994, note erosion of vegetation around point, narrows and lake is much closer to point.



Greg Stuart's report entitled "Recommendations To The 03/2018 Cayo Costa State Park Draft Unit Management Plan" justify the case that commercial utilization of the former unimproved boat dock is not supportable and is non-sustainable for many reasons. An updated letter and the original plan have been submitted to ARC for review prior to the June 11 meeting. Stuart's recommendations are based on an integrated, systems analytical approach. For Cayo Costa management planning this method take into account the island's geography, coastal morphology and processes, ecological characteristics, habitat values and user activities. Recognizing the island's "drumstick" form, Boca Grande Pass and Captiva Pass inlet systems, coastal macro-geomorphic processes, ecological and habitat conservation goals, and state park facilities and infrastructure, it is very clear that the north end of the island has the highest resilience to park visitation, recreational uses and coastal processes and that The Narrows has the least resilience. This finding cannot be disputed. Taking politics out of the equation, it is very clear that commercial utilization of The Narrows is not supportable from a management perspective and not sustainable from a coastal ecological framework.

CAYO COSTA STATE PARK SOUTH END 1994



1994 Google Earth

CAYO COSTA STATE PARK SOUTH END 2021



2021 Google Earth

Pine Island Aquatic Preserve

Commercial Vessels Have Impacted Sea Grass Beds



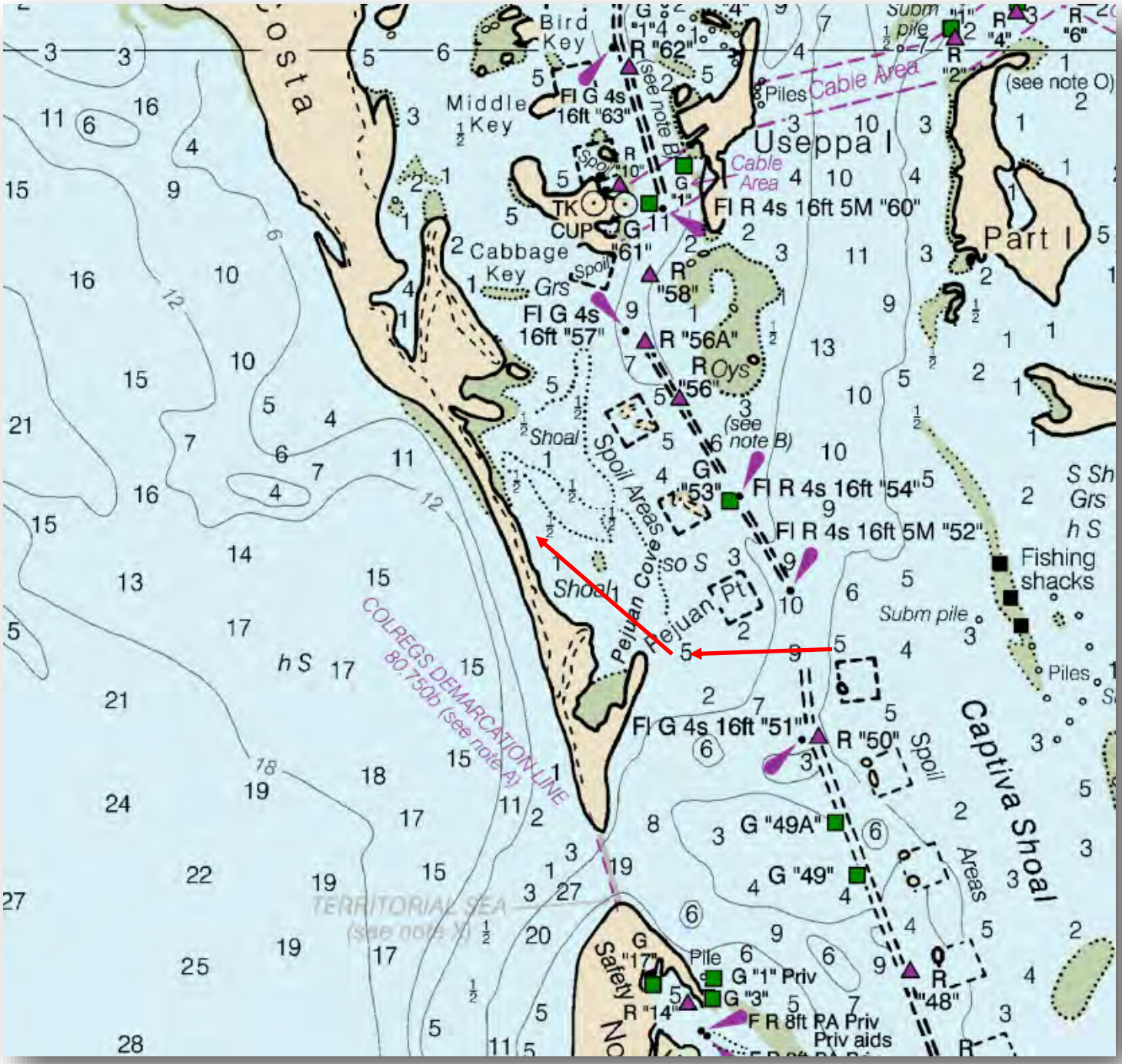


The 50' commercial ferry boats cut across the shallow waters of Pejuan Inlet several times per day during most all tides. This is an unmarked, natural channel . Before commercial vessels started coming the depths were much shallower in places. Many private boaters have noted the change in the depths since they have been cutting across the grass flats for over 5 years. Aerials show these boats are having a negative impact on the sea grasses. Manatees frequent these waters and are in danger from loss of seagrass and propeller injury.

"It is recommended that boating activity be monitored systematically along the Gulf shoreline and Pelican Bay during this planning cycle, and management recommendations developed, in coordination with Lee County and the Pine Island Sound Aquatic Preserve, ***aimed at protecting shoreline and near-shore resources …"***

—CCSP 2005 Unit Management Plan

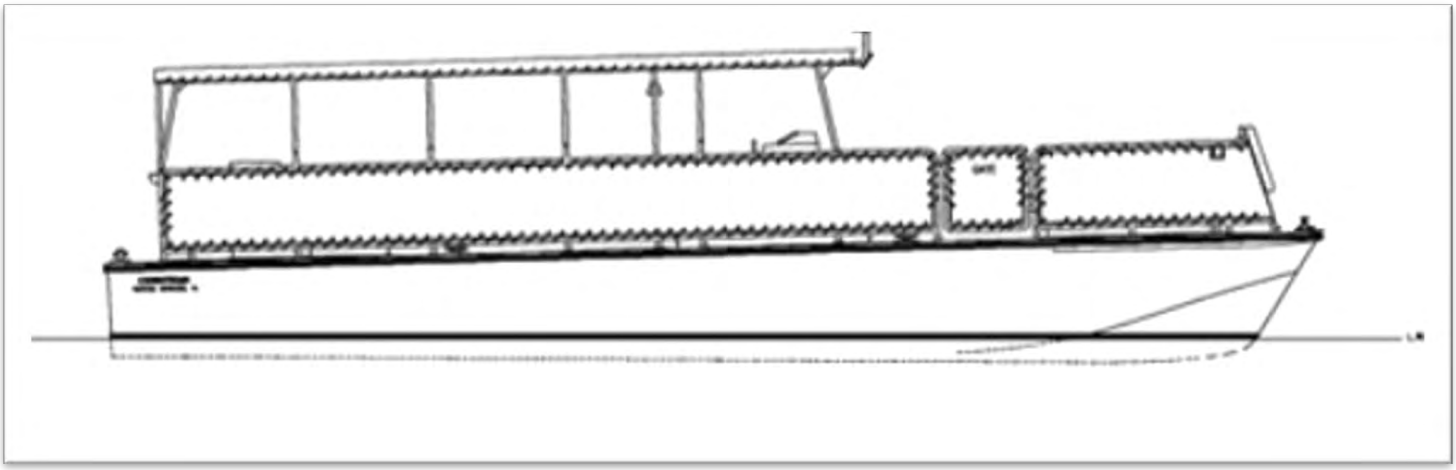
CHART SHOWING SHALLOW DEPTHS OF PEJUAN INLET



NOAA Marine Chart 2021— The 50 commercial ferry boats enter off the Intercoastal Waterway to the Narrows at full speed and pass through an unmarked, very narrow tidal flow created passage at Pejuan Point. Once by the point they enter the very shallow waters of Pejuan Inlet and turn directly toward the small landing (south dock). They do this two or more times a day. Since 2016 when the DEP allowed them to begin commercial activities on south Cayo Costa, there is evidence of channel and propeller dredging which appears to have unnaturally increased the depth and configuration of the channel and, in doing so, damaged the sea grass beds. There is documented evidence of propeller dredging at the landing site with a "blow hole" that is 4-5' deeper than the surrounding sea bed. (RED ARROWS INDICATE TYPICAL ENTRY PATTERN)

COMMERCIAL FERRYS TRAVERSE THE NARROWS BACKWATERS AT ALL TIDES

IMPACTING THE SEA BED RESOURCES



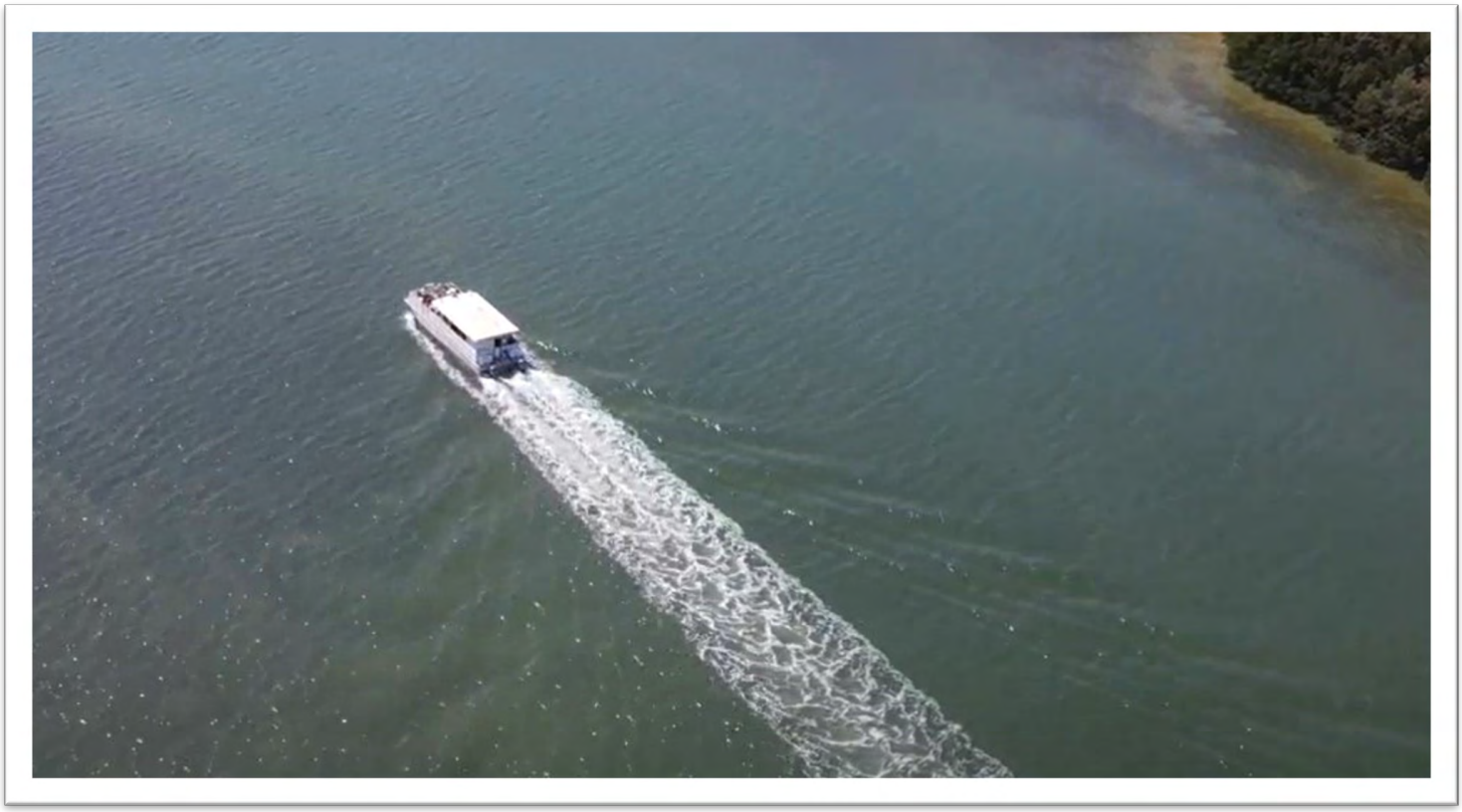
CAPTIVA CRUISES CORINTHIAN SPECIFICATIONS

Length with twin 250 engines 50 feet . Beam—14 feet

Draft with Twin Engines— 24 inches . 49 passengers x 185 lbs CG Rated +9,065 lbs

Extra weight—Head, fuel, gear

BOAT DRAWS A MINIMUM OF 26-28”



The commercial boats are 50’ Corinthian pontoon boats that hold up to 49 people and draw a minimum of 24-28 inches. They come in at most all tides. The aerial image from April, 2021, depicts the boat departing the “dock” passing over a sea grass bed (darker area). Shortly after this the boats power up their engines.

