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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Rule To Establish Sixteen Additional Manatee Protection Areas in Florida; Proposed Rule

DEPARTMENT OF THE INTERIOR

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RIN 1018–AH80

Endangered and Threatened Wildlife and Plants; Proposed Rule To Establish Sixteen Additional Manatee Protection Areas in Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplemental information.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to establish 16 additional manatee protection areas in Florida. We are proposing this action under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (ESA), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361–1407)(MMPA), to further recovery of the Florida manatee (*Trichechus manatus latirostris*) through a reduction in the level of take. In evaluating the need for additional manatee protection areas, we considered the needs of the manatee at an ecosystem level with the goal of ensuring that adequate, protected areas are available throughout peninsular Florida to satisfy the biological requirements of the species, with a view toward the manatee's recovery. We are proposing to designate four areas in Hillsborough, Pinellas, and Citrus Counties, as manatee sanctuaries in which all waterborne activities would be prohibited, with an exception for residents. The remaining 12 areas, located in Pinellas, Sarasota, Charlotte, Desoto, Lee, and Brevard Counties, would be designated as manatee refuges in which certain waterborne activities would be prohibited or regulated. We also announce the availability of a draft environmental assessment for this action.

DATES: We will consider comments on both the proposed rule and the draft environmental assessment that are received by October 9, 2001. We will hold a public hearing in Melbourne, Brevard County, on September 13, 2001, from 7:00 p.m. to 9:00 p.m., at the Radison Hotel and Conference Center, 3101 North Highway A1A, Melbourne. We will hold additional public hearings at dates, times, and sites to be determined. See additional information on the public hearing process in **SUPPLEMENTAL INFORMATION.**

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information to the Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216.

2. You may hand-deliver written comments to our Jacksonville Field Office, at the above address, or fax your comments to 904/232–2404.

3. You may send comments by electronic mail (e-mail) to *fw4_es_jacksonville@fws.gov.* For directions on how to submit electronic comment files, see the ''Public Comments Solicited'' section.

We request that you identify whether you are commenting on the proposed rule or draft environmental assessment. Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours from 8 a.m. to 4:30 p.m., at the above address. You may obtain copies of the draft environmental assessment from the above address or by calling 904/232–2580, or from our website at *http://northflorida.fws.gov.*

FOR FURTHER INFORMATION CONTACT: David Hankla, Peter Benjamin, or Cameron Shaw (see **ADDRESSES** section), telephone 904/232–2580; or visit our website at *http://northflorida.fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Florida manatee is federally listed as an endangered species under the ESA (16 U.S.C. 1531 *et seq.*) (32 FR 4001) and is also federally protected under the MMPA (16 U.S.C. 1361–1407). It resides in freshwater, brackish, and marine habitats of coastal and inland waterways in the southeastern United States. The majority of this population resides in the waters of the State of Florida throughout the year, and nearly all manatees use the waters of peninsular Florida during the winter months. The manatee is a cold-intolerant species and requires warm waters (above 20 degrees Celsius (68 degrees Fahrenheit)) to survive during periods of cold weather. During the winter months many manatees rely on the warm water from natural springs and industrial outfalls for warmth. During the summer months they expand their range and are seen rarely as far north as Rhode Island on the Atlantic Coast and as far west as Texas on the Gulf Coast.

Recent information indicates that the overall manatee population has grown since the species was listed (U.S. Fish and Wildlife Service 2000a). However, in order for us to determine that an endangered species has recovered to a point that it warrants removal from the List of Endangered and Threatened Wildlife and Plants, the species must have improved in status to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the ESA. That is, threats to the species that caused it to be listed must be reduced or eliminated such that the species no longer fits the definitions of threatened or endangered. While indications of increasing population size are very encouraging, there is no indication that important threats to the species, including human-related mortality and harassment, have been effectively reduced or eliminated.

Human activities, particularly waterborne activities, are resulting in the take of manatees. Take, as defined by the ESA, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm means an act which actually kills or injures wildlife (50 CFR 17.3). Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding or sheltering (50 CFR 17.3).

The MMPA sets a general moratorium on the taking and importation of marine mammals. Section 101(a) of the MMPA makes it unlawful for any person to take, possess, transport, purchase, sell, export, or offer to purchase, sell, or export, any marine mammal or marine mammal product except as permitted for public display, scientific research, or enhancing the survival of the species. Take, as defined by section 3(13) of the MMPA means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Harassment is defined under the MMPA as any act of pursuit, torment, or annoyance which—(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Human use of the waters of the southeastern United States has increased dramatically as a function of residential growth and increased visitation. This phenomenon is particularly evident in the State of Florida. The population of Florida has grown by 124 percent since 1970 (6.8 to 15.2 million, U.S. Census Bureau) and is expected to exceed 18 million by 2010, and 20 million by the year 2020. According to a recent report by the Florida Office of Economic and Demographic Research (2000), it is expected that by the year 2010, 13.7 million people will reside in the 35 coastal counties of Florida. In a parallel fashion to residential growth, visitation to Florida has increased dramatically. It is expected that Florida will have 83 million visitors annually by the year 2020, up from 48.7 million visitors in 1998. In concert with this increase of human population growth and visitation is the increase in the number of watercraft which ply Florida waters. In 1999, there were 829,971 vessels registered in the State of Florida. This is an increase in registered vessels of almost 20 percent since 1993 (Florida Fish and Wildlife Conservation Commission 2000). During this same period, the number of watercraft-related manatee mortalities has increased by 144 percent, from 35 to 82 deaths per year. The Florida Department of Community Affairs estimates that, in addition to boats belonging to Florida residents, between 300,000 and 400,000 boats registered in other States use State waters each year.

The large increase in human use of waters inhabited by manatees has had direct and indirect impacts on this endangered species. Direct impacts include injuries and death from vessel impacts, deaths and injuries from water control structure operations, lethal and sub-lethal entanglements with commercial and recreational fishing gear, and alterations of behavior due to harassment. Indirect impacts include habitat destruction and alteration, decreases in water quality throughout some aquatic habitats, decreases in quantity of warm water at natural sites, marine debris, and general disturbance from human activities.

Approximately 75 percent of all watercraft-related manatee mortality has taken place in 11 Florida counties (Brevard, Lee, Collier, Duval, Volusia, Broward, Palm Beach, Charlotte, Hillsborough, Citrus, and Sarasota) (Florida Marine Research Institute Manatee Mortality Database 2000). Manatee mortality has continued to climb steadily. Average annual mortality in the 1990s (227.9) was nearly twice that of the 1980s (118.2), and this trend continued in 2000, when 273 dead manatees were recorded. Total mortalities over the past 4 years have averaged 45 percent higher than in the early 1990s. When the record high total of 1996 is added (the year in which the red tide die-off inflated total mortality to 416 animals), average annual mortality over the past 5 years has been nearly 60 percent greater than in the early 1990s (draft Marine Mammal Commission Annual Report to Congress 2000).

The continuing increase in the number of recovered dead manatees throughout Florida has been interpreted as evidence of increasing mortality rates (Ackerman *et al.* 1995). Between 1976 and 1999, the number of carcasses collected in Florida increased at a rate of 5.8 percent per year, and deaths caused by watercraft strikes increased by 7.2 percent per year (Service 2000a). Because the manatee has a low reproductive rate, a decrease in adult survivorship due to watercraft collisions could contribute to a long-term population decline (O'Shea *et al.* 1985). It is believed that a 1 percent change in adult survival likely results in a corresponding change in the rate of population growth or decline (Marmontel *et al.* 1997).

Collisions with watercraft are the largest source of human-related manatee deaths. Data collected during manatee carcass salvage operations in Florida indicate that a total of 979 manatees (from a total carcass count of 4,021) are confirmed victims of collisions with watercraft since 1976. This number may not accurately represent the actual number of watercraft-related mortalities since many of the mortalities listed as ''undetermined causes'' show evidence of collisions with vessels. Collisions with watercraft comprise approximately 24 percent of all manatee mortalities since 1976. The last 5 years have been record years for the number of watercraft-related mortalities, and watercraft-related deaths have become a larger proportion of total mortality. Since 1998, watercraft-related deaths have represented about 30 percent of all mortality, a 5 percent increase compared to the early 1990s. During the 1980s and 1990s the manatee population apparently grew; however, if population growth rate levels off and manatee mortality continues to increase, a decline in abundance is inevitable (draft Marine Mammal Commission Annual Report to Congress 2000).

The second largest cause of human-related manatee mortality is entrapment in water control structures and navigation locks (Florida Marine Research Institute Manatee Mortality Database 2000). Manatees may be crushed in gates and locks or may be trapped in openings where flows prevent them from surfacing to breathe. Locks and gates were responsible for 159 manatee deaths between 1976 and 1999 (Service 2000b). While there are no well-defined patterns characterizing these mortalities, it is believed that periods of low rainfall increase the likelihood of manatees being killed in these structures. These periods require more frequent, large-scale movements of water, which require more frequent gate openings and closings in areas that attract manatees searching for fresh water.

Manatees are also affected by other human-related activities. Impacts resulting from these activities include death caused by entrapment in pipes and culverts; entanglement in ropes, lines, and nets; ingestion of fishing gear or debris; vandalism; and poaching. These activities have accounted for 106 manatee deaths since 1976, an average of 4 deaths per year. As with watercraft-related mortalities, other human-related deaths also appear to be increasing, with 31 deaths, approximately 3 percent of the total mortalities, recorded between 1997 and 2000 attributed to these sources. This is an average of 7.75 deaths per year over the last 4 years attributable to other human-related activities.

Harassment of manatees is a concern, particularly when it impedes the use of warm water areas critical to manatee survival during periods of cold weather. In particular, there is an increasing number of swimmers and divers visiting Florida's waters to view and swim with the manatees. The presence of large numbers of people and the resultant disturbance has been documented to cause manatees to leave warm water areas (Jay Gorzaleny, Mote Marine Laboratory, personal communication). On occasion, divers and swimmers have been observed attempting to pet, chase, ride, and even sit on manatees. This type of harassment may cause the manatee to leave warmer water to find relief from the harassment in colder areas where there are fewer people. Such responses, if they are instigated by human harassment, are considered take under the ESA and MMPA.

In response to these problems and the watercraft-related impacts in particular, conservation agencies such as the Service and the Florida Fish and Wildlife Conservation Commission (FWC), have increased their emphasis on enforcement and compliance with manatee speed zones by adding new officers, conducting law enforcement task force initiatives, increasing

overtime, and increasing the proportion of law enforcement time devoted to manatee conservation. We are also evaluating development proposals which would increase watercraft traffic in manatee habitats where speed zones, signage, and enforcement are insufficient. To help address the negative effects of human actions on manatees, we are proposing to establish 4 additional manatee sanctuaries and 12 additional manatee refuges in Florida.

The authority to establish protection areas for the Florida manatee is provided by the ESA and the MMPA, and is codified in 50 CFR, part 17, subpart J. We may, by regulation, establish manatee protection areas whenever there is substantial evidence showing such establishment is necessary to prevent the taking of one or more manatees.

We may establish two types of manatee protection areas—manatee refuges and manatee sanctuaries. A manatee refuge, as defined in 50 CFR 17.102, is an area in which we have determined that certain waterborne activities would result in the taking of one or more manatees, or that certain waterborne activities must be restricted to prevent the taking of one or more manatees, including but not limited to a taking by harassment. A manatee sanctuary is an area in which we have determined that any waterborne activity would result in the taking of one or more manatees, including but not limited to a taking by harassment. A waterborne activity is defined as including, but not limited to, swimming, diving (including skin and SCUBA diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles and dredging and filling activities.

In response to our advanced notice of proposed rulemaking for the development of this proposed rule and during several related public workshops, many commentors cited the increase in the overall size of the manatee population as evidence that the establishment of additional manatee protection areas is not needed. Recent data regarding the size of the manatee population are very encouraging, and indicate that local, State, and Federal efforts to recover the manatee are working. However, we remain concerned that waterborne activities are resulting in take of manatees, which is not allowed under the ESA and MMPA, and which may slow or even impede further recovery. It is our obligation under the ESA and MMPA to further manatee recovery, so that we may someday achieve our goal of removing the species from the List of Endangered and Threatened Wildlife and Plants. This includes using available tools, as practicable, to reduce the level of human-related manatee mortality. The establishment of manatee protection areas is one such tool. We are pursuing other complementary tools simultaneously, as described in the next two sections.

Synopsis of Manatee Lawsuit Settlement

In Save the Manatee Club v. *Ballard,* Civil No. 00–00076 EGS (D.D.C.), several organizations and individuals filed suit against the Fish and Wildlife Service and the U.S. Army Corps of Engineers (Corps) alleging violations of the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), National Environmental Policy Act (NEPA), and Administrative Procedures Act (APA). Four groups representing development and boating interests intervened. Following extensive negotiations, a Settlement Agreement was approved by the court on January 5, 2001. Under the terms of the settlement, the Service agreed to the following:

- Submit a Proposed Rule for New Refuges and Sanctuaries to the **Federal Register** by April 2, 2001, and submit a final rule by September 28, 2001. Subsequent to the Federal settlement, the FWC also voted to settle *Save the Manatee* v. *Egbert,* Case No. 90–00–400CIV17–WS (N.D.Fla.) (the State case). That settlement, which has yet to be accepted by the court, calls for very similar protective measures in many of the locations proposed in this rule. As a result, the parties in the Federal lawsuit agreed to extend the April 2 deadline in an attempt to negotiate a means to avoid duplication of effort and better serve the public. Subsequent negotiations resulted in additional extensions, and the current deadline for submitting the proposal is August 3, 2001. The Service also agreed to evaluate the propriety of invocation of its emergency sanctuary/refuge designation authority. An Advance Notice of proposed rulemaking was published in the **Federal Register** on September 1, 2000, and a series of six (6) public workshops were held in December 2000. 1,752 comments were received in response to the Advance Notice, and 396 people attended the public workshops. The comments received are summarized in the Site Selection Process and Criteria section. The Service is currently coordinating its assessment with on-going State efforts to improve manatee speed zone regulations. Our coordination with the state of Florida is summarized in the next section. At least one public hearing will be conducted on the Service's proposed rule, and additional hearings will be conducted if requested by the public.
- Revise the Manatee Recovery Plan. The Service was required, by December 1, 2000, to make a draft revised Recovery Plan available for public review and comment, and to circulate its final revised Recovery Plan for signature no later than February 28, 2001. The Service published a draft revised Recovery Plan on November 30, 2000, and received over 500 comments. The Plaintiffs and Interveners agreed to new dates for development of a second draft and finalization of the Recovery Plan. As a result of the comments, the Service made substantial revisions to the Recovery Plan and subsequently issued a second draft for public review and comment on July 10, 2001. The Recovery Plan will be finalized by October 31, 2001.
- Pursue a rulemaking proceeding to adopt incidental take regulations under the MMPA. By March 6, 2001, the Service was required to submit to the **Federal Register** an Advance Notice of proposed rulemaking; invite by letter the Corps and other entities that conduct activities which may influence factors relating to effects of watercraft on manatees to participate in the MMPA rulemaking process; and promptly provide copies of the **Federal Register** notice and invitation letters to the Plaintiffs and Interveners. The Advanced Notice was published in the **Federal Register** on March 12, 2001, and copies of the Advanced Notice and invitation letters were mailed to the Plaintiffs and Interveners on March 6, 2001. The Service will determine if any anticipated take by entities participating in the rulemaking process meets the requirements set forth in section 101(a)(5) of the MMPA, 16 USC 1371(a)(5). The process should result in: (1) If the requirements set forth in section 101(a)(5) of the MMPA are deemed satisfied, a proposed and final MMPA incidental take regulation; (2) preparation of appropriate NEPA documentation which will include the direct, indirect, and cumulative effects of the overall MMPA regulation (either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS)); (3) detailed assessments of agency programs, including cumulative effects on manatees and their habitat, for any activities covered under the regulation; and (4) consultation pursuant to section 7 of the ESA. The Service has determined that it will prepare an EIS in association with this action. Draft and final products are due

on November 5, 2002, and May 5, 2003, respectively. If the requirements of the MMPA cannot be met, the Service must notify the Plaintiffs and Interveners as soon as practicable, and publish a negative finding in the **Federal Register** with the bases for denying request. The Service must publish its negative finding by May 5, 2003. The Service will conduct public hearings on draft proposals as appropriate.

• By March 6, 2001, furnish Plaintiffs and Interveners with a letter describing how the Service will spend increased enforcement resources in FY–2001. This letter was sent on March 6, 2001.

• Revise and make available for public review, its ''interim guidance'' for addressing potential manatee impacts associated with development and permitting of new watercraft access facilities. The Service was required to submit this document by March 6, 2001. This document was timely submitted and appeared in the **Federal Register** on March 14, 2001. The Service agreed to provide at least thirty (30) days of public comment and actually provided sixty (60) days comment on the revised draft guidance. A final decision on the guidance will be submitted to the **Federal Register** by August 13, 2001.

• Provide written progress reports on the status of tasks agreed upon in the settlement agreement every 6 months. The first report was due and was provided to the parties on July 5, 2001.

• Provide copies of concurrence and non-concurrence letters to Plaintiffs and Interveners. Whenever the Service sends a letter to the Corps in response to the Corps' determination that a project ''may affect'' the manatee or ''may affect but is not likely to adversely affect'' the manatee, it is required to concurrently make a copy of the correspondence available to the Plaintiffs and Interveners. This obligation may be satisfied by establishing a web-based system or by transmitting a copy of the letter by U.S. mail or electronically. Until such time as the Service establishes a web-based system, it will forward copies by U.S. mail. These letters have been provided accordingly.

• Provide copies of Biological Opinions (BO). Whenever the Service issues a final BO regarding the effect of a particular project on manatees or manatee critical habitat, it is required to concurrently make a copy of that opinion available to Plaintiffs and Interveners. This obligation may be satisfied by establishing a web-based system or by transmitting a copy of the letter by U.S. mail or electronically. Until such time as the Service establishes a web-based system, it will forward copies by U.S. mail. These letters have been provided accordingly.

Coordination With State Actions

We acknowledge that there exists a network of manatee speed zones and sanctuaries, which have been established throughout peninsular Florida by Federal, State, and local governments. This existing structure works toward the above-stated goal of providing adequate protected areas throughout peninsular Florida to satisfy the biological requirements of the species. The purpose of our evaluation is to identify gaps in the existing network and to propose appropriate measures for filling those gaps.

We recognize that the existing system of speed zones and sanctuaries has been established primarily by State and local governments. We also recognize the important role of our State and local partners, and we continue to support and encourage State and local measures to improve manatee protection. We have focused the currently proposed action on those sites in which we have determined that Federal action can effectively address the needs in the particular area.

The sites contained in this proposed rule were selected based on the criteria described below, prior to the disclosure of terms of the proposed settlement in the State case. That proposed settlement contains a list of sites that the FWC will be evaluating for potential State designation of speed zones and sanctuaries. There is considerable overlap in terms of sites identified in that settlement and the sites discussed in this proposed rule. The fact that the State's list of sites is more expansive than this proposed rule does not indicate a determination on our part that sites on the State's list do not warrant designation, but is rather a reflection of our staffing and funding limitations in designating and maintaining a large number of Federal manatee protection areas.

We have been coordinating closely with the FWC since the terms of their proposed settlement were disclosed, to determine which sites are most appropriate for State designation and which are better suited for Federal designation. At the time our proposed rule was prepared, there was not a final agreement on the terms of the proposed State settlement. Pursuant to the terms of our settlement agreement described previously we were required to submit this proposed rule to the **Federal Register** by April 2, 2001, which was prior to the time in which the FWC made a final decision regarding sites they intend to evaluate. As stated previously, the deadline was extended on several occasions by agreement of the parties in an attempt to negotiate a means to avoid duplication of effort and better serve the public. Therefore, there is considerable possible overlap between this proposal and likely State action which could occur in the near future.

We strongly believe that the State should have leadership in establishing additional manatee protection areas. However, we also must meet our settlement obligations. Therefore, we intend to participate in the State's evaluation. If the State adopts identical or comparable manatee protection measures to the ones contained in this proposal, we will assess whether withdrawing these designations is appropriate. We will also continue to monitor sites that are not currently included in this proposed rule. If we identify additional needs, we will work with the State to establish necessary protection or may propose actions in the future, as appropriate. The converse is true if we find current protection areas are no longer necessary or prudent. Given that reducing watercraft-related manatee mortality is important to the recovery of the species, and given recent watercraft-related mortality in Brevard County, we intend to proceed expeditiously to final rulemaking for the Barge Canal and Sykes Creek sites once all public comments have been considered. The remaining 14 sites in this proposed rule are somewhat less urgent than the Barge Canal and Sykes Creek; however, we are concerned about the potential for lengthy delays in implementing what appear to be appropriate actions to reduce take at these sites. Therefore, we intend to defer final rulemaking on these sites until December 1, 2002. At that time, if we determine that designation is warranted for the remaining 14 sites, and should the State be unable to complete rulemaking on those sites, we intend to proceed with final rulemaking on those sites.

Site Selection Process and Criteria

In preparation for this proposed action, we met with representatives from local, State, and Federal agencies and organizations involved in manatee research, management, and law enforcement. These meetings helped us to develop a list of sites throughout Florida and southeast Georgia that manatee experts believed should be considered for possible designation as manatee protection areas.

As mentioned above, we published an advance notice of proposed rulemaking in the **Federal Register** on September 1,

2000 (65 FR 53222). The purpose of the advance notice was to inform the public that we were initiating the process of investigating areas for possible designation as manatee protection areas, and to solicit initial public input. We received 1,752 responses to the advance notice. Of these, 1,737 supported our efforts to establish additional manatee protection areas, and 13 opposed them. The remaining 2 comments did not state a specific opinion.

We also conducted six public workshops throughout peninsular Florida to present the list of potential sites and to solicit public input. A total of 396 people attended the workshops, and 166 provided either oral or written comments. Of these, 79 were general in nature, either supporting our efforts to establish additional manatee protection areas (40) or opposing them (39). An additional 36 comments were not specific to the topic or discussed other items. Fifteen commentors provided specific information or comments, including recommendations to increase enforcement, increase education, use new technology including satellite tracking of manatees, and other rule-related topics. Of the remaining comments, 28 specifically opposed and 8 specifically supported the establishment of additional manatee protection areas.

We selected sites for inclusion in the proposed rule from the list of sites developed through the preliminary meetings and the information gathered at the public workshops and in response to the advance notice. We based site selection on four factors—(1) evidence that the site is used by manatees; (2) historic evidence of take (harm or harassment) of manatees at the site due to waterborne human activities; (3) the potential for additional take based on manatee and human use of the site; and (4) a determination that we could implement effective measures at the site to address the identified problem.

In documenting manatee use and historic manatee harm and harassment, we relied on the best available data including aerial survey data and manatee mortality data, information from the Florida Marine Research Institute, Pathobiology Laboratory, and other information from State and Federal sources. These data were supplemented with information from manatee experts, the public, and our best professional judgment. In determining the potential effectiveness of our proposed actions, we considered the costs of managing and enforcing sites versus the benefits to manatee conservation. Costs associated with site management include installation and maintenance of appropriate signage, public education, and enforcement. In addition, designation of sanctuaries in the waters bordered by private property would entail additional administrative burdens in terms of identifying and providing access to affected residents. We considered these administrative burdens in selecting sites. Finally, we evaluated the effectiveness of our proposed actions against the likely effectiveness of actions by State and/or local governments. As stated previously, it was our goal to avoid sites that could be most effectively addressed by State or local government. However, the parallel suits against the State and Federal governments limited early coordination in the development of this proposal and the proposed State settlement. Therefore, duplication of effort may occur in the future. To resolve this, as appropriate we will consider withdrawing any actions where comparable State or local protection is established. We did, however, make every effort to make our proposed designations consistent with the existing adjacent State or local designations.

Definitions

'Idle speed' means the minimum speed needed to maintain watercraft steerage.

'Planing' means riding on or near the water's surface as a result of the hydrodynamic forces on a watercraft's hull, sponsons (projections from the side of a ship), foils, or other surfaces. A watercraft is considered on plane when it is being operated at or above the speed necessary to keep the vessel planing.

'Slow speed' means the speed at which a watercraft proceeds when it is fully off plane and completely settled in the water. Watercraft must not be operated at a speed that creates an excessive wake. Due to the different speeds at which watercraft of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. A watercraft is *not* proceeding at slow speed if it is—(1) on a plane, (2) in the process of coming up on or coming off of plane, or (3) creating an excessive wake. A watercraft *is* proceeding at slow speed if it is fully off plane and completely settled in the water, not plowing or creating an excessive wake.

'Slow speed (channel exempt)' designates a larger area where slow speed is required, through which a maintained, marked channel is exempt from the slow speed requirement.

'Slow speed (channel included)' means that the slow-speed designation applies to the entire marked area, including within the designated channel.

'Wake' means all changes in the vertical height of the water's surface caused by the passage of a watercraft, including a vessel's bow wave, stern wave, and propeller wash, or a combination of these.

We propose to amend the definition of water vehicle to include the terms watercraft and vessel. These terms are used interchangeably in the proposed rule and in 50 CFR subpart J. We also propose to add personal watercraft to this definition.