The Commercial Vessels Prevent Private Boaters From Accessing The Park





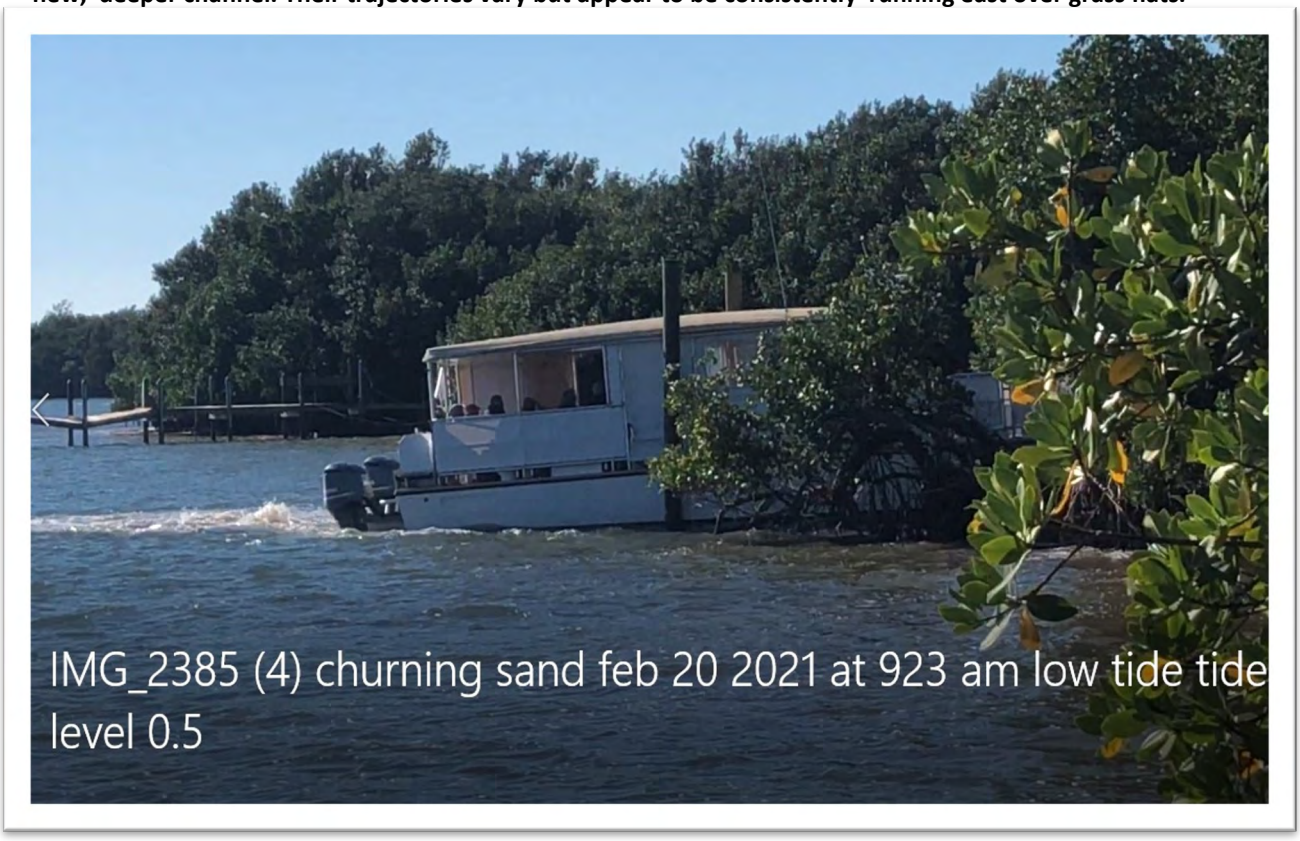
These photographs depict two 50' commercial vessels and another boat, all owned by the park's commercial service provider. Note the narrow width of the island and close proximity of adjacent private property. Private boaters can't safely access this site when one or more of these boats are there. From the air it is easy to see how shallow the shoreline is, and this is a "medium" tide.

This photograph was taken in February, 2016 as the commercial operator was preparing to host a party for about 50 members of the owner's family. A 20' tent was erected around and in the sand dunes along with tables, chairs and cooking equipment. The damage to the resources was very evident.

Commercial Vessels Have Impacted the Waters of Pejuan Inlet and Backwaters



Feb 20, 2021 9:30 Run—Tide level 0.5—Boats run easterly of the shoreline over the grassflats and have created a new, deeper channel. Their trajectories vary but appear to be consistently running east over grass flats.



February 20, 2021—9:30 run—tide level 0.5 This image is taken from a video that shows how the commercial boats have to "drive" or churn their way up to the dock at lower tides. This has created a deep blow out hole and shifted the sand up toward the mangroves over seagrass beds.

Propeller Damage Evident From Commercial Vessels



The commercial operator installed two large mooring pilings around January 2020 without permits. Park officials were not aware of this until our group told them. The original out piling was removed and left up in the mangroves. The boats must “pivot” using engine thrust to get between the posts. Depending on tides and wind conditions the action of getting in and out of the “dock” landing can be quite severe.



These 2021 aerial images show the damages the propeller dredging and scaring activity is doing to the resources at the landing area. The photograph to the left shows the blown out sand. This increase in turbidity negatively affects surrounding sea grass beds as well as the travel of migrating fish that travel up and down the mangrove lines.

Pre-dock and Post-Dock Image Comparisons



2013—Google Earth

This image shows the dock site when the surrounding sea bed areas were intact. Private boaters frequently use the area even though no dock had been there since Hurricane Charley in 2004.



April 2021

This aerial photograph clearly shows the disruption of the sea bed resources. This damage is occurring daily creating avoidable negative impacts that are a reflection of the DEP's mismanagement of the resources at Cayo Costa State Park.

Pine Island Aquatic Preserve—Pejuan Inlet

2013



This 2013 Google Earth image shows the Pejuan Inlet and backwaters. The sea grass beds and "fingers" of sea life growth are evident. Note the width between the shoreline and the larger sea grass beds to the right.

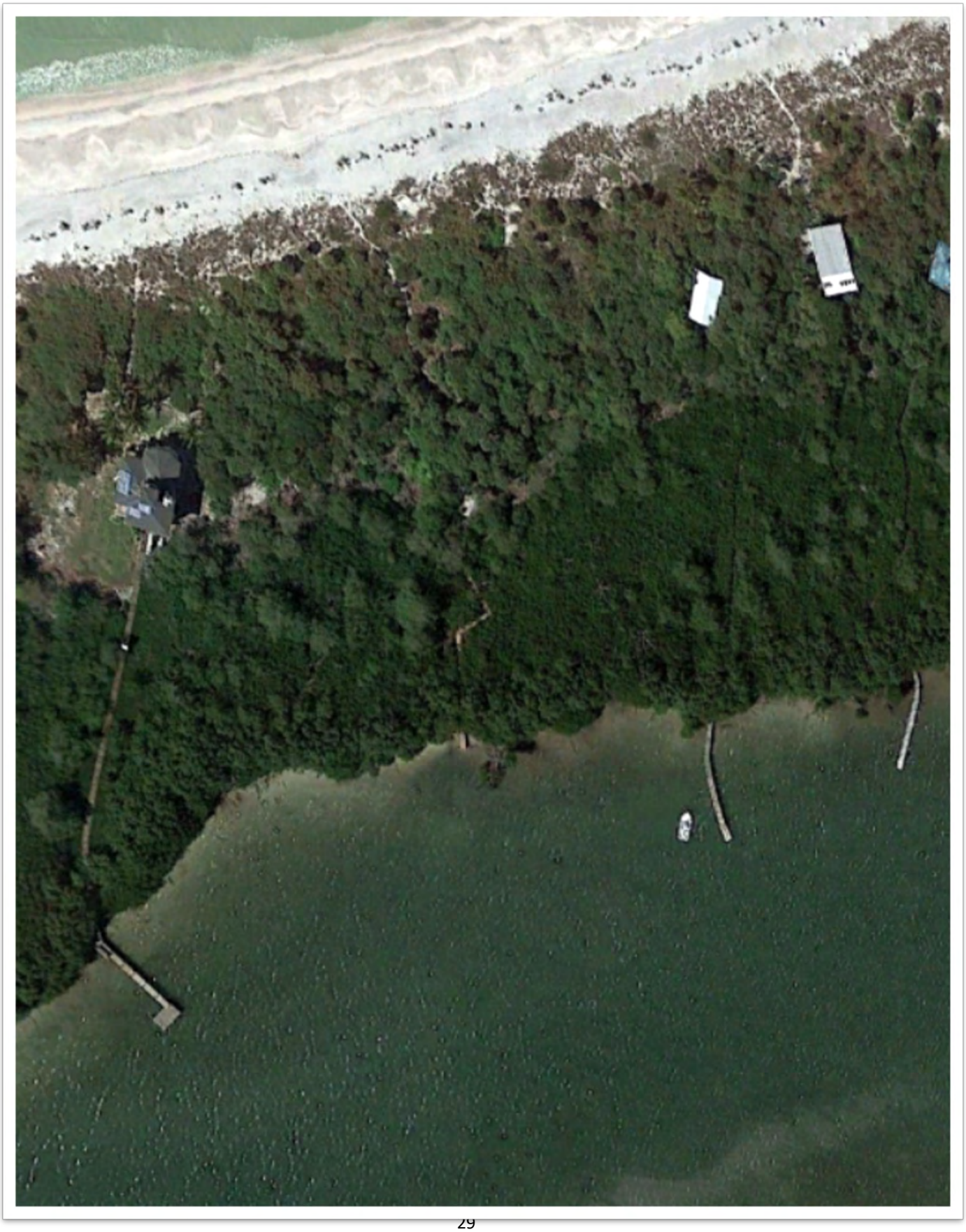
Pine Island Aquatic Preserve—Pejuan Inlet

2014—Prior to South Dock



Pine Island Aquatic Preserve—Pejuan Inlet

2016— South Dock Built



Pine Island Aquatic Preserve—Pejuan Inlet

2019—South Dock In Use 3 Years



Pine Island Aquatic Preserve—Pejuan Inlet

2021—South Dock In Use 5 Years





Pejuan Inlet

2013 vs. 2021 Comparisons

The photographic evidence appears to support the fact that the backwaters at the Narrows have been impacted over the past 5 years. Large, deep draft commercial vessels have been allowed to traverse sensitive, shallow backwaters thousands of times un-checked. The damages to the resources have been devastating and avoidable. This is evidence of the DEP mismanaging the park's irreplaceable resources.



TRIPS PER YEAR AVERAGE ESTIMATE

2X DAY X 6 DAYS WEEK X 52 WEEKS A YEAR = 624 TRIPS X 2 (In & Out) = 1,248 ANNUAL PASSAGES

1,248 Commercial passages x 5 Years =

6,240 Trips In 5 Years*

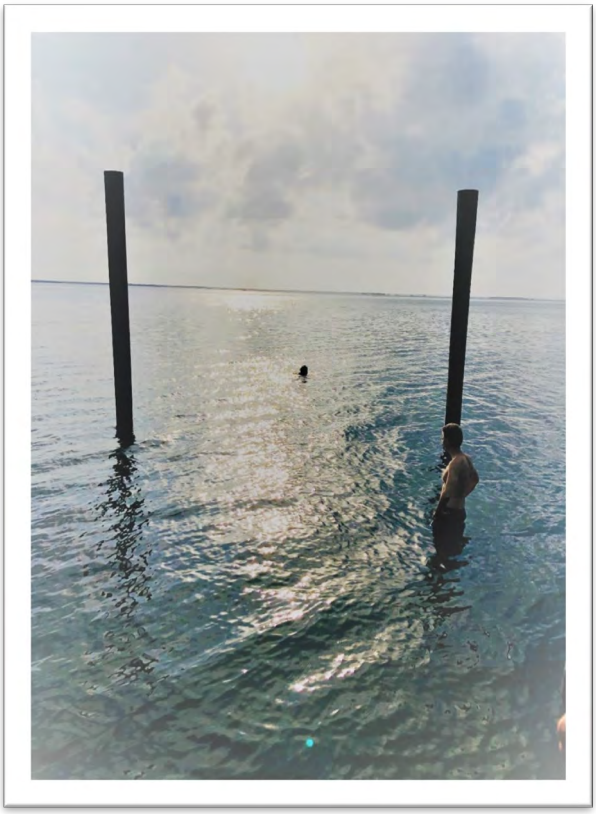
*Potential average passages and this does not include additional trips and the fact that during covid they were bringing two boats at a time to get their quota.