We propose to amend the ''Exception for residents'' to allow vessels other than boats access to private residences, boat houses, and boat docks through existing and proposed sanctuaries by the residents and their authorized guests.

Areas Proposed for Designation as Manatee Sanctuaries

Blue Waters

We propose to establish a seasonal manatee sanctuary, containing 1.7 hectares (ha) (4.1 acres) more or less, at the headwaters of the Homosassa River, adjacent to the Homosassa Springs State Wildlife Park, commonly referred to as the Blue Waters, in Citrus County. This sanctuary would prohibit engaging in all waterborne activities from October 1 through March 31, inclusive.

The headwaters of the Homosassa River are an important wintering site for manatees (Service Aerial Manatee Census Data, unpubl. report). The site is in close proximity to the Homosassa Spring, a Class 1 magnitude spring, which provides warm water from the Florida aquifer. This warm water is essential to the survival and well-being of a significant number of manatees during cold weather periods, with as many as 123 manatees being observed at the site at one time (Service Aerial Manatee Census Data, unpubl. report). Homosassa Springs State Wildlife Park, located directly upstream from the site and containing the spring itself, is not accessible to the manatees wintering at Blue Waters because the spring head is used as a care facility for captive manatees.

The presence of manatees, coupled with the shallow clear nature of the water, has attracted an increasingly large number of swimmers and divers to the site. The primary objective of these visitors is to interact in the water with the manatees. The waters of the Homosassa River are currently regulated

as an idle speed zone, and the State Park maintains a no-entry zone from a line approximately 61 meters (m) (200 feet (ft)) upstream of the confluence of the spring run and the northeast fork of the river. The number of visitors has grown to the point where manatees are observed leaving the site and swimming downstream to colder water (Jay Gorzaleny, Mote Marine Laboratory, personal communication). This adversely affects manatees by increasing the amount of energy required to maintain body temperature and could potentially cause physiologic harm to the animals, particularly smaller manatees, which are not able to maintain body temperatures as well as adult-sized animals (Worthy *et al.* 2000).

The establishment of a manatee sanctuary at this location would provide manatees with an undisturbed area in which to rest and sleep, by extending the no-entry zone currently maintained by the State Park approximately 61 m (200 ft) downstream in the spring run. The waters in the existing no-entry zone are, for the most part, too shallow to be accessible to manatees. The public would still have opportunities to interact with the manatees outside the proposed sanctuary, as manatees enter and exit the sanctuary. Interaction and viewing activities would probably increase as manatees would remain in the Blue Waters for more extended periods of time due to decreased disturbance. This has proven to be the case with the manatee sanctuaries in Kings Bay/Crystal River, Citrus County, Florida.

Bartow Electric Generating Station

We propose to establish a seasonal manatee sanctuary, containing approximately 73.5 ha (181.5 acres), at the warm water outflow of the Bartow Electric generating station in Tampa Bay, Pinellas County. This seasonal closure would prohibit all waterborne activity at this site from October 1 through March 31, inclusive. In addition, we propose to establish a manatee refuge in the South Gandy Channel north of the Bartow station (see ''Areas Proposed for Designation as Manatee Refuges'' section below).

A large percentage of the manatees residing in the middle Gulf of Mexico area of Florida winter at the warm water outflows of two operating electrical power plants in Tampa Bay (Florida Marine Research Institute Aerial Survey Data 2000). Minimizing disturbance of manatees at these warm water sites during winter months is critical to the survival of these manatees. We have proposed this area based on observed manatee use patterns in response to cold weather/cooler ambient water temperatures. Currently, manatees use the Bartow site for warmth during periods of cold weather. The maximum manatee count at this site was 102 manatees on February 25, 1999 (Florida Marine Research Institute Aerial Survey Data).

Warm water effluent from this plant attracts manatees during cold weather periods. Large numbers of fish are also attracted to this site, which, in turn, attracts large numbers of fishermen. The disturbance by boats causes manatees to move out of the area, thereby increasing metabolic rates and energy consumption of the animals as they attempt to maintain body temperatures (Worthy *et al.* 2000). There have also been cases of manatees being hooked by and entangled with fishing gear (Florida Marine Research Institute Manatee Mortality Database). Pinellas County has recently adopted a no-motor zone, in which only nonmotorized watercraft are permitted, in the immediate area of the outflow. While we applaud this initial action, we believe that the no-motor zone designation will not prevent harassment of manatees at this important warm water site. Establishing a sanctuary at this site would provide manatees with undisturbed access to this warm water outflow. We have selected the area proposed to be closed based on observed manatee use patterns during cold weather/cooler ambient water temperatures (Florida Marine Research Institute Aerial Survey Data).

Tampa Electric Company (TECO) Big Bend

We propose to establish a seasonal manatee sanctuary, containing 30.8 ha (76.2 acres) more or less, at the warm water outflow of the TECO Big Bend electric generating station in Tampa Bay, Hillsborough County. A seasonal closure would prohibit all waterborne activity at this site from October 1 through March 31, inclusive. In addition, we propose to establish a manatee refuge in the area south of this proposed sanctuary (see ''Areas Proposed for Designation as Manatee Refuges'' section below).

A large percentage of the manatees residing in the middle Gulf of Mexico area of Florida winter at the warm water outflows of two operating electrical power plants in Tampa Bay (Florida Marine Research Institute Aerial Survey Data). We proposed this area based on observed manatee use patterns in response to cold weather/cooler ambient water temperatures. Currently, manatees use the TECO site for warmth during periods of cold weather. Minimizing disturbance of manatees at these warm water sites during winter months is critical to the survival of these manatees. The highest manatee count at this site was 316 on January 6, 2001 (Florida Marine Research Institute Aerial Survey Data).

Warm water effluent from this plant attracts manatees during cold weather periods. Large numbers of fish are also attracted to this site, which, in turn, attracts large numbers of fishermen. The disturbance by boats causes manatees to move out of the area, thereby increasing metabolic rates and energy consumption of the animals in an attempt to maintain body temperatures (Worthy *et al.* 2000). Cases have been documented of manatees being hooked by and entangled with fishing gear (Florida Marine Research Institute Manatee Mortality Database). There is currently a seasonal no-entry zone in the immediate vicinity of the TECO outflow; however, this zone is too small to prevent harassment of manatees by fishermen. Establishing a sanctuary at this site would provide manatees with an expanded area during winter months. We have selected the area proposed to be closed based on observed manatee use patterns in response to cold weather/cooler ambient water temperatures (Florida Marine Research Institute Aerial Survey Data).

Port Sutton

We propose to establish a seasonal manatee sanctuary, containing 1.1 ha (2.7 acres) more or less, at the warm water outflow of the TECO Gannon electric generating station on Tampa Bay, Hillsborough County. A seasonal closure would prohibit all waterborne activity at this site from October 1 through March 31, inclusive. In addition, we propose to establish a manatee refuge in the Port Sutton area surrounding the proposed sanctuary (see ''Areas Proposed for Designation as Manatee Refuges'' section below).

A large percentage of the manatees residing in the middle Gulf of Mexico area of Florida winter at the warm water outflows of two operating electrical power plants in Tampa Bay. The Gannon plant is currently being retooled and is scheduled to go on-line in the near future. Once operating, the plant outflow is expected to attract wintering manatees. Therefore, limiting the disturbance of manatees using this site will be critical to the survival of manatees using this site during the winter. We have proposed this area based on observed manatee use patterns in response to cold weather/cooler ambient water temperatures.

Warm water effluent from this plant will attract manatees during cold weather periods. Large numbers of fish also will be attracted to this site, which, in turn, will attract large numbers of fishermen. The disturbance by boats causes manatees to move out of the area, thereby increasing metabolic rates and energy consumption of the animals in an attempt to maintain body temperatures (Worthy *et al.* 2000). Manatees have been hooked by and entangled with fishing gear. The area currently lacks a no-entry zone. Establishing a sanctuary at this site would provide manatees with undisturbed access to this warm water outflow. We have selected the area proposed to be closed based on observed manatee use patterns in response to cold weather/cooler ambient water temperatures (Florida Marine Research Institute Aerial Survey Data).

Areas Proposed for Designation as Manatee Refuges

South Gandy Navigation Channel

We propose to establish a seasonal manatee refuge, containing 30.3 ha (74.8 acres) more or less, in the South Gandy Channel north of the Bartow electric generating station, Pinellas County, with the purpose of regulating watercraft operation to slow speed from October 1 through March 31, inclusive.

We discuss the reasons for proposing this site in the description of the proposal to establish a manatee sanctuary at the Bartow electric generating station, adjacent to this site (see ''Areas Proposed for Designation as Manatee Sanctuaries'' section). Regulating this area as a slow-speed zone rather than as a sanctuary would afford ingress and egress through the area.

TECO Big Bend

We propose to establish a manatee refuge, containing 93.5 ha (231 acres) more or less, in the waters adjacent to, and south of, the proposed manatee sanctuary at the TECO Big Bend electric generating station in Hillsborough County to provide ingress and egress to the lagoon and canals in North Apollo Beach. Watercraft activity within this refuge would be regulated to idle speed from October 1 through March 31, inclusive.

We discuss the reasons for proposing this site in the description of the proposal to establish a manatee sanctuary at the TECO Big Bend electric generating station (see ''Areas Proposed for Designation as Manatee Sanctuaries'' section). Regulating this area as an idle-speed zone rather than as a sanctuary would afford ingress and egress through the area with a minimum anticipated adverse impact to manatees.

Port Sutton

We propose to designate the Port Sutton area surrounding the proposed manatee sanctuary at the TECO Gannon electric generating station, Hillsborough County, as a manatee refuge, containing 39.2 ha (96.9 acres) more or less. Watercraft would be required to proceed at idle speed within this refuge from October 1 through March 31, inclusive.

We discuss the reasons for proposing this site in the description of the proposal to establish a manatee sanctuary at the TECO Gannon electric generating station, adjacent to this site (see ''Areas Proposed for Designation as Manatee Sanctuaries'' section). Regulating this area as an idle-speed zone rather than as a sanctuary would afford ingress and egress through the area with a minimum anticipated adverse impact to manatees.

Pansy Bayou

We propose to establish a manatee refuge, containing 47 ha (116.1 acres) more or less, in the Pansy Bayou area in Sarasota County to regulate vessel traffic to slow speed all year.

Manatees consistently use this site as both a travel corridor and feeding site (Florida Marine Research Institute Aerial Survey Data). Pansy Bayou proper is currently closed under State law to all vessel traffic except residents, and serves as a manatee sanctuary. The site of the proposed refuge is currently used as a water-ski area, and the remaining waters around the proposed refuge are currently designated by the State as slow speed (channel included) zones (F.A.C. 62N–22.026(2)(a)(4)). Aerial survey data indicate significant manatee use in this area. There were 113 aerial surveys flown during all seasons between 1985 and 1993 in the area of Pansy Bayou. During each survey, manatees were detected in and around the high-speed water-ski area (within 1.2 kilometers (km) (0.75 mile (mi))), with the maximum number of 12 manatees observed during 1 survey. Two watercraft-related manatee mortalities have occurred within 1.6 km (1 mi) of the proposed manatee refuge. High-speed watercraft operation in this area poses a continuing threat to a substantial number of manatees. Establishment of a slow-speed zone would minimize the risk of manatee take due to watercraft collisions.

Little Sarasota Bay

We propose to establish a manatee refuge, containing 214.2 ha (529.4 acres) more or less, to control vessel speeds in the little Sarasota Bay area in Sarasota County. The speed designation for this area would be slow speed (channel exempt) all year.

This area is consistently used by manatees for feeding and as a travel corridor. Aerial survey data indicate a significant amount of use by manatees (Florida Marine Research Institute Aerial Survey Data). In the period between 1985 and 1993, there were 24 aerial surveys, conducted during all seasons of the year, in which manatees were detected in the proposed area. The maximum number of manatees observed during one survey was seven. Concurrently, the areas of Sarasota Bay within 1.6 km (1 mi) to the north and south of the proposed area were also flown. Manatees were also detected in these areas, with a maximum count of 12 manatees to the north of the site and 13 manatees to the south of the site. Four watercraft-related manatee mortalities have occurred in the vicinity of this site (Florida Marine Research Institute Manatee Mortality Database). There are currently no speed zones in this portion of Sarasota County. The current unregulated nature of vessel operation has high potential for resulting in manatee take. Establishing a slow-speed zone outside of the main navigation channel would reduce the potential for take by limiting vessel speeds in those waters where manatees are most likely to occur.

Lemon Bay

We propose to establish a manatee refuge, containing approximately 379.9 ha (938.8 acres), in Lemon Bay, Charlotte County, for the purpose of regulating vessel speed. Speed designation would be slow speed (channel exempt) all year.