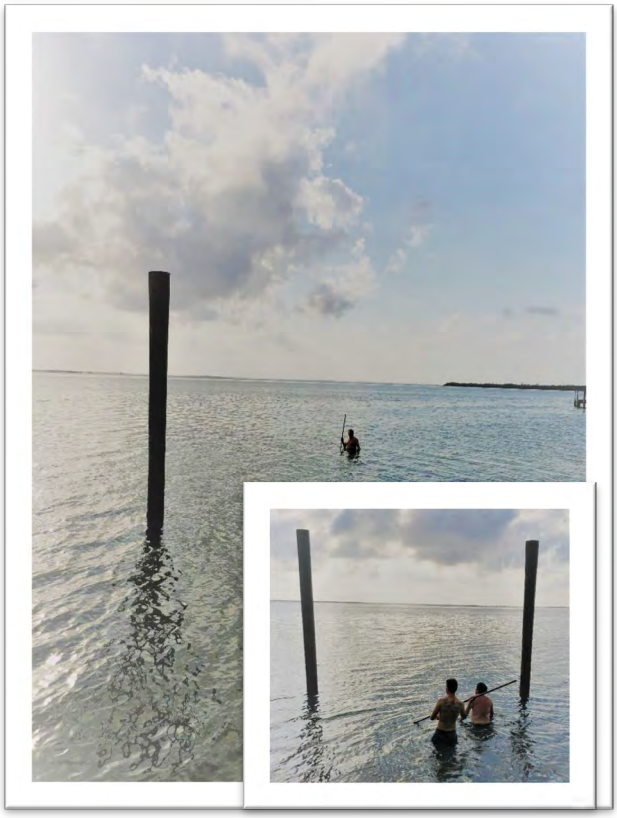
Commercial Vessels Have Dramatically Altered the Landing Area & Approach Waters in Pejuan Inlet



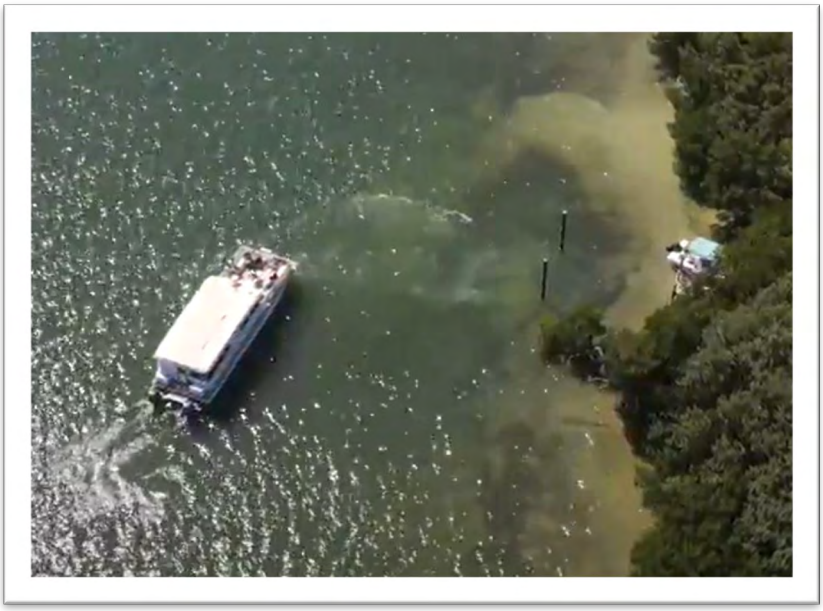
BLOW OUT HOLE ANALYSIS

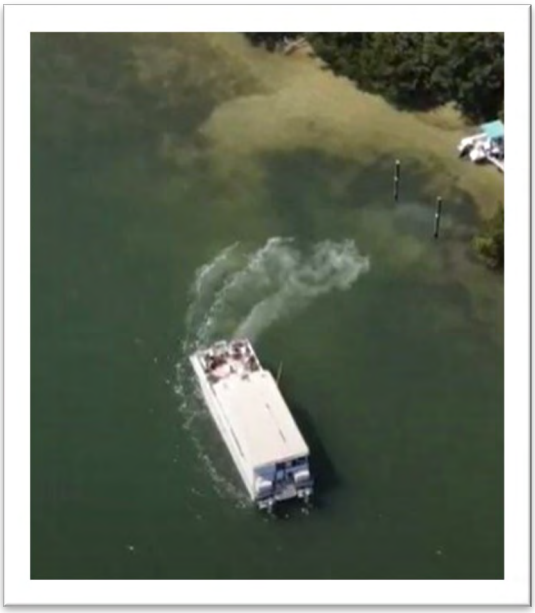
In May, 2021, volunteers using a 7.5' marked pole, measured the sea floor bottom at the south dock commercial ferry boat landing area. One individual walked straight out between the large mooring poles and when he reached the area approximately 45-50' out there was a drop off. He described the bottom as feeling like "slurry or silt". The pole went from about 3' to between 7-8' in the "hole". When the volunteer walked laterally south the depth of the water rose to about 3' until when he again reached a harder bottom surface.

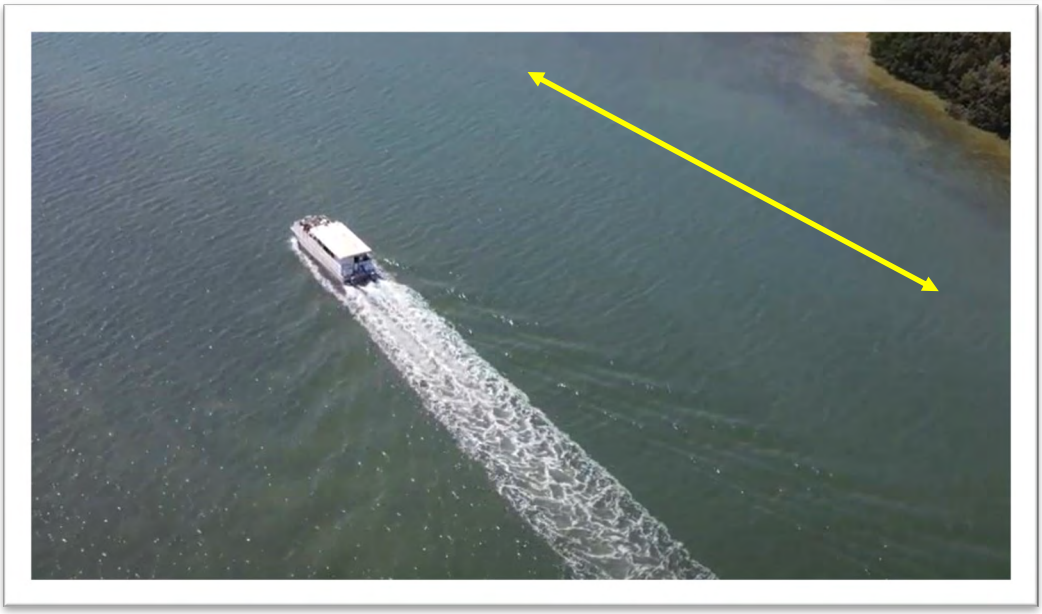


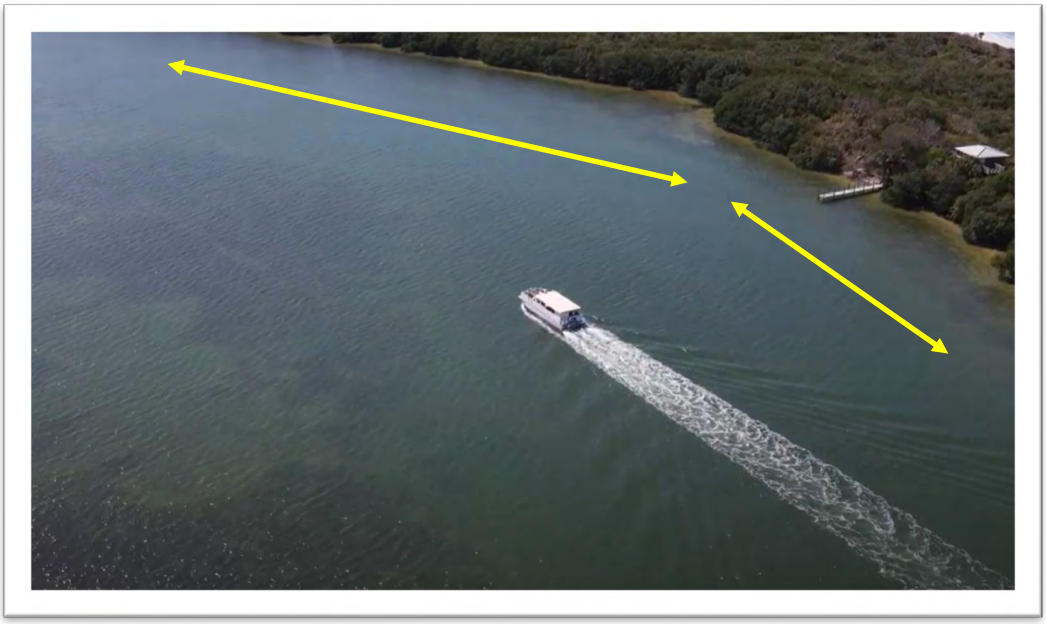


While this is an informal assessment, the raw evidence was clear to the 4 volunteer witnesses that the boats propellers have created a large "blow out hole" to gain access to the south dock over the past 5 years.



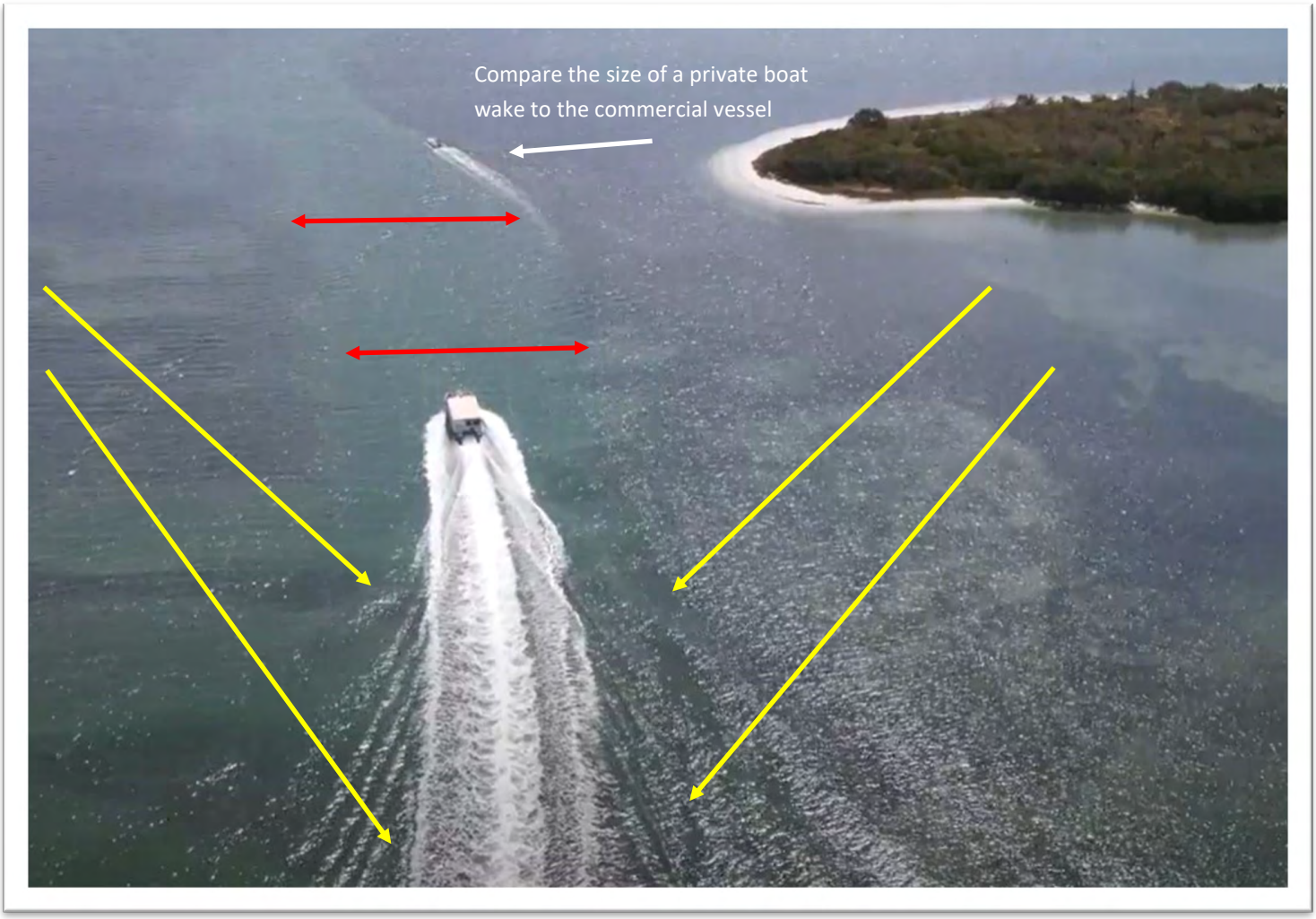






Local private boaters acknowledge Pejuan Inlet's natural tidal passage flow channel that historically hugged the mangroves has been altered over the past five years. Above, note the propeller action that creates turbidity and disperses sand over the grass flats. A blow out hole, as described earlier, is one of many consequences of the twin engine action. The yellow arrows in the bottom two photographs depict the location of the original natural tidal flow "channel". These large boats are well out from this channel and have created a wider passage over the sea grass beds. This must be stopped and mitigated .

Thousands of Commercial Passages in And Out of Pejuan Inlet Have Altered the Waters



The image above shows commercial vessel going out of Pejuan inlet at full throttle. Yellow arrows depict travel over sea grass beds. Red arrows indicate the widened narrow channel entry. Secondary wave action hydrodynamics combined with direct propeller contact with sea grass beds at the landing site have taken a toll on Pejuan Inlet's resources. Below are observations of two long time local boaters:

"My small flats skiff results in no impact to the ecology of the area with my family's use, yet the tour boats that suddenly got exclusive use in 2016, without the public being notified, have altered the local ecology of the immediate area significantly by prop dredging a giant hole in the former bottom. It also appears the natural, shallow channel has been affected as well. "

—Kevin Shimp, Local Boater 30+ years

"I have personally witnessed the concessionaire grinding through the bottom even with "trimmed up" motors just to make a trip happen. So...who is watching? It is obvious to long time users that the flats are being blown out and a new channel being illegally dredged with daily trips. "

—-Randy Johnson, Local Boater 20+ years

Propeller Hydrodynamics Damages Vital Resources

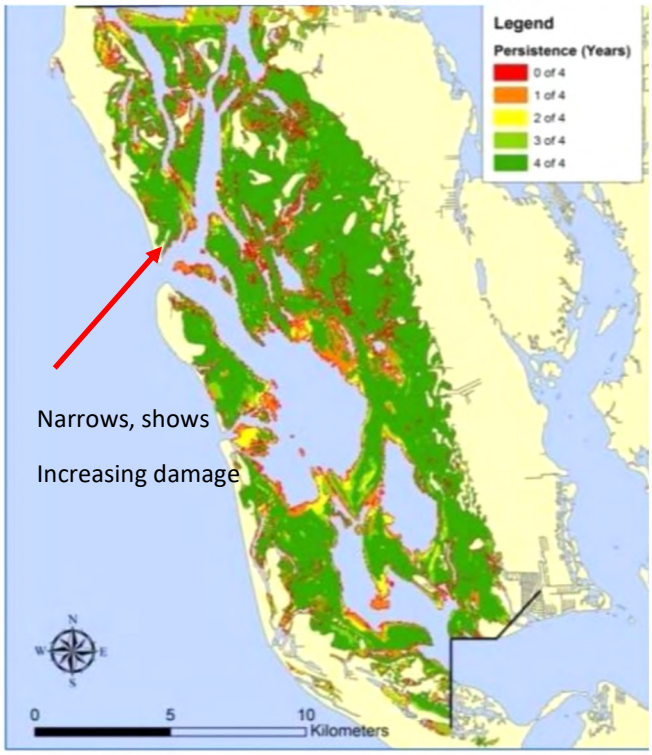


Figure 6 Persistence of seagrass locations in Pine Island Sound,

The site of the "south dock" iand approach waters are severely impacted by propeller scarring and secondary propeller hydrodynamics.

Recent studies have concluded that Pine Island Sound is severely impacted by propeller scarring. The only no wake zone around Cayo Costa State Park is in Pelican Bay, the park's entry area., which is protected by Punta Blanca.

"Propeller scarring is present throughout the study area and is particularly severe in Pine Island Sound and Matlacha Pass, where 44% of the 21,507 propeller-scarred acres are classified as severely impacted." (Yarbro & Carlson)

Seagrass Status and Potential Stressors in the Charlotte Harbor Region

Status indicators	Status	Trend	Assessment, causes
Seagrass cover	Green	Increasing	Runoff, nutrients
Seagrass meadow texture	Yellow	Changing	Annual changes; 50% decrease in bare areas since 2005
Seagrass species composition	Green	Fairly Stable	Increase in 2 most common species since 2005
Overall seagrass trends	Green	Improving	Drought 2006–2010
Seagrass stressors	**Intensity**	**Impact**	**Explanation**
Water clarity	Yellow	Local declines	Affected by runoff and storms
Nutrients	Yellow	Increasing	
Phytoplankton	Yellow	Increasing	
Macroalgae, epiphytic growth	Yellow	Local declines	Under investigation
Freshwater runoff	Yellow	Local declines	Increased storminess
Natural events	Yellow	Moderate impact	2004–2005 hurricanes
Propeller scarring	Red	Increasing	Increased boating

Charts & Graph: Yarbro & Carlson

Secondary Wake Turbidity Impacts Pejuan Inlet Sea Grass Beds



A loose section of sea grass that floated up next to the south dock area.

Commercial vessels crossing the shallow backwaters at the narrows are creating increased secondary wake propeller turbidity, in addition to the previously described direct propeller dredging inhibiting sea grass growth.

"Florida seagrass beds are an extremely valuable natural resource." . "The amount of light reaching seagrass beds is reduced by the presence of particles... Sediments may be derived from wind, boat wakes…."(Carlson Madley Ralph et al., 2007)

"Scarring of seagrass beds by boat propellers fragments seagrass beds and* may persist for years. " (*Carlson and Madley, 2007)

"Higher turbidity increases water temperatures because suspended particles absorb more heat. This, in turn, reduces the concentration of dissolved oxygen (DO) because warm water holds less DO than cold. Higher turbidity also reduces the amount of light penetrating the water, which reduces photosynthesis and the production of DO. Suspended materials can clog fish gills, reducing resistance to disease in fish, lowering growth rates, and affecting egg and larval development. As the particles settle, they can blanket the stream bottom, especially in slower waters, and smother fish eggs & benthic macroinvertebrates."(USEPA)

SOUTH DOCK LANDING—2016



Sign at Landing

The newly constructed south dock initially shows a small landing with four posts and one out piling as shown here. None of these were like the original configuration of the old 1970s dock that was there until 2004. Dock is not ADA compliant.





Park Asst. Manager Chad Lach-designed this gated entry structure and initially put a lock on the gate. When private boaters came to access the point like they had for years, they were upset and notified the media. The backlash from this forced the park manager to unlock the gate but Lach stated," this is a pilot program. If the public gets in the way we will put the lock back on."

SOUTH DOCK LANDING 2017—2021



In 2017 the concessionaire added additional unpermitted infrastructure to the “dock” landing. This consisted of boxing in the 4 outer poles and adding two angled wood reinforcements. The out piling was subsequently knocked sideways and eventually removed and left up in the mangroves. To our knowledge, park officials were not aware of these unpermitted improvements.



In 2020 the concessionaire again altered the landing structures without notifying the park officials or obtaining permits. An out piling was removed (see above) and two, large mooring pilings jetted into the sea bed. Now the large boats have to pivot to enter the (at times) very shallow shores of Pejuan inlet. This action has lead to serious prop dredging and the creation of a “blow out” hole, not to mention the implications of unpermitted pilings being added.

SOUTH DOCK LANDING 2021



The narrows backwaters are subject to major variation in tides. The commercial ferry boats come in at most all tides, regardless of whether they have to "drive" up to the landing or not. There is evidence of damages to the resources due to continuous propeller dredging at the landing as well as secondary propeller hydrodynamic damages as sand is blown up onto the sea grass .

When private boats are in the way of the concession boats we have witnessed the concession crew get onto the private boats and move them without the owner's permission. This is a liability to both the private boat owner and the state.





LEFT: Note twin hull marks on showing where boat pulls up at low tide. ABOVE: Concessionaire posted signs that say "Do Not Block 6:30 am—7:30 pm".

Intense Commercial Use Has Negatively Impacted The Narrows



Before Commercial Use

South Dock Beach . November 2015



The Narrows Is A Protected Zone

A protected zone is an area of high sensitivity or outstanding character from which most types of development are excluded as a protective measure.

—CCSP Management Plan

Commercial Use At The Narrows Impacts Park Resources



Photos from different dates show the arrival of up to 50 people at a time. There is only 300’ of state land here with 1,000 feet of adjacent private property to the north and 200’ of private property to the south. Note how the beach’s highly volatile size & shape changes due to weather patterns. The image on the bottom was just after a winter storm showing erosion and high water impacts to the dune line.

Commercial Use Path Has Created A Dangerous Divide Across The Island At Its Narrowest Point



"According to the geologist F. W. Stapor, et al, the evidence suggests that the combined processes of fluctuating sea-levels and storms eroded and washed out parts of the narrows of Cayo Costa, forming passes and inlets, then filling them in again…the "narrows" still are narrow enough to succumb to hurricane overwash. "

-D. Patterson

..

Dune Systems Impacted at The Narrows



Over the past five years the concessionaire has continuously groomed and widened the path. The dune systems, designed to defend the narrows during high water events, are compromised and a gap remains.



South Dock Path Was Previously A Natural Foot Path



The top photo was taken in early February, 2016, just after the concessionaire began to clear the path. Photo below left is a similar view taken shortly after where the leaves have been raked to the sides. The right is a "natural path" that looks like the south dock path did for years when foliage was allowed to remain intact.





Grooming Has Weakened The Island's Natural Defenses





" Visitor use impacts to the natural communities and shorebird/sea turtle nesting habitat have occurred on the beach side of the trail extending from the south dock, indicating the need for closure of this site for facilitated direct public access." *—-DRP*

The constant grooming, raking and clearing of natural debris has compromised the island's natural defenses. Native trees and shrubs stabilize the ground from storm over wash. The two images from 2016 show what the barren surface looked like initially. Note the darker soils. The two images below from 2018 and 2020 show soil loss and which caused the root systems to be more and more exposed.





Roots Severed Along Path



In April 2021 the concessionaire or park staff cut all of the roots along the path. Note, the root below is shown in a previous photo. Had this path, that only saw passive use prior to 2016, been left intact, these roots would not been exposed and the island's natural stabilization defenses would be intact.









Presently the entire path is powdery white sand , all of the roots have been chopped across the path. Debris piles up on either side as evidenced by this recent grooming showing the rake marks. There is a concave “saddle” shape to the path which allows rain water to flow easily over the surface.

The Path Has Become A Conduit For Water Flow



This image shows how the water easily flowed down the path's center after a heavy rain.

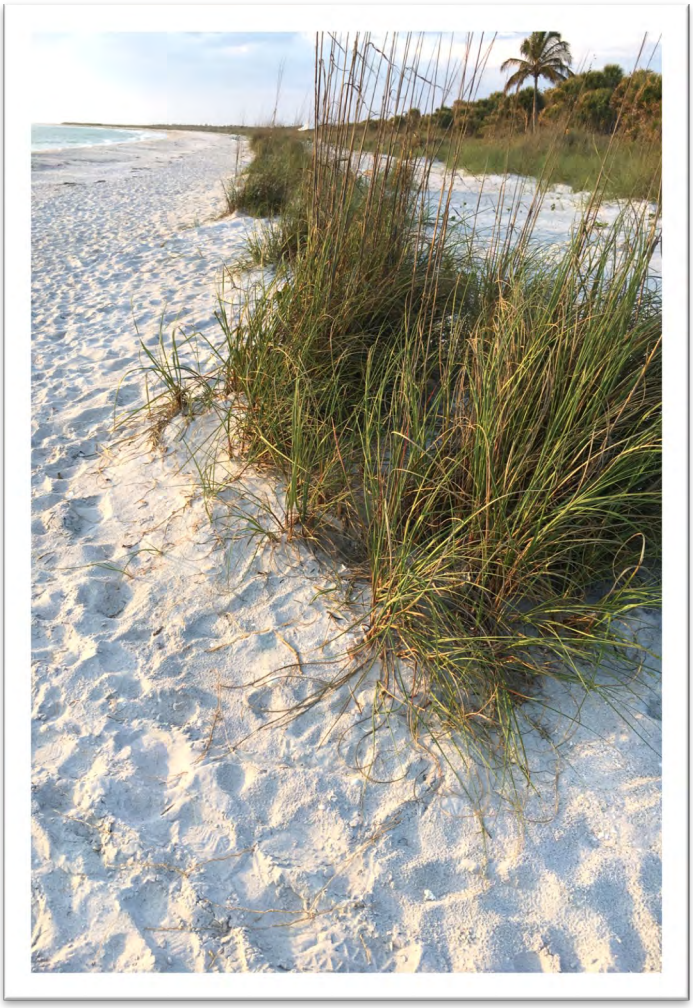
Beach Dune Systems Compromised at The Narrows



"One of the biggest benefits of sea oats is its massive root system (up to 30ft in length). It helps protect coastlines and barrier islands because the roots are capable of holding sand and soil in place during tropical storms and hurricanes….they catch blowing sand and build sand dunes. Sea oats also serve as a food source and shelter for various shore birds, songbirds, and small animals… These qualities make sea oats critical at seashores…. building and stabilizing the many dunes located on park islands and providing nutrients to park wildlife."