Lemon Bay is used consistently by manatees for feeding and as a travel corridor. Aerial survey data indicate that this area is used extensively by manatees (Florida Marine Research Institute Aerial Survey Database). In the period between 1987 and 1998, there were 122 aerial surveys of the area, conducted during all seasons, during which manatees were observed. The highest number of manatees observed within the area of the proposed refuge during one survey was nine. There are currently no speed zones for manatee protection in this portion of Charlotte County. The unregulated nature of this water body makes the taking of manatees very likely, due to the high speed at which watercraft currently travel through areas frequented by manatees. Six watercraft-related manatee mortalities have occurred at

this site (Florida Marine Research Institute Manatee Mortality Database). Establishing a slow-speed zone outside of the main navigation channel would reduce the likelihood of manatee take occurring.

Peace River

We propose to establish a manatee refuge, containing 4,892 ha (12,088.1 acres) more or less, in the Peace River in Charlotte and Desoto Counties. This refuge would include the river and all associated waters northeast of the Tamiami Trail (U.S. Highway 41). Waters within the marked navigation channel would be regulated to allow watercraft to travel at a maximum speed of 40 km per hour (kph) (25 mi per hour (mph)). All waters outside of the marked channel would be regulated to provide for slow-speed vessel operation. These regulations would be in effect all year.

The Peace River is used throughout the year by manatees. There were 36 aerial surveys flown between 1987 and 1988, during which manatees were observed in the Peace River area. The maximum number of manatees observed during one flight was 16. A significant number of manatee mortalities have occurred at this site, including 11 watercraft-related mortalities. Of this number, six deaths have occurred since 1995. There are currently no speed zones for manatee protection in the Peace River. As a result, watercraft currently travel at high speeds through areas of the Peace River frequented by manatees. The establishment of the proposed refuge would slow vessel traffic in those portions of the Peace River where watercraft are most likely to encounter manatees, thereby minimizing the likelihood of take.

Shell Island

We propose to establish a manatee refuge, containing approximately 32.6 ha (80.5 acres), for the purpose of regulating vessel speed as slow speed (channel included) in the navigation channel that is located just north of Shell Island at the mouth of the Caloosahatchee River, Lee County. This regulation would be in effect all year.

The Caloosahatchee River system supports large numbers of manatees. The Florida Power and Light electrical generating station located on this river is a major wintering refuge for manatees. On January 6, 2001, 434 manatees were observed there (Florida Marine Research Institute Aerial Survey Database). Most manatees using the Caloosahatchee River must pass through the Intracoastal Waterway navigation channel north of Shell Island when entering or exiting the river. This funneling of watercraft traveling at high speed and manatees through a narrow channel has a high probability of resulting in take of manatees. Four watercraft-related manatee mortalities have occurred at this site, as well as in close proximity to this site. Establishing a slow-speed zone would minimize the likelihood of manatee take occurring at this site.

Haulover Canal

We propose to establish a manatee refuge, containing 408.1 ha (1,008.3 acres) more or less, at the Haulover Canal in Brevard County and extend the existing slow-speed zone eastward and westward from the ends of the canal. All waters lying within a radius of 0.8 km (0.5 mi) of each end of the Haulover Canal and including the canal itself would be designated as a slow speed (channel included) zone all year.

Manatees moving between the Mosquito Lagoon and the Indian River travel through the Haulover Canal. Aerial survey data indicate significant manatee use of the site. The canal functions in a funnel-like fashion, concentrating manatees and boats. While vessels are currently required to proceed at slow speed within the confines of the canal, there is no speed regulation to the east and west of the canal. Watercraft approaching an area where manatees are concentrated have a high probability of taking manatees. Five watercraft-related mortalities have occurred in the vicinity of the canal (Florida Marine Research Institute Manatee Mortality Database). Regulating boats to operate at slow speed not only within the canal, but also at the entrances to both ends of the canal in barbell fashion, would minimize the potential for take of manatees.

Barge Canal

We propose to establish a manatee refuge, containing approximately 276.3 ha (682.7 acres), for the purpose of regulating watercraft operation to slow speed (channel included) for the entire length of the Barge Canal and extending eastward to the Canaveral Locks, Brevard County. These regulations would be in effect all year.

The Barge Canal serves as a travel corridor between the Indian and Banana Rivers for manatees and mariners alike. Aerial survey data indicate significant use of the site by manatees. Currently there are four areas within the Barge Canal that are regulated by the State as 40-km-per-hour (25-mph) zones with a 7.6-m (25-ft) slow-speed shoreline buffer, all year, while the remainder of the Barge Canal is a slow-speed all-year zone. High-speed vessel operation in a confined migration corridor has an enhanced likelihood of resulting in take of manatees. There have been 16 watercraft-related manatee mortalities in the Barge Canal and its vicinity (Florida Marine Research Institute Manatee Mortality Database). Regulating vessels to operate at slow speed would minimize the potential for take of manatees.

The State recently approved new regulations for Brevard County that would also designate the Barge Canal as a slow speed zone; thereby providing the comparable level of manatee protection as our proposed designation. A number of organizations and individuals have appealed the State's rulemaking and it is uncertain at this time when, or whether, the State's designation may take effect. It is our view that reducing watercraft speeds in certain manatee habitat is essential to the recovery of the species. Therefore, we are proposing this designation at this time so that appropriate protective measures will be in place should the State be unable to implement their rulemaking. We considered promulgation of an emergency designation of the Barge Canal as a manatee refuge, and determined that such a designation may be warranted given the high level of watercraft related manatee mortality in this area. However, given the high level of public use of this waterway, and the anticipated high level of public interest/concern regarding this proposed action, we determined that proposed designation was the most prudent course of action. Nonetheless, it is our intention to proceed with final rulemaking on this site as expeditiously as possible following the careful consideration of all comments received in response to this notice.

Sykes Creek

We are proposing the establishment of a manatee refuge, containing 342.3 ha (845.8 acres) more or less, in Sykes Creek in Brevard County for the purposes of regulating watercraft operation to slow-speed (channel included) all year.

Aerial survey data indicate a significant amount of manatee use of Sykes Creek. Manatees consistently use this site for feeding, resting, and breeding. Like the Barge Canal, it is a fairly narrow water body and has been the site of 13 watercraft-related manatee mortalities (Florida Marine Research Institute Manatee Mortality Database). High-speed vessel operation in this area has a high likelihood of resulting in take of manatees. Regulating vessels to proceed at slow speed would minimize the likelihood of a take incident.

The State recently approved new regulations for Brevard County that would also designate the Sykes Creek as a slow speed zone; thereby providing the comparable level of manatee protection as our proposed designation. A number of organizations and individuals have appealed the State's rulemaking and it is uncertain at this time when, or whether, the State's designation may take effect. It is our view that reducing watercraft speeds in certain manatee habitat is essential to the recovery of the species. Therefore, we are proposing this designation at this time so that appropriate protective measures will be in place should the State be unable to implement their rulemaking. We considered promulgation of an emergency designation of Sykes Creek as a manatee refuge, and determined that such a designation may be warranted given the high level of watercraft related manatee mortality in this area. However, given the high level of public use of this waterway, and the anticipated high level of public interest/concern regarding this proposed action, we determined that proposed designation was the most prudent course of action. Nonetheless, it is our intention to proceed with final rulemaking on this site as expeditiously as possible following the careful consideration of all comments received in response to this notice.

Cocoa Beach

We propose to establish a manatee refuge, containing 23.9 ha (59.1 acres) more or less, to regulate vessel operation to slow speed all year in the area adjacent to Municipal Park at Cocoa Beach, Brevard County.

Aerial survey data indicate a significant amount of manatee use of this site. The area contains a substantial amount of sea grasses and is consistently used as a foraging area by manatees. A high incidence of watercraft-related manatee carcass recovery has occurred in the vicinity of this site, and one watercraft-related manatee mortality has occurred at this site. The site is currently a water-ski area regulated by the State as a 56-kph (35-mph) zone all year (F.A.C. 62N–22.006(1)(h)), whereas the surrounding waters are regulated as slow-speed zones all year (F.A.C. 62N–22.006(1)(d)). Given the use of the area by manatees, high-speed vessel operation at this location has a high probability of resulting in take of manatees. Requiring vessels to proceed at slow speed would minimize potential manatee take.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

1. The reasons why any area should or should not be designated as a manatee sanctuary or a manatee refuge;
2. Current or planned activities in the subject areas and their possible effects on manatees;
3. Any foreseeable economic or other impacts resulting from the proposed designations; and
4. Potential adverse effects to the manatee associated with designating manatee protection areas for the species.
5. Any actions that could be considered in lieu of, or in conjunction with, the proposed designations that would provide comparable or improved manatee protection.

Please submit comments as an ASCII file format and avoid the use of special characters and encryption. Please also include ''Attn: [RIN number]'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Jacksonville Field Office (see **ADDRESSES** section).

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold also from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such a review is to ensure that our decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the comment period, on the specific assumptions and conclusions regarding the proposed designation of these manatee protection areas.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The ESA provides for one or more public hearings on this proposal, if requested. Requests must be filed within 30 days of the date of this proposal. We have scheduled one public hearing for this proposal. We will hold additional public hearings at dates, times, and sites to be determined. Requests for additional hearings must be made in writing and should be addressed to the Field Supervisor, Jacksonville Field Office (see **ADDRESSES** section). We will publish a separate notice in the **Federal Register** providing information about the time and location for those hearings. Written comments submitted during the comment period receive equal consideration with those comments presented at a public hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain unnecessary technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C

Street, NW., Washington, DC 20240. You may e-mail your comments to the following address: *Execsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this proposed rule is not a significant regulatory action. The Office of Management and Budget makes the final determination under Executive Order 12866.

a. This proposed rule will not have an annual economic impact of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit analysis is not required. We do not expect that any significant economic impacts would result from the establishment of 4 manatee sanctuaries (264.538 acres) and 12 manatee refuges (16,751.604 acres) in 7 Counties in the State of Florida. The public support for manatee protection is substantial in Florida. Using a contribution continuum method and reinforced by other empirical techniques, a study by Bendle and Bell in 1993 estimated that Floridians placed an asset value of $3.2 billion (2001 dollars) on the protection of the manatee population. This amounts to a per-household value of $18.12. The $3.2 billion is an estimate of the benefit derived by Floridians from the existence of the manatee population.

The purpose of this proposed rule is to establish 16 additional manatee protection areas in Florida. We are proposing to reduce the level of take of manatees by controlling human activity in 4 areas proposed as sanctuaries and 12 areas proposed as refuges. Affected waterborne activities include swimming, diving, snorkeling, water skiing, surfing, fishing, the use of water vehicles, and dredging and filling activities. For the four areas designated as sanctuaries all waterborne activities would be prohibited from October 1 to March 31. For the 12 areas designated as refuges the areas would be slow-speed zones. The economic effect of these designations will be measured by the number of recreationists who use alternative sites for their activity or have a reduced quality of the waterborne activity experience at the designated sites. The State of Florida has 12,000 miles of rivers and 3 million acres of lakes so the designation of 17,000 acres (roughly 25 linear miles), most of which is for lower speed zones, is unlikely to prevent any waterborne activity because of this rule, although some individuals may need to modify slightly when and where they pursue certain waterborne activities. Only one water craft company is known to use one of the proposed sites as a testing area for new hull designs. Alternative sites without speed zones are available nearby which would cost the manufacturer additional travel time and equipment re-calibration for the testing. No cost estimate for this adjustment is available at this time.