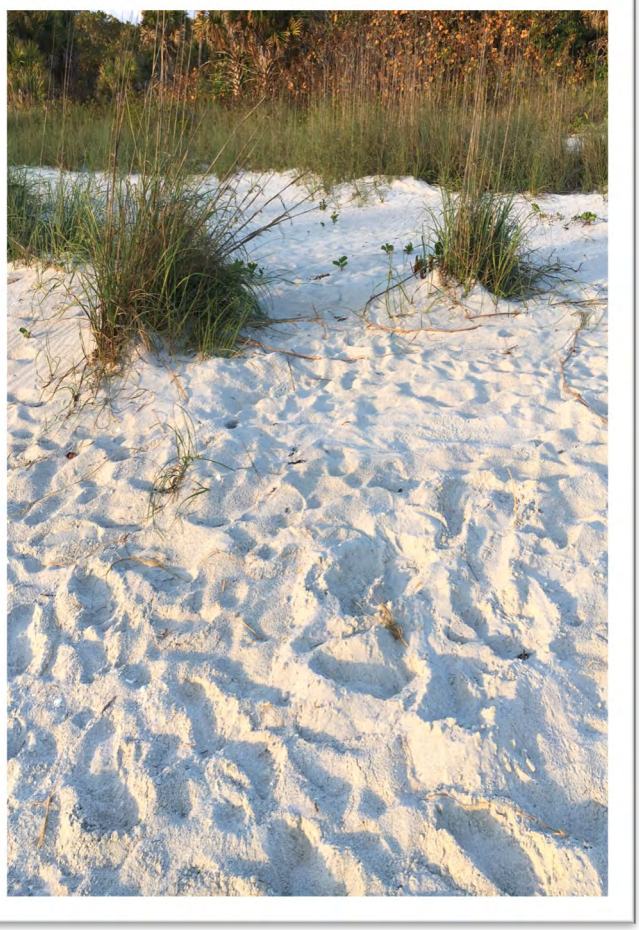
-National Park Service







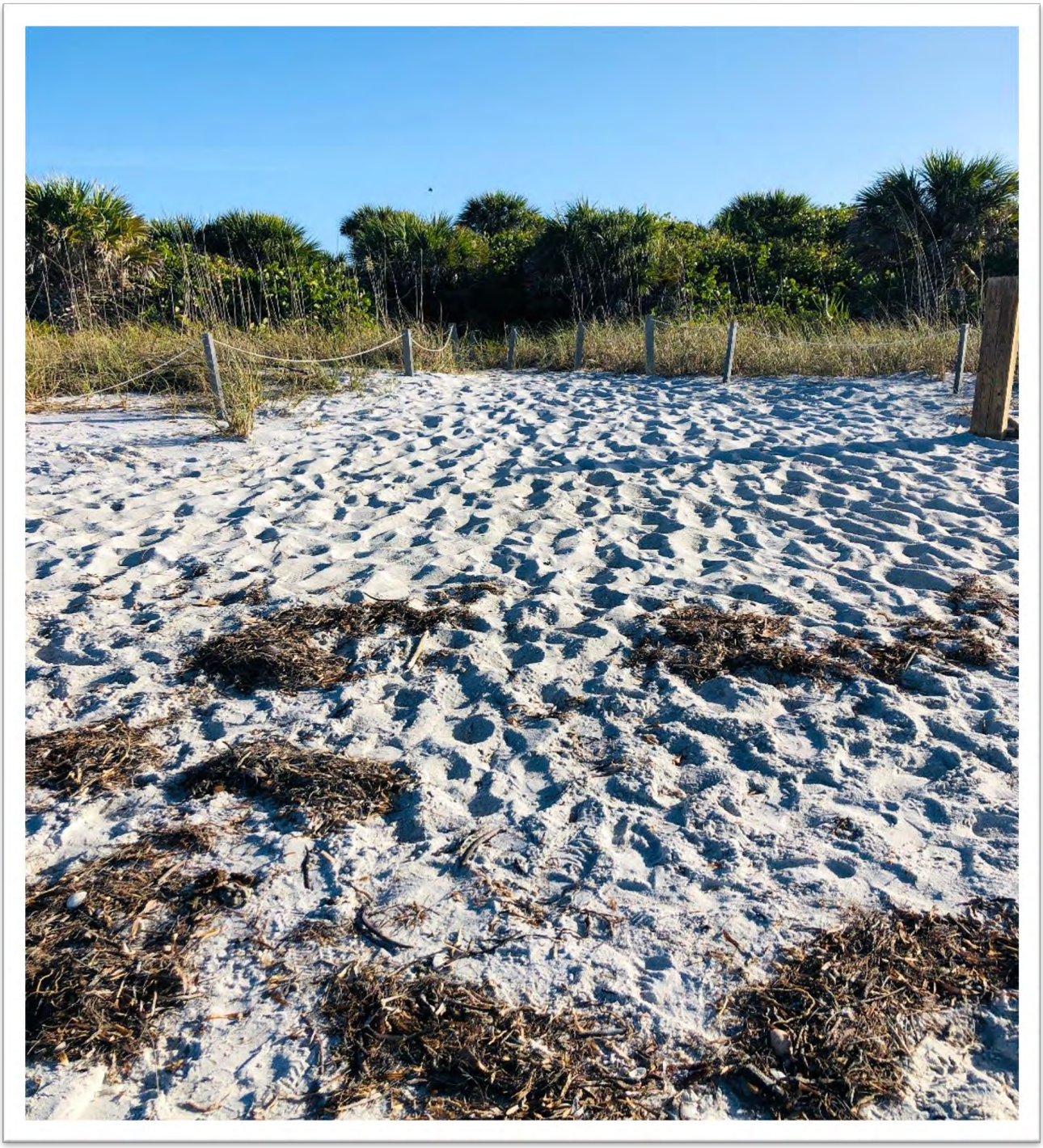
The dune systems have been compromised at the south dock path. Make shift “benches” and debris along with visual evidence of trampling in the sea oats themselves are reminders of heavy human impacts. This gap in the dune line along with the path grooming have weakened the island’s defenses at the narrows.







Thousands of Commercial Visitations Deplete the Resources



There are NO LIMITS on how many trips or numbers of people the commercial vendor can bring to the south dock. Now the concessionaire wants to add more "event" days to their schedule.

POTENTIAL COMMERCIAL VISITATIONS PER YEAR

2x TRIPS/DAY X 50 People Per Trip—100 Per Day x 6 Days A Week = 600 Wk x 52 Weeks/Year =

31,500 Annual Visitors*

**based on today's trip count which is subject to increase*

Protecting Cayo Costa State Park's Historic Resources Is Mandated By Florida Statutes



Commercial Exposure to Faulkner Calusa Mound Complex Threatens the Resource

"…….....significant historic archaeological features **must be considered** in land management decisions."

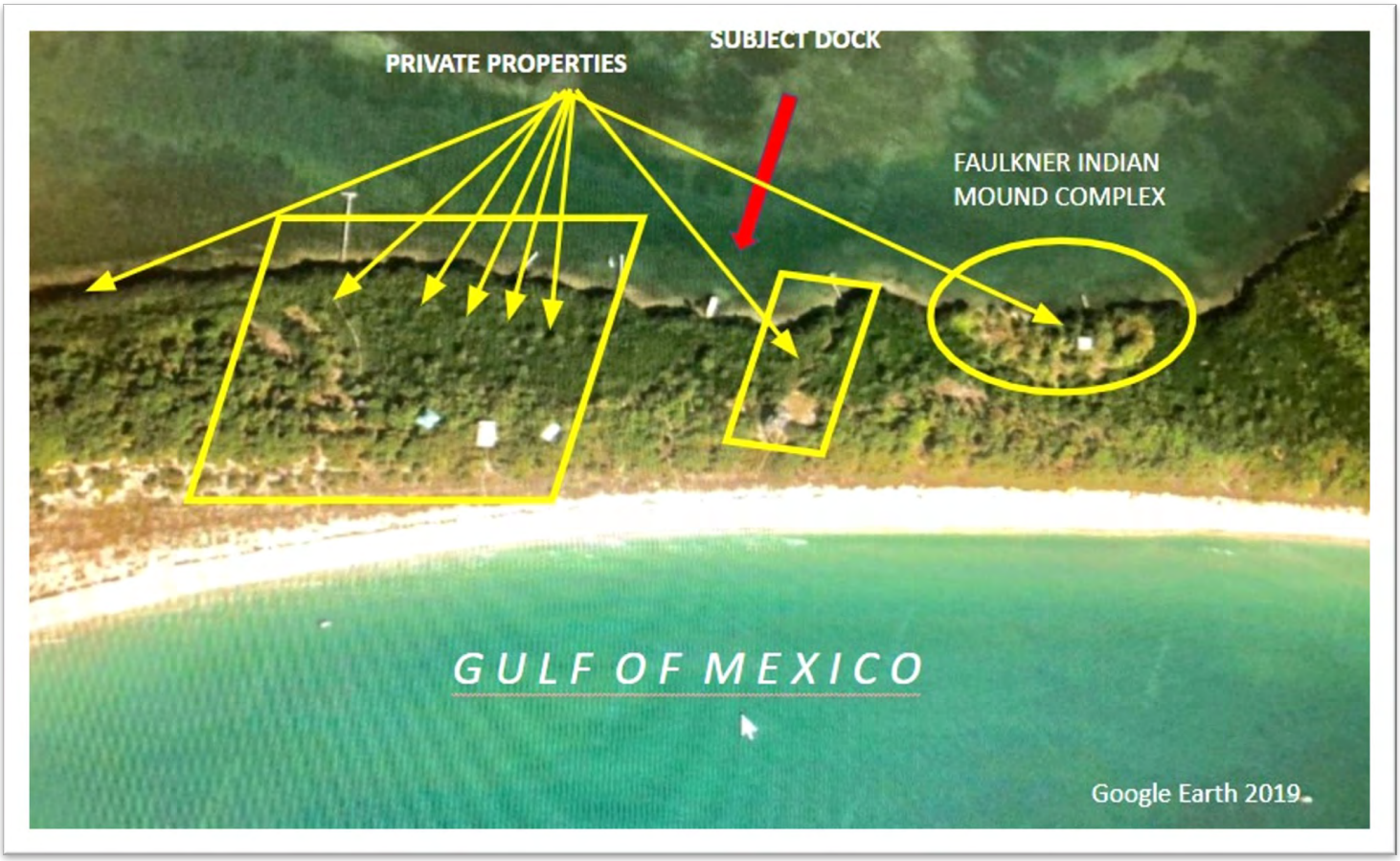
"….archaeologists are most concerned about **when a site is threatened** with destruction or damage.

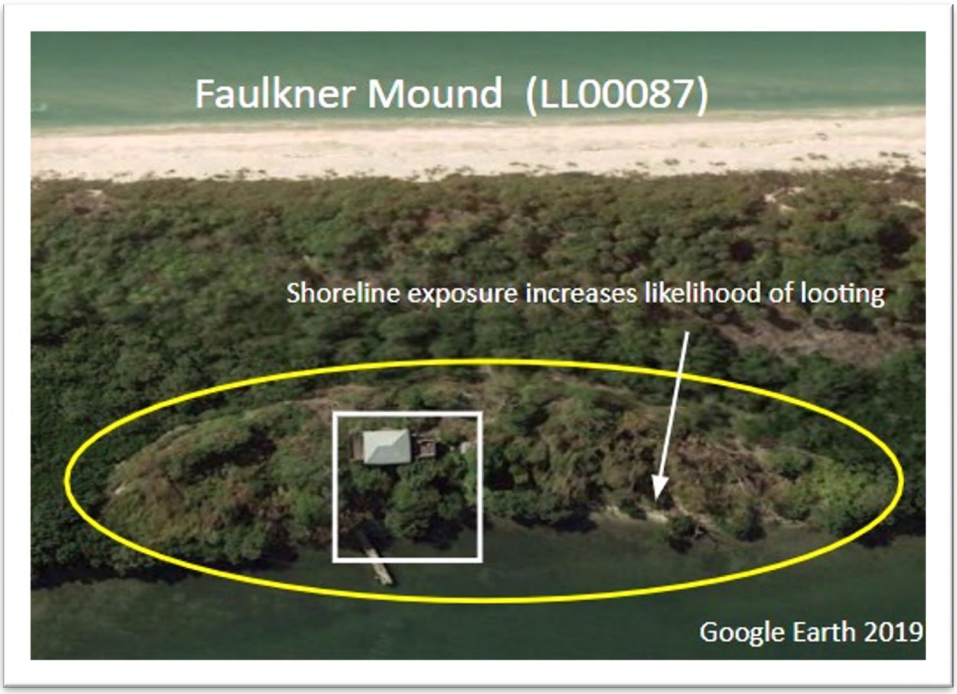
"...(Archaeological sites) are a finite and non-renewable resource. Once destroyed, presently existing resources, including buildings, other structures, shipwreck remains, archaeological sites and other objects of antiquity, **cannot be renewed or revived**. "

"….it should be recognized that **archaeological sites are time capsules** for more than cultural history; they preserve traces of past biotic communities, climate, and other elements of the environment that may be of interest to other scientific disciplines "

—-Excerpts from Cayo Costa State Park Management Plan

Faulkner Mound Archaeological Site Is Threatened By Commercial Exposure





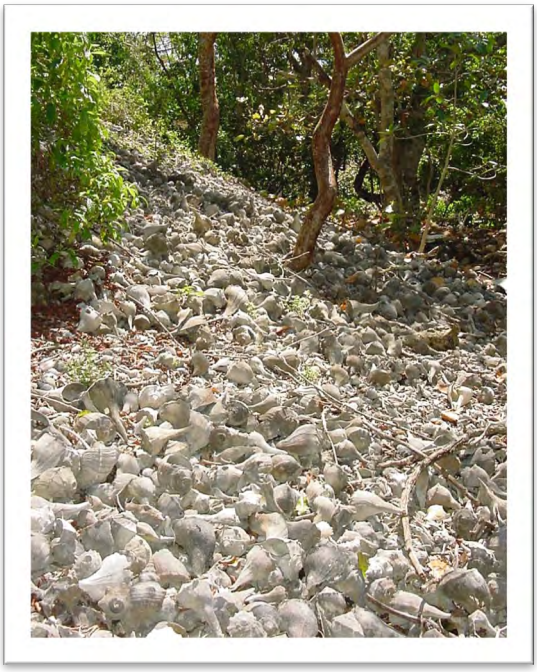
Commercial ferrys pass in close proximity to this irreplaceable cultural resource.

Recently DRP staff stated they don't think the increased exposure of thousands of people passing by the Faulkner Mound complex threatens the historic site. This can't be proven. Many of these people have the ability to return in private boats. More boats than ever before are now seen docking at the mound site and we've seen people picking up artifacts along the shore. Less exposure is essential for the protection of this resource and the DEP is mandated to to control potential threats to the site.





Commercial boats make trips to the south dock a minimum of two times per day. The Faulkner Mounds are several yards away. The shoreline and other shells are less abundant than before. Park staff does not monitor this site.



2003



2021

LEFT: Images from the same shell ridge 18 years apart. This author has been documenting and monitoring this site since 1978. The original owner of the house on top of one of the mounds gifted the much of the complex to the state in the 1990s. The current owner states he has noticed less shells each year. M*ore human exposure* from commercial ferrys may be contributing to the desecration of this site.

FAULKNER MOUND NARROWS LOCATION HAS A HISTORY OF BREACHING

Faulkner Mound is a mound complex consisting of two or more mounds (or a bifurcated mound defined as two mounds with a low area between). Archaeologists do not yet have dates for the *origin* of the Faulkner Mound Complex but the geological determination is that Faulkner Mound exists on a narrow strip of sand forming an *"overwash zone"*, and this is related to wet, warm periods of storms which can be dated.

RADIOCARBON DATING

Archaeologists have not undertaken scientific studies of the Faulkner Mound, with one exception, a radiocarbon date of one shell indicated 1225 AD – 1305 AD.

GEOLOGY CONTEXT OF FAULKNER MOUND

---Geologists have noted generally on barrier islands that indigenous shell mounds are usually placed adjacent to an inlet formed by storms, because once the pass is open, the fish come through in schools, and shellfish proliferate

--***Many new inlets and passes have been opened and closed in Cayo Costa's "narrows,"*** and the assumption is that indigenous people accumulated elevations of shells on collection-station mounds at several of those ancient passes and inlets, as early as 2,000 years ago

--The Faulkner Mound could have accumulated adjacent to an inlet opened by storms, either 2,000 years ago, or 1,100 years ago, or both, according to Geologist F.W. Stapor and his colleagues

---1,700 years ago, (around 300 AD), Caloosahatchee I Period, sea level was at a high stand fluctuating up and down but generally it was about three feet higher than today's sea level. Climate was warm and subject to hurricanes. The evidence suggests that a hurricane crossed the southern part of Cayo Costa so strongly that species of shells that are found only on salty, barrier islands were washed by storm surges, and like a tsunami, blew across Pine Island Sound, deposited wave after wave of storm dunes with barrier island-type shells included, and ended up in Surf Clam Ridge at Pineland.

-- According to the geologist F. W. Stapor, et al, the evidence suggests that ***the combined processes of fluctuating sea-levels and storms eroded and washed out parts of the narrows of Cayo Costa, forming passes*** and inlets, then filling them in again.

-- Looking at the map (next page), when the Gulf Coast of southern Cayo Costa accumulated more recent beach ridge dunes starting around beach-ridge time interval known as (Geological) **La Costa Time Interval** 850 AD through 1450 AD, (not erosion but accumulation,) sandy beach-dune ridges doubled the width of the "narrows". ***If you look at the map, the "narrows" still are narrow enough to succumb to hurricane overwash***. Coincidentally, the Geological "La Costa Time Interval" includes the 1225 AD-1305 AD date for the shell sample in the Archaeological **Caloosahatchee III Period**.

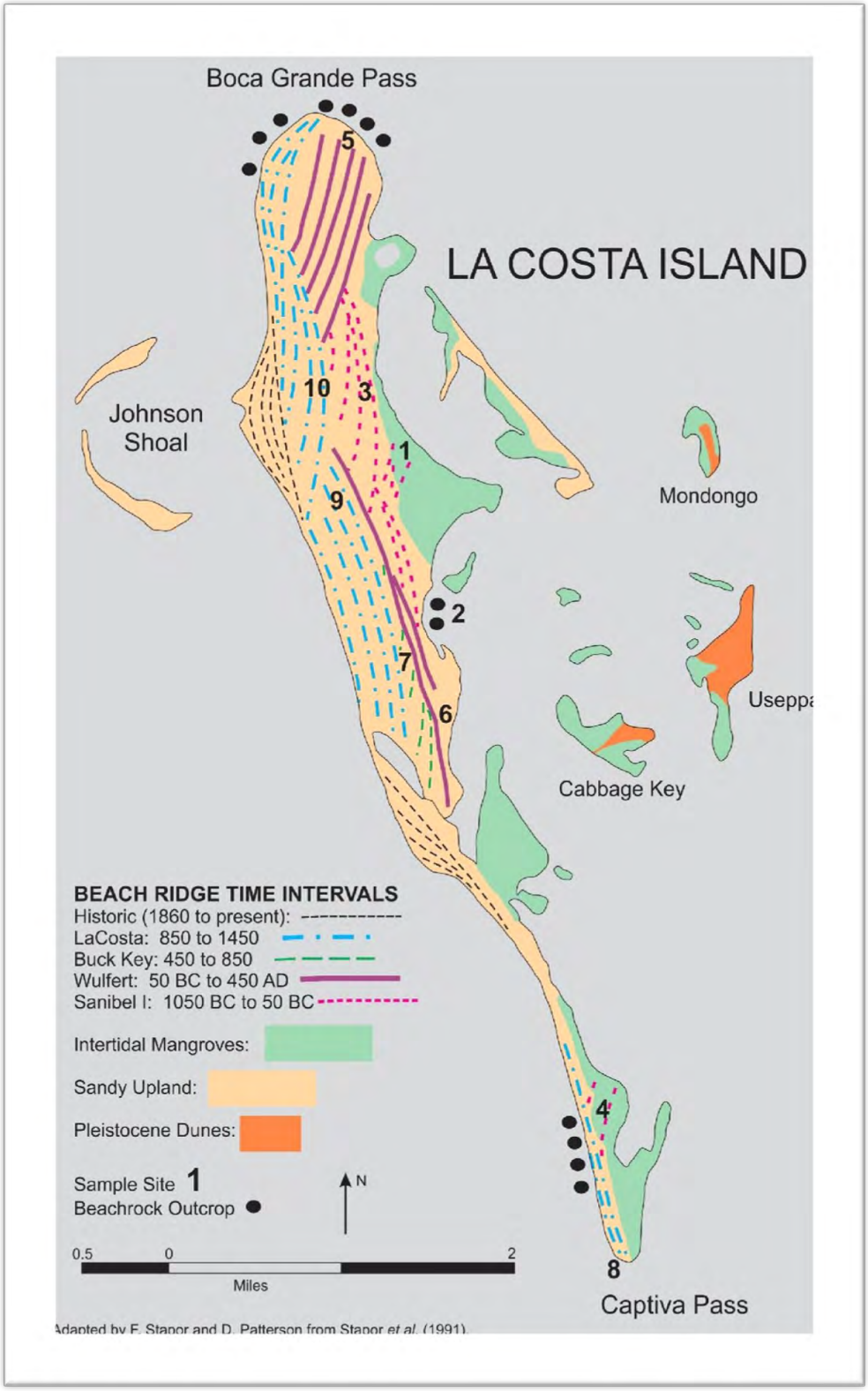
IN SUMMARY

—The Faulkner Mound itself has not been studied down to its original level. It has not been fully archaeologically studied nor has it been radiocarbon dated down to its base core. A shell sample from a part of the mound above sea level was radiocarbon dated between 1225 and 1305 AD.

FUN FACTOID ABOUT CAPTIVA PASS

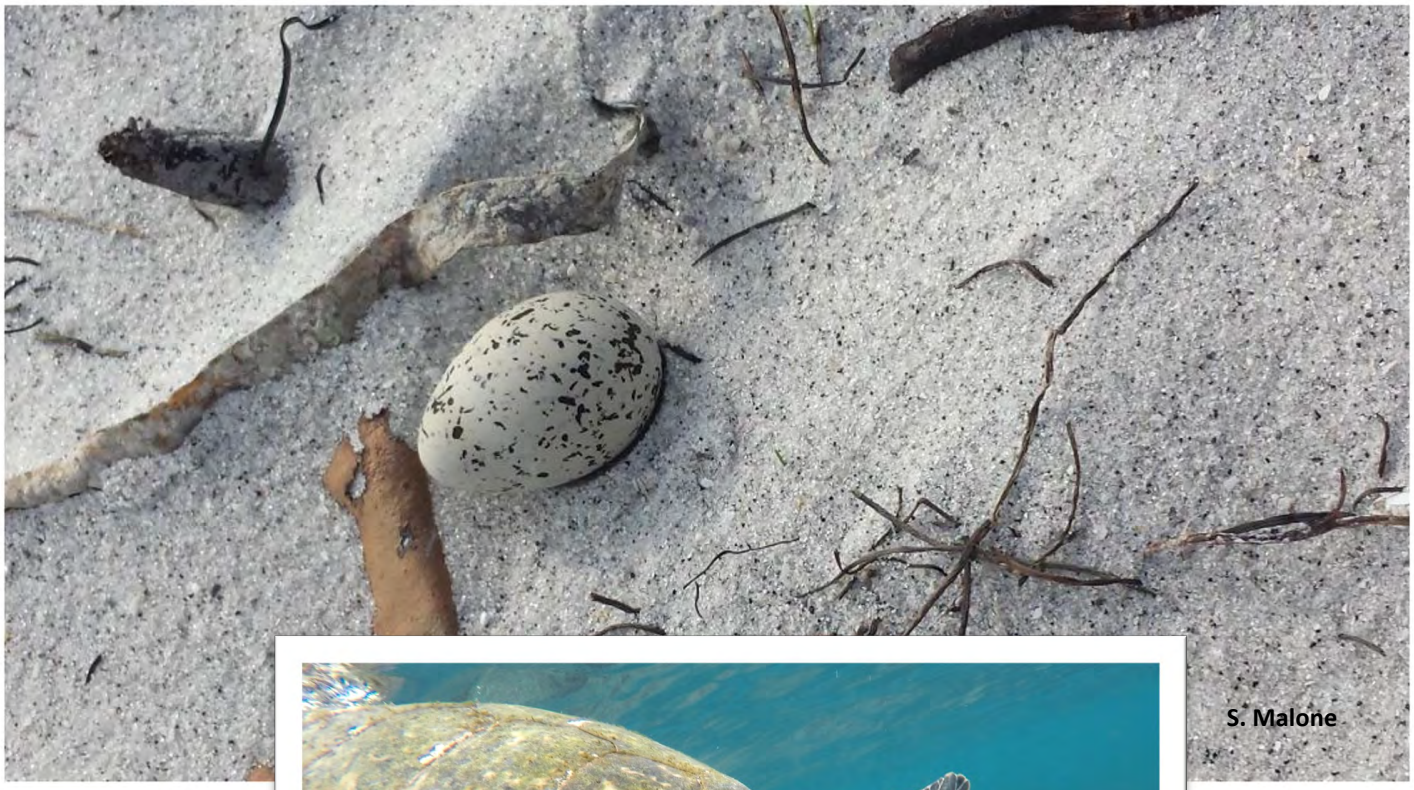
Based on the findings, the oldest set of beach ridges that were preserved on the southernmost part of Cayo Costa is 2,000 years old, and geologists say that this set may have been a sandspit-type tip of a previous barrier island that existed before Captiva Pass opened sometime between 650 AD and 1350 AD, connecting the southernmost end of Cayo Costa with the large barrier island today known as North Captiva. ***Most archaeologists and geologists believe that the "narrows" was the original pass.***