For boating recreationists, the inconvenience and extra time required to cross a slow-speed zone will reduce the quality of the waterborne activity for some participants. The extra time required for commercial charter boats to reach fishing grounds will reduce on-site fishing time and could result in lower consumer surplus for the trip. The number of recreationists and charter boats using the designated sites is not known. The State of Florida has nearly 800 thousand registered boats, but only those boats and recreationists using the designated sites will potentially be affected. However, since Florida has 12 thousand miles of rivers and streams and 3 million acres of lakes and ponds, it is likely that only a small percentage of boat users will be affected by this rule. The current designation of roughly 25 linear miles will cause some inconvenience in travel time over these areas, but alternative sites within the proximity of the manatee sanctuaries and refuges are available for all waterborne activities. Furthermore, none of the areas designated is the entire surface area of a water body. The undesignated parts of the water bodies are available for waterborne activities. Recreationists may be inconvenienced by having to travel to an undesignated area, but they are not prohibited from participating in any of the waterborne activities. Currently, no data sources estimate the amount of recreational activity in and around the 16 areas to be designated as either manatee sanctuaries or refuges. However, the majority (16,751.604 acres) of the areas proposed to be designated are for manatee refuges, which require only reduced speed. The 264.538 acres proposed as manatee sanctuaries are, for the most part, next to electric power generating plants and are part of larger water bodies where unrestricted waterborne recreational activity can take place. For these reasons, we believe some inconvenience to the public may occur because of reduced travel speeds but that the economic impact will not be significant.

b. This proposed rule is consistent with the approach used by State and local governments to protect manatees in Florida. We recognize the important role of State and local partners, and we continue to support and encourage State and local measures to improve manatee protection. The Service has focused the currently proposed action on those sites in which we have determined that Federal action can effectively address the needs in the particular area. However, as previously described, there is unavoidable potential for duplication and overlap. Therefore, we are eager to work with State and local agencies to develop and implement measures in the areas described in the proposed rule that would be equally protective of manatees. We also welcome their comments and participation between now and the time this rule is finalized to increase the likelihood of consistency of our final action with possible future action by the State or local agencies. If comparable protections are put in place before we make this rule final, we will consider excluding those areas from Federal protection.

c. This proposed rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Minimal restrictions to existing human uses of the proposed sites would result from this rule, but the restriction is believed to enhance manatee viewing opportunities. No entitlements, grants, user fees, loan programs or the rights and obligations of their recipients are expected to occur.

d. This proposed rule will not raise novel legal or policy issues. We have previously established other manatee sanctuaries. This proposed action will reduce the need for enforcement actions to prevent the takings of manatees by harassment resulting form human-related waterborne activities.

Regulatory Flexibility Act

I certify that this proposed rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

To determine the potential effects of this proposed rule on small entities, we looked at economic data from the seven counties in Florida that would be affected. Table 1, below, depicts general economic characteristics of those counties, and table 2 gives employment data. As can be seen in table 1, the growth rate in per capita income is slower than the State average in Citrus, Brevard, and Charlotte Counties, but the rate of growth in total personal income exceeds the State average except in Brevard County, where it is slightly lower. Larger households account for the lower per capita income estimates in these counties. The proportion of total

industry earnings coming from the amusements and recreation sector ranges from 0.5 percent in Brevard County to 2.7 percent in Sarasota County. All of these counties had the service sector as the largest economic contributor followed by retail trade and the real estate sectors. Overall, the affected counties had only a small proportion of earnings coming from the amusement and recreation sector. As a result, a small impact to the recreation sector would not result in a significant effect on county-level income.

TABLE 1.—ECONOMIC CHARACTERISTICS OF THE SEVEN AFFECTED COUNTIES IN FLORIDA—1997

Selected Florida counties	Employment	Per capita personal income (dollars)	10 year rate of growth (percent)	Personal income ($000)	10 year rate of growth (percent)	Total industry earnings ($000)	Services industry earnings for amusements and recreation ($000)	Percent of total
Establishing Sanctuaries:								
Citrus	35,663	$18,493	3.9	$2,060,167	6.9	$793,347	$6,650	0.8
Hillsborough	644,694	$23,719	5.2	$21,558,783	6.6	$18,847,236	$267,676	1.4
Pinellas	506,946	$28,367	4.9	$24,770,929	5.5	$13,876,518	$114,826	0.8
Establishing Refuges:								
Brevard	223,815	$22,205	3.7	$10,342,080	6.3	$6,255,354	$34,237	0.5
Charlotte	47,091	$21,861	3.7	$2,894,781	7.6	$995,159	$10,336	1.0
Lee	196,448	$25,568	4.4	$9,862,900	7.3	$4,848,936	$61,103	1.3
Sarasota	169,984	$35,654	5.2	$10,706,931	6.8	$4,239,034	$114,742	2.7
State of Florida	8,032,538	$24,799	4.5	$363,979,647	6.6	$220,985,959	$4,255,304	1.9

Source: http://govinfo.library.orst.edu/cgi-bin/reis-list

TABLE 2.—EMPLOYMENT CHARACTERISTICS OF THE SEVEN AFFECTED COUNTIES IN FLORIDA—1997 (INCLUDES SIC CODES 09, 44, 59, 79, SERVICES, AND NEC) [1]

Selected Florida counties	Mid-March employment	Total establishments	Number of establishments (1–4 employees)	Number of establishments (5–9 employees)	Number of establishments (10–19 employees)	Number of establishments (20 and over employees)
Establishing Sanctuaries:						
Citrus	8,926	1,044	655	214	95	80
Hillsborough	232,128	12,363	7,316	2,261	1,308	1,478
Pinellas	197,842	12,852	7,954	2,344	1,226	1,328
Establishing Refuges:						
Brevard	65,049	5,292	3,145	1,075	581	491
Charlotte	13,759	1,281	807	244	120	110
Lee	63,411	4,977	3,061	930	494	492
Sarasota	73,819	5,125	3,231	936	473	485

Source: http://fisher.lib.virginia.edu/cgi-local/cbpbin/go.cgi
[1] sic 09—Fishing, hunting, and trapping
sic 44—water transportation
sic 59—miscellaneous retail
services division
sic 79—amusement and recreation services
nonclassifiable establishments division

Table 2 provides employment data using Standard Industrial Classification (SIC) codes. The latest available published data for the total number of establishments in the SIC codes for fishing, hunting, trapping (SIC code 9), water transportation (SIC code 44), miscellaneous retail and services (SIC code 59), amusement and recreation services (SIC code 79), and nonclassifiable establishments is 1997. These are the establishments most likely to be directly associated with recreationists pursuing waterborne activities where manatees may be involved. As can be seen on Table 2, of the total number of establishments in these SIC codes, a large proportion employ fewer than 9 employees with the largest number of establishments employing fewer than 4 employees. If any economic impacts are associated with this rule, they will affect some proportion of these small entities. Since the bulk of the acreage proposed (16,751.604 acres) by this rule is for manatee refuges, which would only require a reduction in speed, we do not believe the minor inconvenience caused by going slower in designated areas will cause more than an insignificant economic effect. The inconvenience may cause some recreationists to go to alternative sites, which may cause some loss of income to some small businesses. However, the inconvenience is small so we believe that this will not be a significant economic dislocation. For the four areas designated as sanctuaries (264.538 acres), the restriction on human activity from October 1 to March 31 may cause some recreationists to go to alternative sites. However, three of the areas designated are in front of power plants, and the fourth (Blue

Waters) is only 4.145 acres. The designated areas are relatively small and part of large water bodies having large areas with no restrictions on human activity. Recreationists can pursue waterborne activities in close proximity to the manatee sanctuaries without entering the sanctuaries. For this reason, we believe that there will be an insignificant economic effect from the designation of the four areas as manatee sanctuaries. Without a significant change in recreationists' use patterns, there should be an equally insignificant change in business activity.

The only known direct effect will be on a business using one of the areas to test hull designs. The economic cost of relocating the test site, which requires boats going at high speed, is not known. Substitute sites are available within a reasonable distance, but the quality of the substitutes for the required testing is not known. Information obtained during the public comment period on the proposed rule may allow further analysis of this and any other effects identified.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2). This proposed rule:

a. Does not have an annual effect on the economy of $100 million or more. As shown above, this proposed rule may cause some inconvenience to recreationists because of the speed restriction on manatee refuge areas, but this should not translate into any significant business reductions for the many small businesses in the seven affected counties. An unknown portion of the establishments shown on Table 2 could be affected by this rule. Because the restrictions on recreational activity are believed to be no more than an inconvenience for recreationists, we believe that any economic effect on small entities resulting from changes in recreational use patterns will be insignificant also.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It is unlikely that there are unforeseen changes in costs or prices for consumers stemming from this proposed rule. The charter boat industry may be affected with lower speed limits for some areas when traveling to and from fishing grounds. Based on an analysis of public comment, further refinement of the impact on this industry may be possible. We believe that it is unlikely that reduced speed limits will result in a significant economic effect.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. As stated above, this proposed rule may generate some level of inconvenience to recreationists because of speed limits, but it is believed to be minor and will not interfere with the normal operation of businesses in the affected counties. The added travel time to traverse some areas is not expected to be a major factor that will impact business activity.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The designation of manatee refuges and sanctuaries imposes no new obligations on State or local governments.

b. This rule will not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. The proposed manatee protection areas are located over State-owned submerged bottoms. Any property owners in the vicinity will have navigational access to their property.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule will not have substantial direct effects on the State, in the relationship between the Federal Government and the State, or on the distribution of power and responsibilities among the various levels of government. As discussed earlier, we coordinated with the State of Florida to the extent possible on the development of this proposed rule.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* The proposed regulation will not impose new record keeping or reporting requirements on State or local governments, individuals, businesses, or organizations.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A draft environmental assessment has been prepared and is available for review upon request by writing to the Field Supervisor (see **ADDRESSES** section).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175 and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Jacksonville Field Office (see **ADDRESSES** section).

Author

The primary author of this document is Cameron Shaw (see **ADDRESSES** section).

Authority

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), as amended.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.102, remove the definition for ''water vehicle'' and add definitions, in alphabetical order, as follows:

§ 17.102 Definitions.

* * * * *

Idle speed is defined as the minimum speed needed to maintain steerage (direction) of the vessel.

* * * * *

Planing means riding on or near the water's surface as a result of the hydrodynamic forces on a water vehicle's hull, sponsons, foils, or other surfaces. A water vehicle is considered on plane when it is being operated at or above the speed necessary to keep the vessel planing.

Slow speed is defined as the speed at which a water vehicle proceeds when it is fully off plane and completely settled in the water. Due to the different speeds at which water vehicles of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. A water vehicle is *not* proceeding at slow speed if it is: on a plane; in the process of coming up on or coming off of plane; or creating an excessive wake. A water vehicle *is* proceeding at slow speed if it is fully off plane and completely settled in the water, not plowing or creating an excessive wake.

Slow speed (channel exempt) means that the slow-speed designation does not apply to those waters within the maintained, marked channel.

Slow speed (channel included) means that the slow-speed designation applies both within and outside the designated channel.

Wake means all changes in the vertical height of the water's surface caused by the passage of a water vehicle, including a vessel's bow wave, stern wave, and propeller wash, or a combination thereof.

* * * * *

Water vehicle, watercraft, and *vessel* include, but are not limited to, boats (whether powered by engine, wind, or other means), ships (whether powered by engine, wind, or other means), barges, surfboards, personal watercraft, water skis, or any other device or mechanism the primary or an incidental purpose of which is locomotion on, or across, or underneath the surface of the water.

3. Amend § 17.108 as follows:

a. Revise the introductory text of paragraph (a);

b. Remove the Kings Bay map from the end of the section and add a new map following paragraph (a)(7);

c. Add paragraphs (a)(8) to (11);

d. Revise the text of paragraph (b);

e. Remove the note following paragraph (b); and

f. Add paragraph (c).

§ 17.108 List of designated manatee protection areas.

(a) *Manatee sanctuaries.* The following areas are designated as manatee sanctuaries. For areas in paragraphs (a)(1) to (a)(7) of this section, all waterborne activities are prohibited during the period November 15 to March 31 of each year. For areas in paragraphs (a)(8) to (a)(11) of this section, all waterborne activities are prohibited during the period October 1 to March 31 of each year. The areas that will be posted as manatee sanctuaries are described as follows:

* * * * *

(7) * * *

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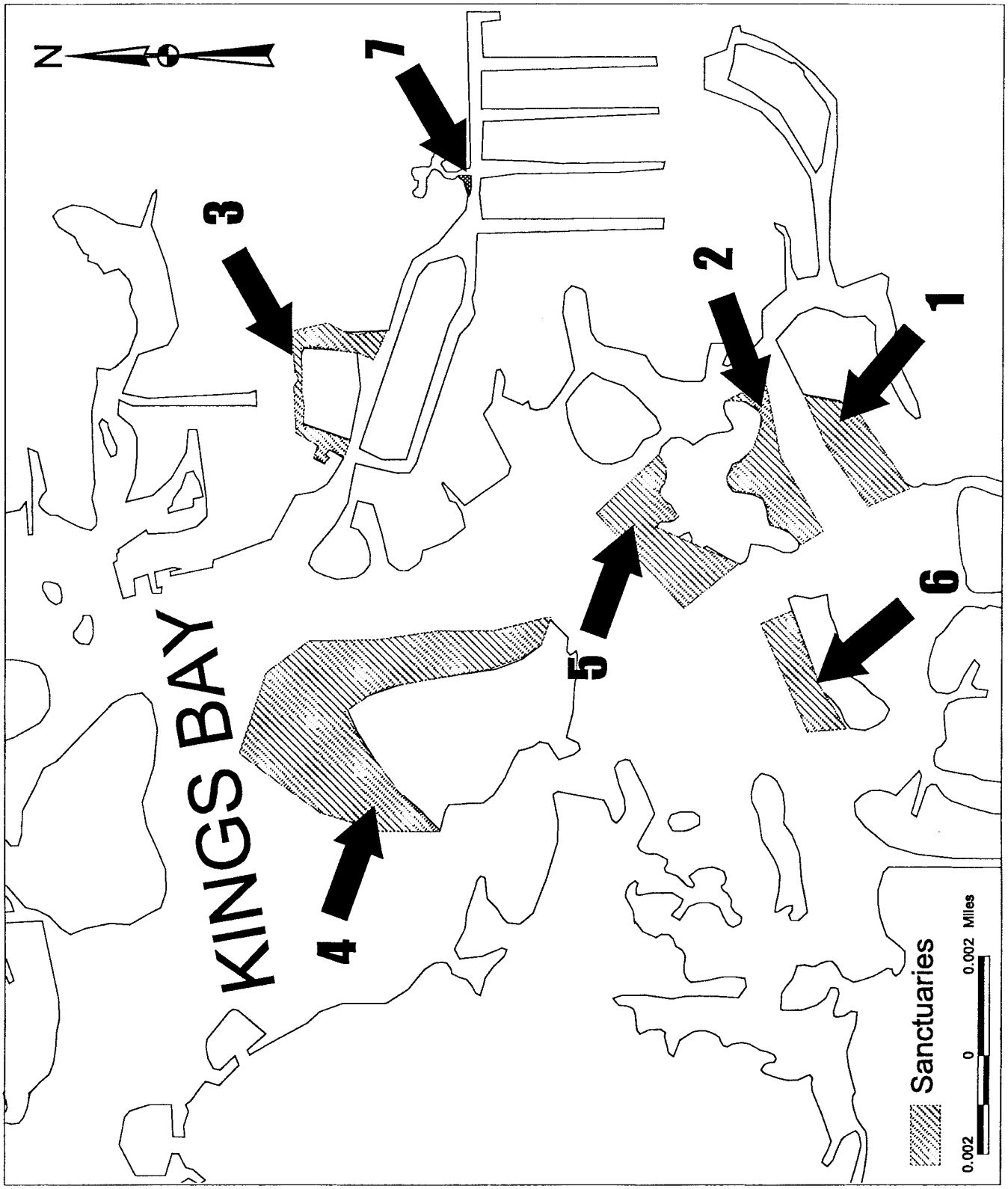
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(8) A tract of submerged land, lying in Section 28, Township 19 South, Range 17 East, in Citrus County, more particularly described as the headwaters of the Homosassa River (adjacent to the Homosassa Springs State Wildlife Park), including the main spring and spring run to the point where the run enters the northeast fork of the river along the southeastern shore; to be known as the Blue Waters Manatee Sanctuary (Figure 1), containing approximately 1.7 hectares (ha) (4.1 acres).

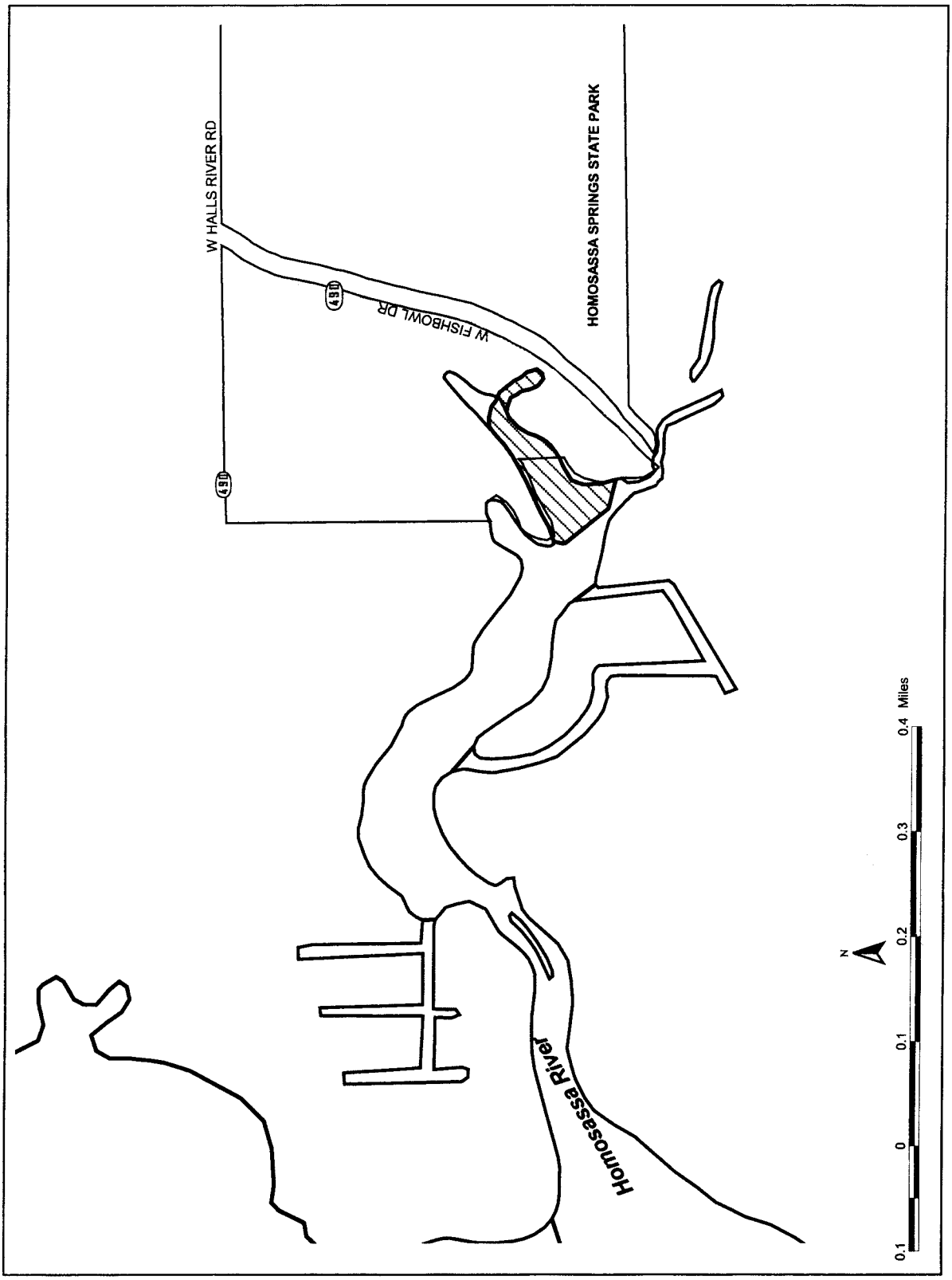

Figure 1. Proposed Blue Waters Manatee Sanctuary

(9) A tract of submerged land, lying in Sections 16 and 21, Township 30 South, Range 17 East, in Pinellas County, Florida, more particularly described as the warm-water outflow of the Bartow electric generating station located on the northern shore of Weedon Island, lying along a north-south axis line from the shoreline to, but not including, the South Gandy Channel on the western shore of Old Tampa Bay; to be known as the Bartow Electric Generating Station Manatee Sanctuary (Figure 2), containing approximately 73.5 ha (181.5 acres).

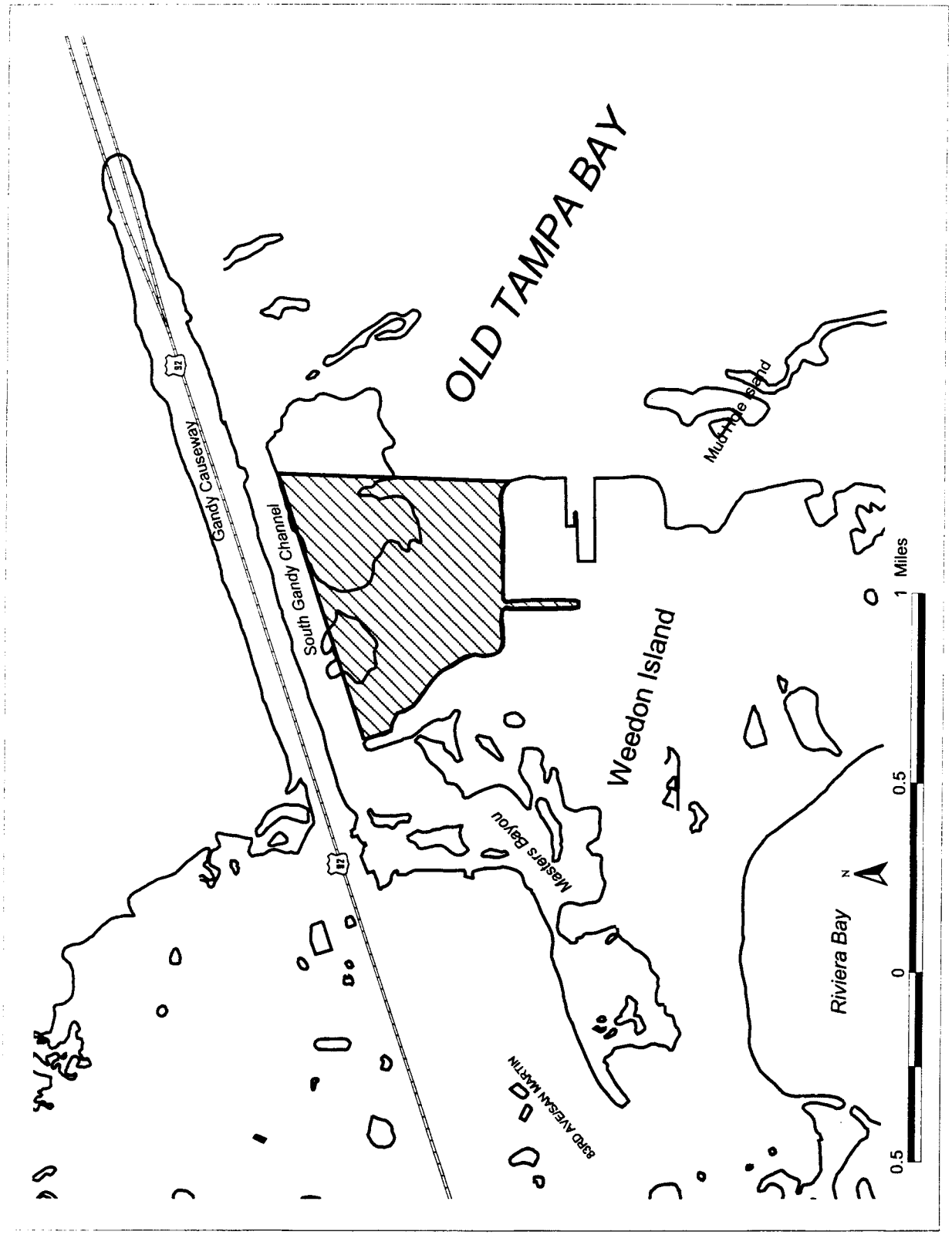

Figure 2. Proposed Bartow Electric Generating Plant Manatee Sanctuary

(10) A tract of submerged land, lying west of Sections 10 and 15, in Township 31 South, Range 19 East, in Hillsborough County, Florida, more particularly described as the waters in and around the warm-water outflow of the TECO Big Bend electric generating station located west of Jackson Branch and including the Big Bend area of eastern Tampa Bay; to be known as the TECO Big Bend Manatee Sanctuary (Figure 3), containing approximately 30.8 ha (76.2 acres).