Sources: Stapor, F.W. Jr., T.D. Mathews, and F.E. Lindfors-Kearns. Barrier-Island Progradation and Holocene Sea-Level History in Southwest Florida. Journal of Coastal Research (7) 3:825. Adapted by F. Stapor and Denege Patterson in *A Tour of the Islands of Pine Island Sound, Florida: Their Geology, Archaeology, and History*, P. 78-79)



Radiocarbon-dated beach-ridge sets present on La Costa/Cayo Costa Island, Lee County, Florida. Beach-ridge patterns are diagrammed within the various sets and were mapped from 1944 U.S. Department of Agriculture aerial photography. The designations Sanibel I., Wulfert, Buck Key, and La Costa are informal time-stratigraphic units. (Adapted by F. Stapor and Denege Patterson. Reprinted from Stapor, F.W. Jr., T.D. Mathews, and F. E. Lindfors-Kearns. Barrier-Island Progradation and Holocene Sea-Level History in Southwest Florida. Journal of Coastal Research (7) 3:825.) Reprinted from ***A Tour of the Islands of Pine Island Sound, Florida: Their Geography, Archaeology and History,*** *Courtesy of Denege Patterson, Author*

Shorebird & Turtle Nesting Patterns Have Been Affected By Commercial Groups At South Dock



S. Malone



Freerange Stock Photo

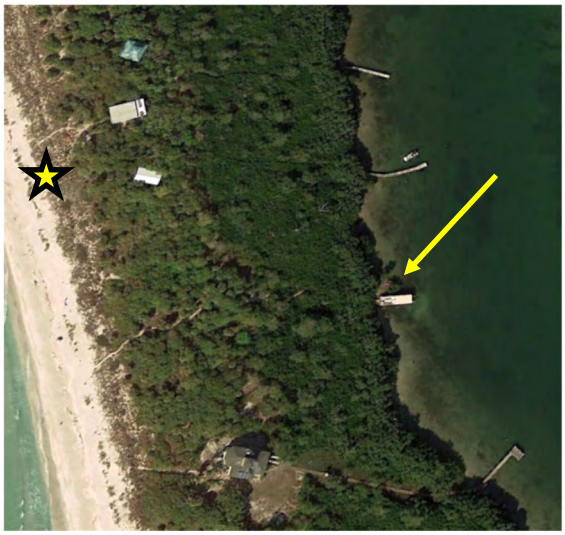
"Cayo Costa is vital to the existence and reproduction of many imperiled species since much of Florida's coastal habitats have been altered. Cayo Costa and associated islands provide undisturbed beach communities that offer breeding, nesting, resting, and feeding grounds for many protected plants and animals. "

— 2021 Cayo Costa State Park Management Plan Draft

Snowy Plovers No Longer Nest At The Narrows


S. Malone


Getty Images




S. Malone



"The DRP will seek a balanced approach to minimize visitor impacts to shorebirds and the park's sensitive coastal habitats, while managing resource-based recreational activities….Encouraging and focusing visitor activities in areas less suitable for shorebird nesting habitat ."

—CCSP Management Plan

The photographs above depict snowy plover eggs that were layed along the narrows at the location with the star graphic. These rare, imperiled birds used to regularly nest along the narrows and to the north around the point. We have not seen any snowy plovers at the narrows since the commercial activity began and have noticed fewer shorebirds here on a daily basis. Park staff provided reports for several years but noted during the February, 2021 survey:

"we did not encounter many birds on the south end of the island….and no focal species (snowy plover, Wilson's Plover, piping plovers, red knots, American oystercatchers) were observed in the south area."

—Karen Rogers, Park Biologist

Turtle Nests Have Not Been Protected on the South Beaches Since 2017





The Cayo Costa park staff has misled volunteers and others about why the turtles are not being protected on the south beaches. Since 2016 staff made a unilateral decision to stop protecting the turtle nests along the "narrows" citing homeowner concerns.

Excerpts from turtle reports tell the story:

"2017 The area south of 26.632650, -82.230476 could not be surveyed due to ongoing litigation and trespass issues with private residents. "

"Turtle Report 2020—"DC nest was south of nest survey end point, but within historical survey area for South Cayo Costa. The South end of the island has not been fully surveyed in several years as a result of private homeowner concerns. "

The origin of this misconception will be explained on the following page. This author has made repeated attempts to have the patrols resumed and act as a liaison between narrows homeowners and park staff/volunteers to see that the nests were protected using state protocols for patrolling narrow island communities. This was addressed again with Region 4 staff in August, 2020. To wit, there has been no communication between park staff and homeowners to resolve this issue.



Volunteers are told to turn around at the yellow stick (above) and not to patrol the south beach. Proper leadership/communication by park staff to correct this misconception, could have resulted in the protection of the south beach turtles.

Cayo Costa State Park Turtle Patrol ATV Tracks On Sand Dune/Sea Oat Growth Area







Park volunteers on ATVs patrol the beach daily during turtle nesting season. The south end had been patrolled until 2106 when property owners along the south end complained that the ATVs were running high up in the dune lines. This was the same time the new south dock was built and began to bring hundreds of people to this section of the park upon the objection of many. For this reason the park administration quit patrolling the south end all together using these objections for an excuse. Since that time no turtles have been counted/protected. In the summer of 2020 a leatherback turtle with a tracker from the Sanibel Captiva Conservation Foundation layed eggs adjacent to the Faulkner Indian Mounds near the south dock path. The only way it was protected by CCSP was because the SCCF notified the park who sent a volunteer down to cover the nest.

Improper Dock Permitting Resulted In No Stakeholder Input



2004 Day After Hurricane Charley—Dock Destroyed



2015 Submerged Boards At Site of Former Dock



January 2016 No Dock. Construction Barge Arrives

Exemption From Environmental Resource Permit Precluded Opportunities for Noticing Adjacent Property Owners and Gaining Stakeholder Input

The DEP/DRP has a responsibility to follow state law and solicit public input when land use decision implications will dramatically alter existing uses. ***The DEP did not follow those laws during the permitting process for the south dock.***

The park's manager, working with the new concessionaire, misled the permitting agencies including Lee County Government, South Florida Water Management District and the US Army Corps of Engineers. The permit applications stated they wanted to "reframe and re-deck an EXISTING dock…" As you can see in the photos to the left, there was no dock there since 2004. ***The agencies granted the exemption from the ERP based on this misrepresentation.*** No one responsible for the permits that we know of, visually inspected the site before the dock was built.

The dock would have had to be in use within a year to be exempt from the ERP per rule, but it was 11 years since Charley destroyed it.

If the state had been truthful and stated they were building a NEW DOCK for heavy commercial use, by law, a full review of resource implications including navigability, historic resource review (Faulkner Mounds), impacts to wetland/littoral areas, would have been conducted. Residents would have been noticed and public input would have ensued. In this case, SFWMD didn't advertise or put out a public notice even though their guidelines state they should have.

The state and concessionaire are responsible for the damages that are ongoing at the south dock waterways as a result of this mismanagement.

South Dock Cover Pages From 3 Permitting Agencies

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Regulation Division

December 23, 2015

State of Florida- Trustees of the Internal Improvement Trust Fund
3900 Commonwealth Boulevard
Tallahassee, FL 32399-6515

Subject: **Exemption for Cayo Costa State Park**
Application No. 150831-26
Exemption No. 36-08500-P
Lee County

Dear Applicant:

The South Florida Water Management District (District) has reviewed the information submitted and has determined that the proposed project is exempt from the requirement to obtain an Environmental Resource Permit. The applicant is proposing the replacement of framing and decking of an existing 640 square foot dock and connecting boardwalk on Pine Island Sound (a total of 60 square feet is within Sovereign Submerged Lands); all treated wood pilings are to be vinyl wrapped from a minimum of 0.5 feet below the mud line to at least 1-foot above mean high water level to meet water quality standards. A location map is shown on Exhibit 1.0 and the proposed project is shown on Exhibit 2.0. Pursuant to Chapter 403.813(1)(d) Florida Statutes (F.S.), the replacement or repair of existing docks and piers, including mooring piles, provided the existing structure is still functional or has been rendered non-functional within the last year by a discrete event, such as a storm, flood, accident, or fire is exempt from Environmental Resource Permitting.

Activities which qualify for this exemption must be conducted and operated using appropriate best management practices and in a manner which does not cause or contribute to a water quality violation pursuant to Chapters 62-302 or 62-4, Florida Administrative Code.

The activity qualifies for a Letter of Consent to use Sovereign Submerged Lands in accordance with Chapter 18-21.005(1)(c)(10), F.A.C.

This letter does not relieve you from the responsibility of obtaining other permits (federal, state or local) which may be required for the project.

The determination that this project qualifies as an exempt activity may be revoked if the

DISTRICT HEADQUARTERS: 3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • (800) 432-2045
Mailing Address: PO BOX 24680 West Palm Beach FL, 33416-4680
LOWER WEST COAST SERVICE CENTER: 2301 McGregor Boulevard, Fort Myers, FL 33901 • (239) 338-2929 • (800) 248-1201
OKEECHOBEE SERVICE CENTER: 3800 N.W. 16th Blvd, Suite A, Okeechobee, FL 34972 • (863) 462-5260 • (800) 250-4200
ORLANDO SERVICE CENTER: 1707 Orlando Central Parkway, Suite 200 Orlando FL 32809 • (407) 858-6100 • (800) 250-4250
sfwmd.gov

DSH2015-00684 Lee County eFile

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BLVD., SUITE 310
FORT MYERS, FLORIDA 33919

November 18, 2015

REPLY TO
ATTENTION OF

Regulatory Division
West Permits Branch
Ft. Myers Permits Section
SAJ-2015-03410(NW/GP-ACM)

TIITF Recs and Parks
Cayo Costa State Park
Attn: Chad Lach
3900 Commonwealth Blvd.
Tallahassee, FL 32399

Dear Mr. Lach:

Your application for a Department of the Army permit received on September 16, 2015, has been assigned number SAJ-2015-03410. A review of the information and drawings provided shows the proposed work is the installation of three 8" diameter pilings to be driven to provide a mooring area and the re-framing and re-decking of 640 square feet of an existing boardwalk structure. The project is located in Cayo Costa State Park, Cayo Costa Island, Latitude 26.630466 Longitude -82.227994, in Section 29, Township 44 south, Range 21 east, Bokeelia, Lee County, Florida.