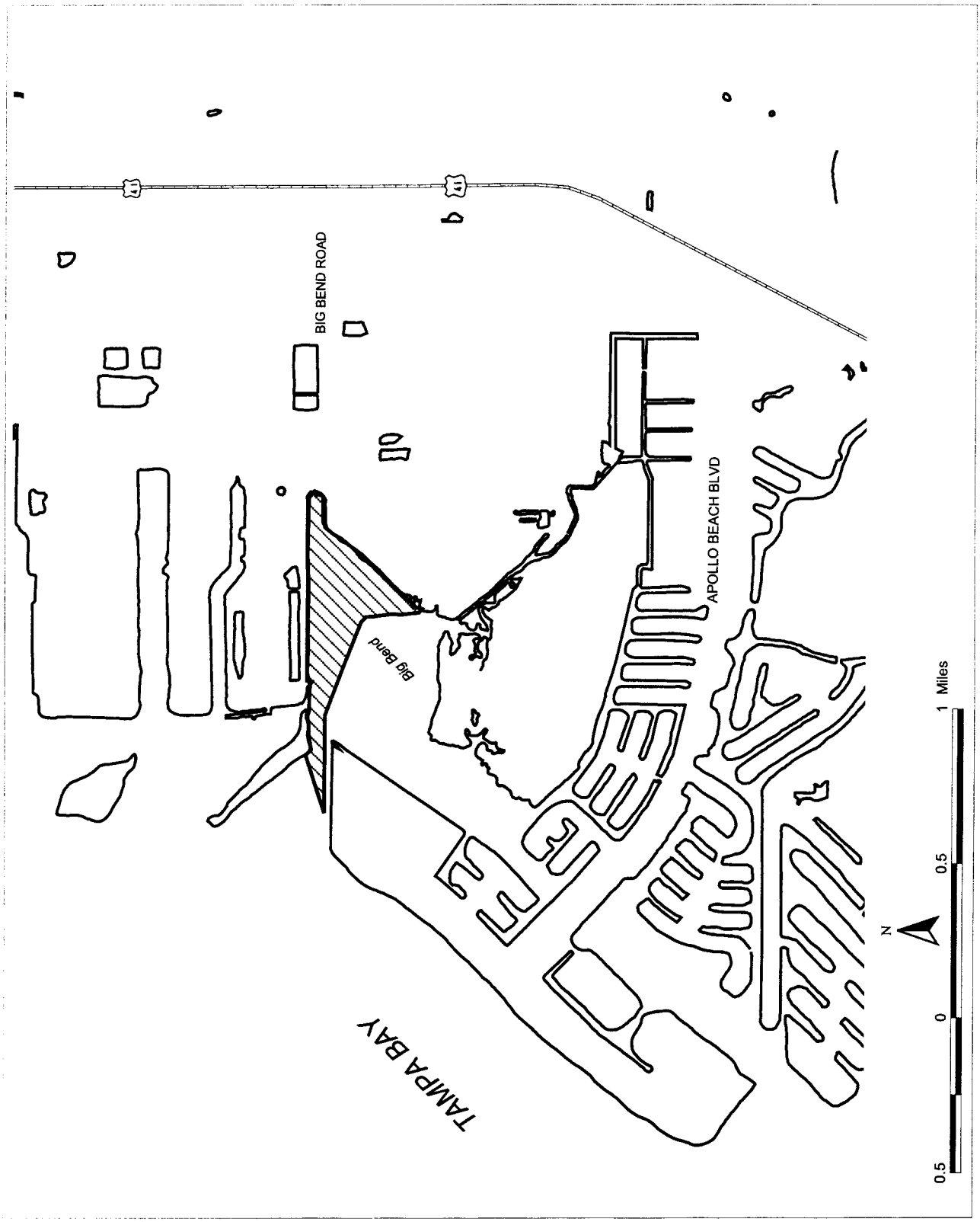

Figure 3. Proposed TECO Big Bend Manatee Sanctuary

(11) A tract of submerged land, lying in Section 4, Township 30 South, Range 19 East in Hillsborough County, Florida, more particularly described as the warm-water outflow of the TECO Gannon electric generating station; to be known as the Port Sutton Manatee Sanctuary (Figure 4), containing approximately 1.1 ha (2.7 acres).

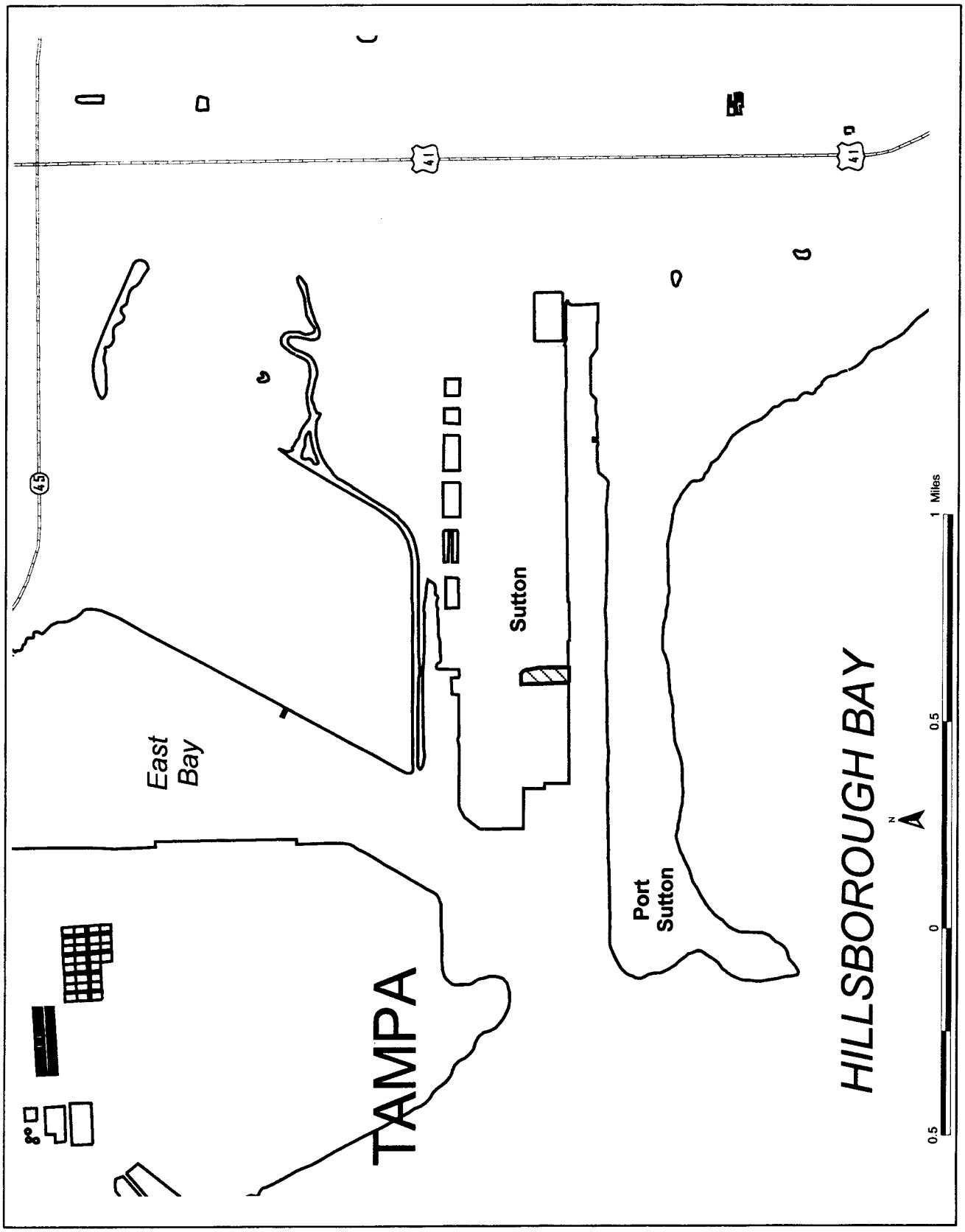

Figure 4. Proposed Port Sutton Manatee Sanctuary

(b) *Exception for residents.* Watercraft access to private residences, boat houses, and boat docks through these sanctuaries by the residents and their authorized guests is permitted. Any such authorized boating activity must be conducted by operating watercraft at idle speed/no wake. Residents' watercraft will be identified by the placement of a sticker provided by the Fish and Wildlife Service in a conspicuous location on each vessel. Use of the waters within the sanctuaries by watercraft will be only for the purpose of access to residences and the storage of such watercraft in waters adjacent to residences.

(c) *Manatee refuges.* The following areas are designated as manatee refuges. For each manatee refuge, we will state which, if any, waterborne activities are prohibited, and state the applicable restrictions, if any, on permitted waterborne activities. The areas that will be posted are described as follows:

(1)(i) The South Gandy Navigation Channel Manatee Refuge (Figure 5) is described as that portion of the South Gandy Navigation Channel in Pinellas County between the channel marker ''1'' and the point of land southwest of channel marker ''5''; containing approximately 30.3 ha (74.8 acres).

(ii) Watercraft are required to proceed at slow speed from October 1 through March 31, inclusive.

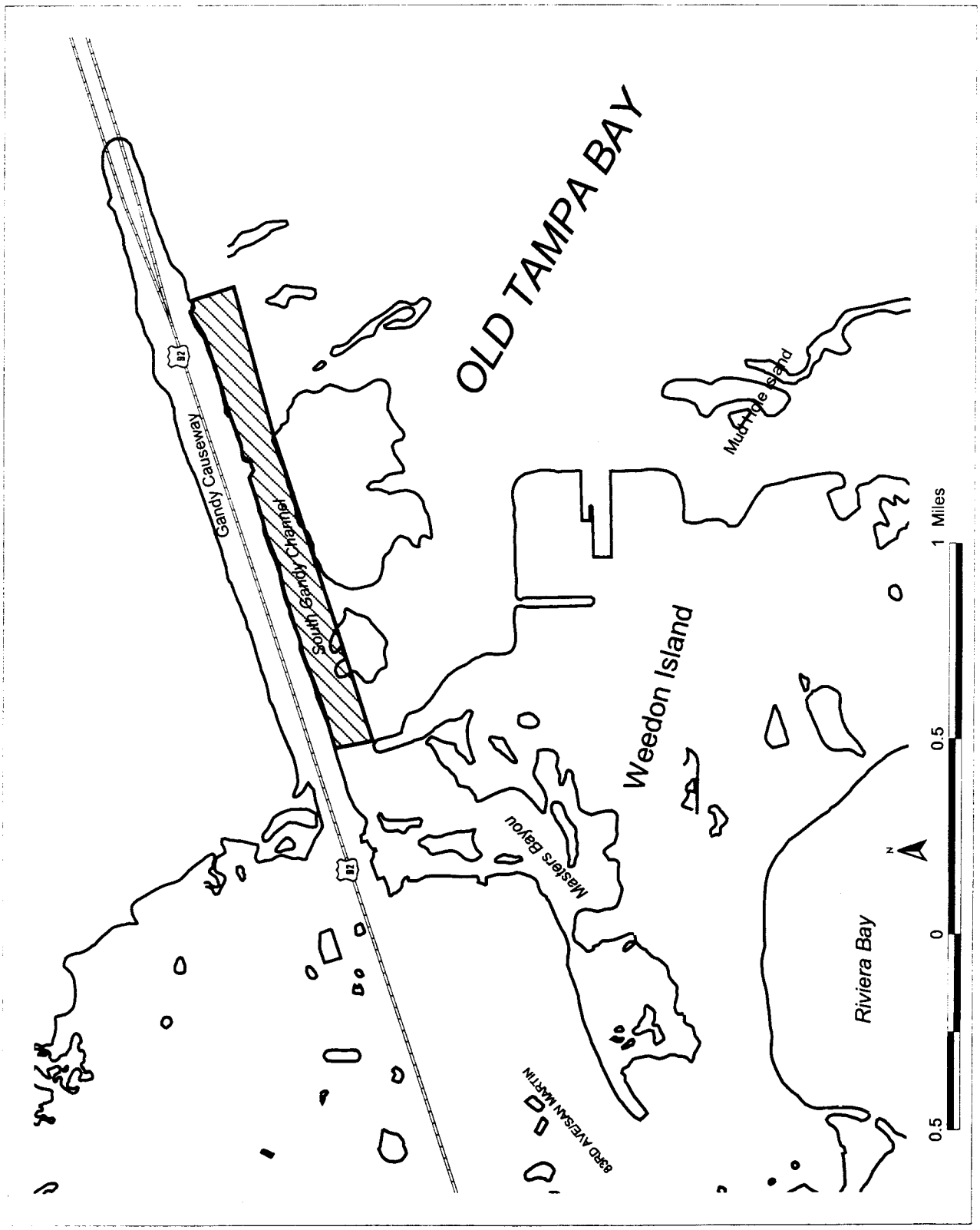

Figure 5. Proposed South Gandy Navigation Channel Manatee Refuge

(2)(i) The TECO Big Bend Manatee Refuge (Figure 6) is in Hillsborough County and is described as the entrance channel, and those waters south of the proposed manatee sanctuary at the TECO Big Bend electric generating station described in paragraph (a)(10) of this section; containing approximately 93.5 ha (231 acres).

(ii) Watercraft are required to proceed at slow speed from October 1 through March 31, inclusive.