Your project, as depicted on the enclosed drawings, is authorized by Nationwide Permit (NWP) Number 3. In addition, project specific conditions have been enclosed. This verification is valid until **March 18, 2017**. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have 12 months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. Please access the U.S. Army Corps of Engineers' (Corps) Jacksonville District's Regulatory Internet page to access Internet links to view the Final Nationwide Permits, Federal Register Vol. 77, dated February 21, 2012, specifically pages 10270 – 10290, the Corrections to the Final Nationwide Permits, Federal Register 77, March 19, 2012, and the List of Regional Conditions. The Internet page address is:

http://www.saj.usace.army.mil/Missions/Regulatory.aspx

Please be aware this Internet address is case sensitive and should be entered as it appears above. Once there you will need to click on "Source Book"; and, then click on "Nationwide Permits." These files contain the description of the Nationwide Permit

DSH2015-00684 Lee County ePlan

Submit button for ePlan Users

Submit Form

LEE COUNTY
SOUTHWEST FLORIDA

COMMUNITY DEVELOPMENT
Dock and Shoreline Application

Property Owner: TIITF/REC + PARKS **Permit #:**

STRAP #: 29-44-21-00-00001.002B **Lot:** **Block:** **Unit:**

Job Address: CAYO COSTA STATE PARK **Subdivision:**

Directions to job: BOAT ACCESS ONLY

Contractor Business Name / Applicant Name : INNOVATIVE MARINE STRUCTURES LLC

License Number: CGC 1506904 **Phone :** 941-697-7000

Email Address: TOM@INNOVATIVEMARINEFL.COM

Permit Requested: REFRAME DILAPIDATED DECK/DOCK

Construction Value: $ 10,000 ***If over $2500 a NOC and Building Addendum is required.**

Estimated Sq.Ft: 600 **Electric Required:** [n] **Yes** [ ] **No**

TYPE OF WATERBODY

Artificial Canal Natural Waterbody PINE ISLAND SOUND

EACH OF THE FOLLOWING REQUIRE SEPARATE PERMIT APPLICATIONS

1. [ ] Seawall – Lineal Feet
2. [ ] Retaining Wall – Lineal Feet
3. [ ] Rip Rap – Lineal Feet
4. [n] Dock – Square Feet 600
5. [ ] Boatlift
6. [ ] Boathouse – Roof Type
   Square Feet
7. [ ] Davits
8. [ ] Boatramp
9. [ ] Maintenance Dredging – Cubic yards
10. [ ] Wetland Boardwalk – Square Feet ← no reference to boardwalk marked.
11. [ ] Dune Walkover
12. [ ] Fishing Pier/Observation Deck
13. [ ] Repairs (specify)

    Sq. Ft. Lin. Ft.
14. [ ] Other (specify)

THIS PERMIT IS VOID IF THE FIRST INSPECTION IS NOT MADE WITHIN SIX (6) MONTHS FROM THE DATE ISSUED OR IF NO INSPECTION HAS BEEN MADE FOR A PERIOD OF SIX (6) MONTHS FROM THE MOST RECENTLY PASSED INSPECTION. THE PERMIT IS VOID IF THE ZONING CLASSIFICATION IS VIOLATED. APPLICANT AGREES TO COMPLY WITH THE SANITARY REGULATIONS AND UNDERSTANDS THAT THE PROPOSED STRUCTURE MAY NOT BE USED OR OCCUPIED UNTIL AN APPROVED CERTIFICATE OF OCCUPANCY IS ISSUED. APPLICANT FURTHER UNDERSTANDS THAT FAILURE TO OBTAIN PERMIT OR MISREPRESENTATION OF THE IMPROVEMENTS IS A MISDEMEANOR AND UPON CONVICTION, APPLICANT CAN BE PUNISHED AS PROVIDED BY THE LAW. FAILURE TO COMPLY WITH THE MECHANICS LIEN LAW CAN RESULT IN THE PROPERTY OWNER PAYING TWICE FOR IMPROVEMENTS.

I hereby certify that to the best of my knowledge, the information submitted for this permit is true & correct, & complies with Deed of Restrictions.

Signature Authorization: Perry Lawrence Date: 12/23/2015

DSH2015-00684 Lee County ePlan

Trespass On Private Properties Is An Ongoing Issue



Even though commercial charter staff are supposed to oversee their guests, it has been observed, when residents are not present, many times the guests go unattended. Residents on either side of the dock path post signs to contest this trespass. These photographs show just a few of the examples of the concessionaire's guests on private property.



RIGHT: A concession guest is seen here retrieving his drone that crashed in front of a private property. He had to go way up into the sea oats to get it.



Private boaters, shut out of the south dock, trespass by using adjacent private docks.







Because commercial vessels place signs telling boaters to stay off the south dock more and more private boaters are using the private docks to access the beach. Above are two such instances including a large group that was dropped off at one house. This presents unnecessary liability and is just another consequence of the south dock issue.





Trash is an ongoing problem. To the left are two examples of trash directly at the south dock path. The image of the toilet paper was taken along the south dock path as well as the pile of trash that was left by the path entrance. It is understood many use this beach but since the commercial operations began the trash has become more prevalent.

Concessionaire Taking Risks



February 19, 2021 - 3:00 pm

The concessionaire put their guests at risk when a squall line was coming in off the Gulf. All day radar showed a front coming in with two squall lines. This line was set to come in at 3 PM. Instead of taking the passengers off the island 30 minutes shy of their full two hours, they left them on the beach. When these photos were taken, no captain had come to retrieve them. By the time they got to the boat it was pouring rain. This irresponsible behavior puts lives at risk. The north docks are best suited for large groups of people where shelter is provided at the large docking area.

These images are still shots from a video.



Dispersed Visitation Puts Less Stress on The Narrows



We encourage people to visit Cayo Costa State Park when it's done responsibly.

The photos here show a typical busy day at the narrows with private boats anchoring off and families enjoying the park. We frequently see kayakers and other paddle craft on the bayside and in the Gulf when conditions are good. Hikers are everywhere and walk the 9 miles of beach on a frequent basis. These dispersed, less resource intense activities work well at the narrows and south beach.



On the weekends, weather permitting, it is not unusual to see several hundred boats anchored off along the narrows.



Pelican Bay Park Facilities Designed For Commercial Groups


This image was taken during a “Celebrate Cayo Costa Day” and shows multiple commercial ferry boats landing guests at the Pelican Bay entrance.





Commerical ferrys travel through Pelican Bay’s deep water and arrive at the purpose-built, ADA compliant docks. Visitors can rent kayaks, get information at the Ranger station, purchase concessions and take trams to the beach. A new, $750,000 bathroom facility services the campground and Gulf side. The planned visitor center will be another draw for the park. There are a number of marked hiking trails on the wide, north end.









Proposed South Dock Management Goals

1. **Discontinue all commercial activities at the south dock at the narrows. Conduct a full study of Pejuan's aquatic resources. Mitigate commercial damages to the sea grass beds and littoral resources so that habitats return to pre-commercial conditions. Conduct regular post-commercial and annual follow up reports. Communicate findings to stakeholders.**

2. **Direct all commercial activities to the Pelican Bay north park facilities where the dock and facilities are ADA compliant.**

3. **Return south dock to use by private boaters & paddlers like it was before 2016**

4. **Remove gate structure at dock. Create natural pathway for narrow passage to avoid dune damage.**

5. **Cease grooming the path and mitigate damages to the path root systems. Allow leaves and overgrowth to fill in and retake the path so that it maintains the same elevation as the surrounding areas.**

6. **Allow dispersed commercial landings Gulfside north of the narrows where the land is wider and more stable, vary the locations to prevent stress on the resources.**

7. **Limit all beach landings during bird and turtle nesting seasons.**

8. **Disallow any further south dock infrastructure improvements and any additional commercial activities/events.**

9. **Secure funding to build necessary north facility infrastructure to handle growing numbers of private boaters seeking access. Prepare for future visitation to the park for all purposes including entry to the proposed Visitor Welcome Center. Consider making all Cayo Costa backwaters no wake/manatee zones to protect the sea beds.**



Google Images

Before 2016 the concessionaire was doing wet sand landings for over 20 years with no issues. To our knowledge the park was not receiving any revenues from them. There is no reason they can't resume these activities at appropriate, dispersed, wider areas of the park and make daily landings at the Pelican Bay.

Eliminating Commercial Use of the South Dock Is A Win for Cayo Costa State Park's Future

By ceasing commercial operations at the narrows the DEP/DRP will accomplish the following things:

1. Allow the sea grass flats, dune/sea oat systems and cross-island vegetation to recover from 5 years of concession-related boat and foot traffic damage. This will harden the island's defenses against storm surge and potential breach.

2. **Decrease daily human impacts at the narrows which will eventually result in the return of nesting shorebirds and other displaced animals/fish. Better communication and volunteer training can result in again protecting the turtles on the south beaches.**

3. **Increase private boater access to the narrows which has been displaced for 5 years.**

4. **Reduce exposure to the priceless, historic Faulkner Indian Mound complex.**

5. **Decrease frequency of private property trespass and associated liabilities.**

6. **Improve stakeholder relations and rebuild trust with park user communities.**



Closing Thoughts

We appeal to the members of ARC to evaluate each of the issues we are raising at Cayo Costa State Park with a wholistic approach. What will this beautiful park look like in 50 years if unchecked commercial use is the norm? We urge you to use your authority to protect this special Florida park.

It is our hope that you amend the management plan and close the south dock to commercial use immediately. This is a multi-faceted and, unfortunately, somewhat of a political challenge. To those of us who believe the DEP has mismanaged the park's resources by letting travesty continue, the answer is very clear.

The DEP/DRP must do the right thing for the island's resources...and correct a wrong that should never have occurred. It is up to the DEP/DRP to prove to us there are **no** damages to the park's resources as a result of this flawed management practice.

Most troubling is the complete reversal by DRP management to reverse staff's recommendations to halt commercial uses at the south dock. The overwhelming outcry from stakeholders during the management plan planning process was to stop this. Yet, in one swoop the concessionaire turns the tides. They serve at the will of the state. Several of their actions have broken their contract stipulations including being in arears on a capital improvement debt owed in 2017 but just paid, the installation of dock pilings without permits or notifying park staff, just to name a couple. Using the DRP's numbers (12,000 people per year x $2 head to DRP at south dock...even though we feel that is an underestimate based on what we've seen) you are selling out the park's resources for $24,000 a year? That is a real shame.

New revenue sources take "out of the box thinking" from park staff. Here are a few ideas:

1. Install permanent pay buoys in Pelican Bay and rent them out like campsites. There is no significant income now from these boaters. This will also save the sea grass beds from constant anchor scarring.
2. Boat Decal Program—Work with FOCC to ramp up a robust decal program, $25 per year, use online system and patrol beaches to solicit participants. Database and renewals can be handled online.
3. Develop a QR code system (pay poles/cash becoming outdated) using smart phones to collect fees.

Cayo Costa State Park needs more helpers! Park staff must embrace new initiatives:

Work with officials and CSO to secure public/private funding for more docking space at the North docks for private boaters and commercial operators. Develop a robust volunteer program to help with staff shortfalls.



ARC/DEP is be commended for the protections recently placed on the resources at Ichetucknee River State Park. Uncontrolled human impacts can have a devastating effect on natural resources which are vital to others *who have no voices*. We are the voices for Cayo Costa State Park's unique and irreplaceable land and aquatic habitats which are being damaged by commercial operations. We hope you will listen to our story and make this right.

About The Author



1998

Protecting Cayo Costa has been a mission of mine since 1977 when I first came to the island. It is a responsibility to be a good steward and pass valuable knowledge along to others about the unique qualities of this special place. Keeping it pristine for future generations is a must.

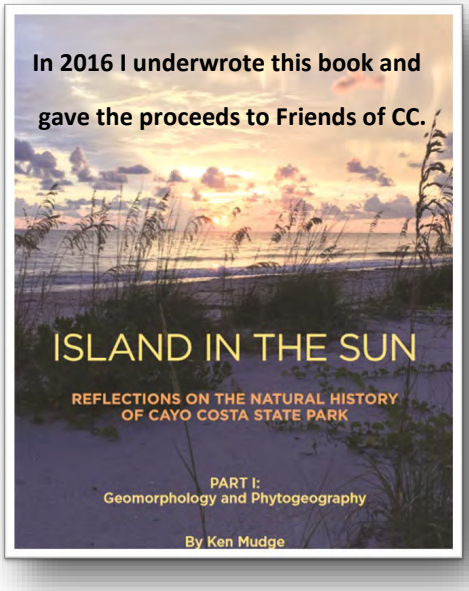
From 1998 - 2016 we worked hard volunteering to eliminate Australian Pines & pepper trees on the south end.



"Mullet & Mangroves" Documentary Video



Surveying Plants For Surplus Land Effort



I have been an art teacher, stock car track owner, advertising/PR agency owner and communications director for a large public school district. But the best job I've had is raising my family on Cayo Costa. My husband and sons are all Eagle Scouts so the outdoors is home to us. It's everyone's obligation to contribute to the park's well-being.

In 2001 I founded the Friends of Cayo Costa to assist the park. It was the perfect way for me to exert my energy into my dearest love. I had to resign over the south dock issue in 2016. Before that time I helped produce "Mullet and Mangroves", a video about Cayo's pioneer fishing families. We started annual fundraisers and hosted island events. During this time I advocated to save island land from being sold as surplus. The group is doing well and helping the park.

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Errors & Omissions—Every attempt has been made to provide the information contained herein from reliable and factual sources. With the exception of a few images which have been referenced, the majority of the photography is owned by the author, all rights reserved. Aerial imagery is from Google Earth. As noted previously, this report relies heavily on over 40 years of witnessing and documenting Cayo Costa. Any statement that misrepresents an issue was not intentional.

Thanks to all of our dedicated stakeholders who believe that protecting Cayo Costa State Park is urgently important. All rights reserved, please ask permission to re-use any part of this document.

——M. Nanney 941-527-7865