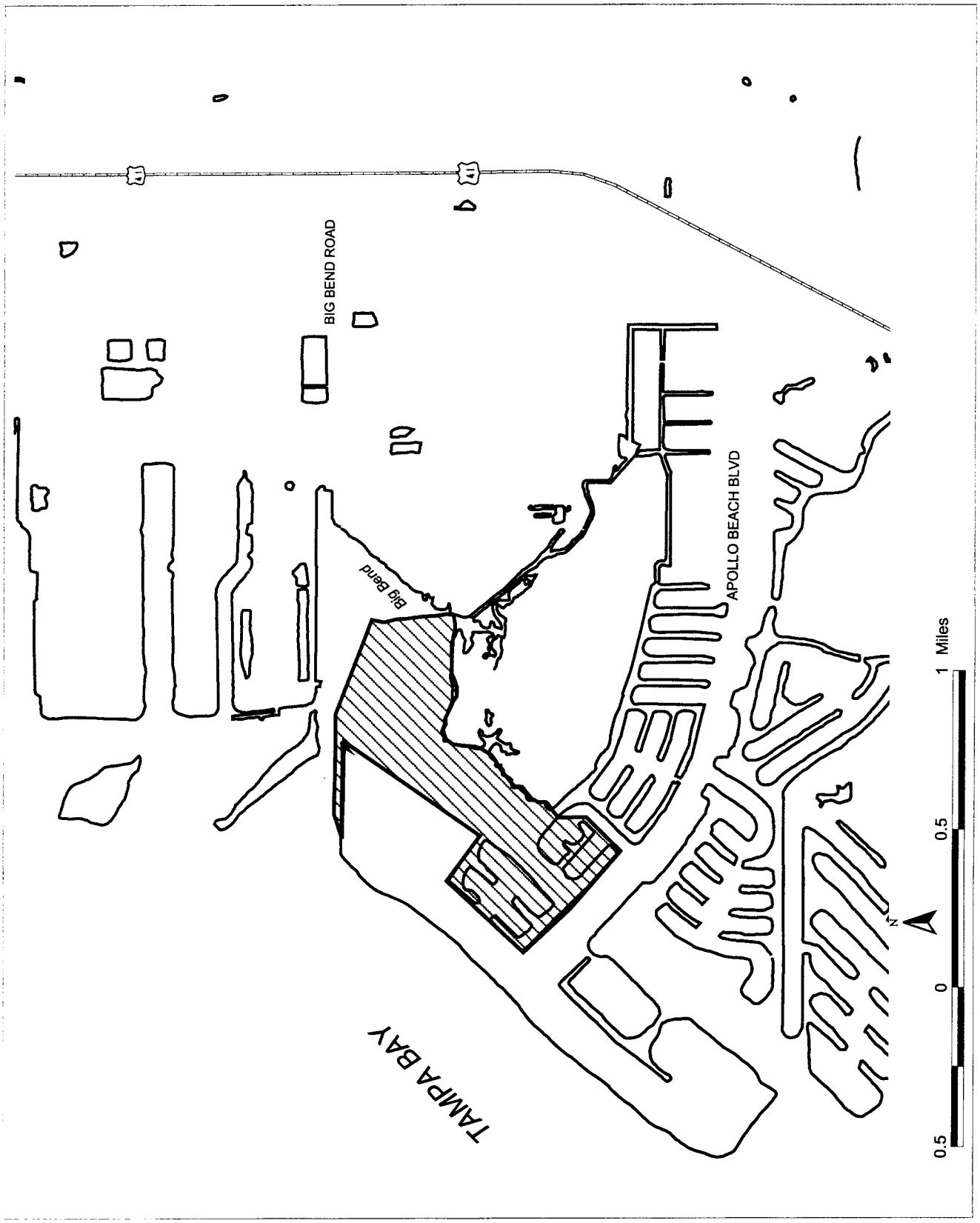

Figure 6. Proposed TECO Big Bend Manatee Refuge

(3)(i) The Port Sutton Manatee Refuge (Figure 7) is described as those waters surrounding the proposed Port Sutton manatee sanctuary described in paragraph (a)(11) of this section, including all waters within Port Sutton, Hillsborough County; containing approximately 39.2 ha (96.9 acres) more or less.

(ii) Watercraft are required to proceed at slow speed from October 1 through March 31, inclusive.

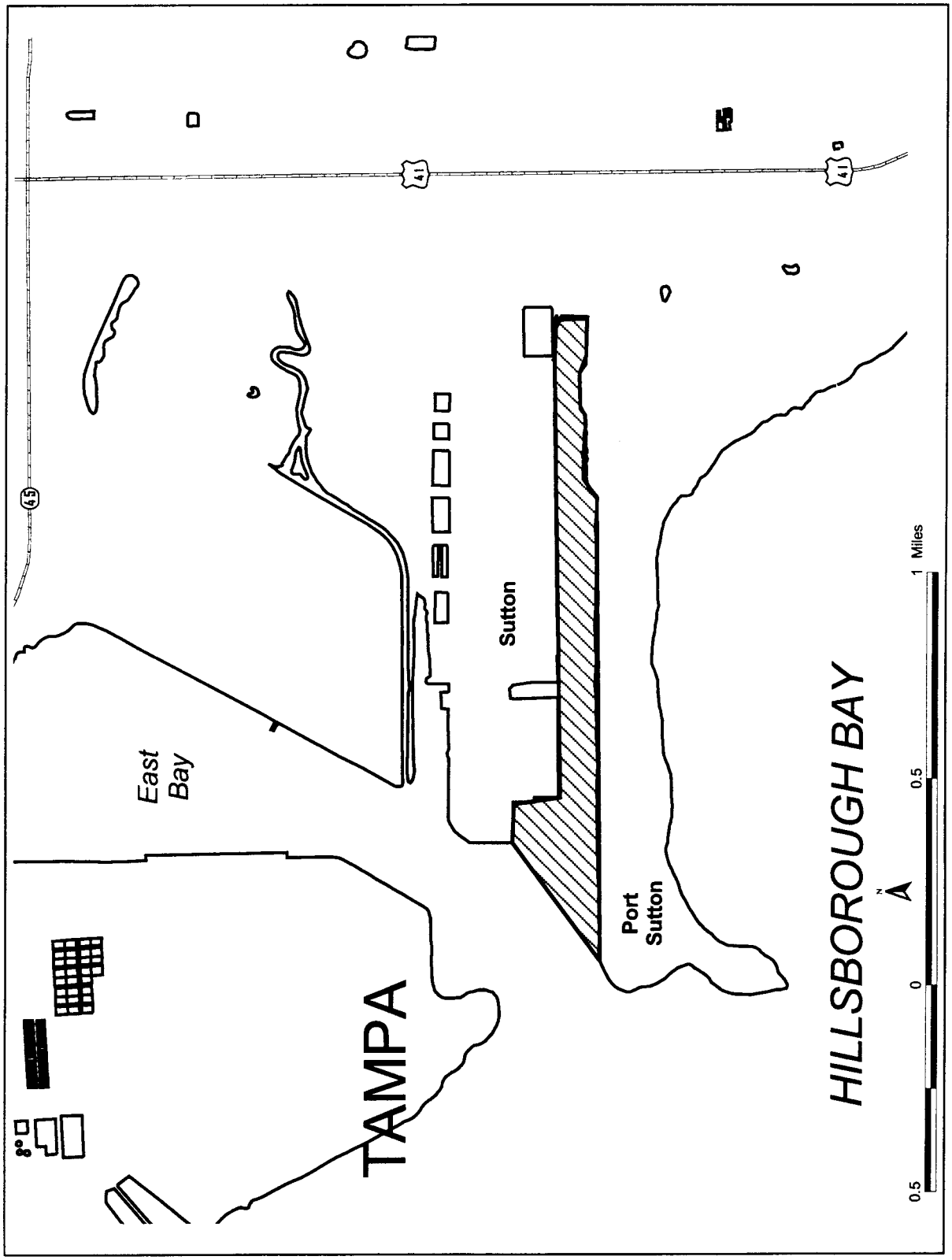

Figure 7. Proposed Port Sutton Manatee Refuge

(4)(i) The Pansy Bayou Manatee Refuge (Figure 8) is described as that portion of Sarasota Bay, Sarasota County, lying northwesterly of a line 45.7 meters (150 feet) northwesterly of and parallel with a line perpendicular to the John Ringling Parkway Bridge connecting St. Armands Key to City Island from the northwesterly end of said bridge, southwesterly of a line 228.6 meters (750 feet) northeasterly of and parallel with the centerline of the John Ringling Parkway (running northwesterly from St. Armands Key), northwesterly of a line 320 meters (1,050 feet) northwesterly of and parallel with a line perpendicular to the aforementioned John Ringling Parkway Bridge connecting St. Armands Key to City Island from the northwesterly end of said bridge, and southwesterly of a line 990.6 meters (3,250 feet) northeasterly of and parallel with the centerline of the aforementioned John Ringling Parkway (running Northwesterly from St. Armands Key); containing approximately 47 ha (116.1 acres).

(ii) Watercraft are required to proceed at slow speed all year.

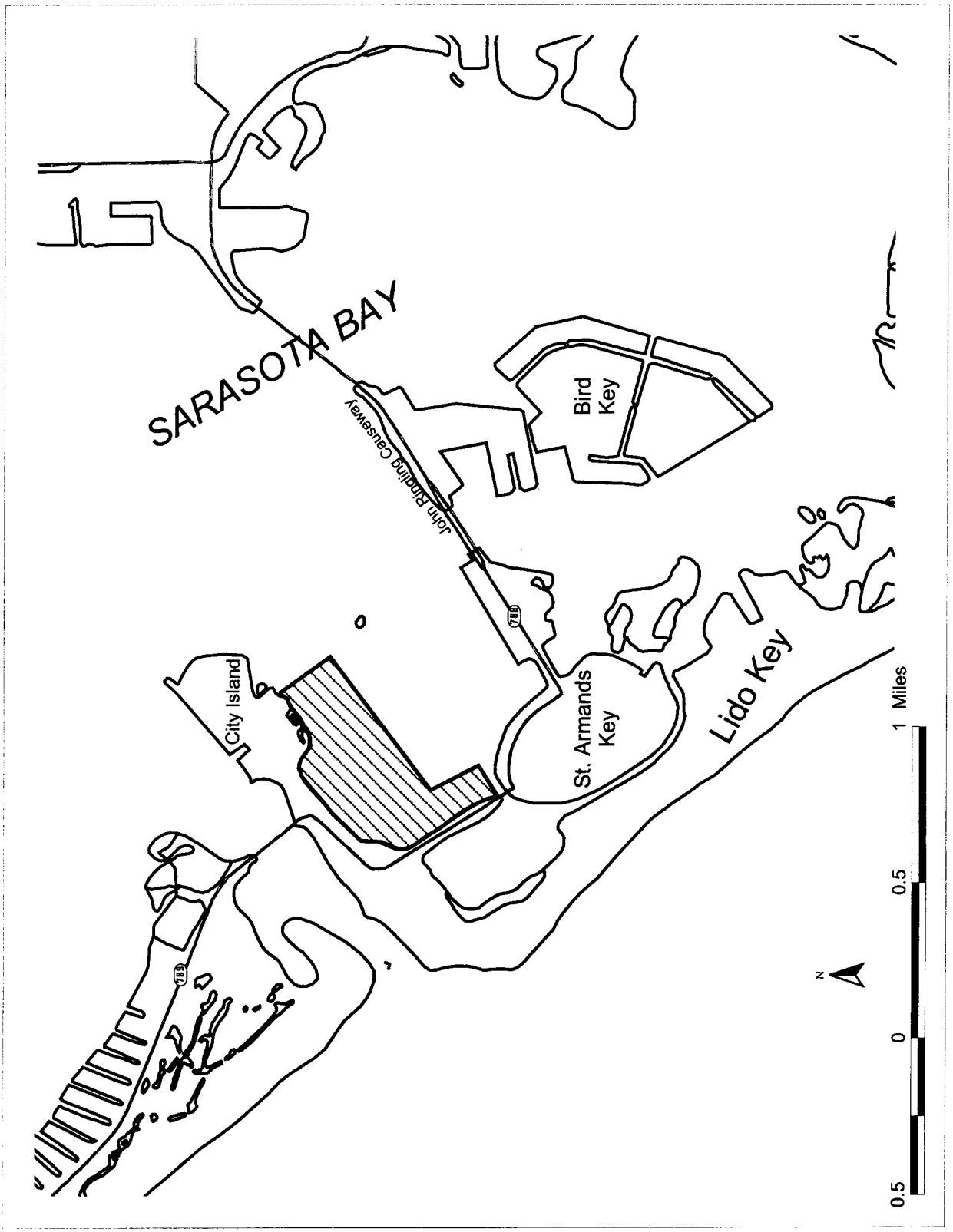

Figure 8. Proposed Pansy Bayou Manatee Refuge

(5)(i) The Little Sarasota Bay Manatee Refuge (Figure 9) is described as those waters lying southerly of a line that bears north 90 degrees 00′00″ E (true) and runs through the southerly tip of the first unnamed island south of Red Intracoastal Waterway Channel Marker ''40'' (latitude 27 degrees 10′07″ N, longitude 82 degrees 30′05″ W) and those waters lying northerly of the Blackburn Point Bridge, Sarasota County; containing approximately 214.2 ha (529.4 acres).

(ii) Watercraft are required to proceed at slow speed (channel exempt) all year.

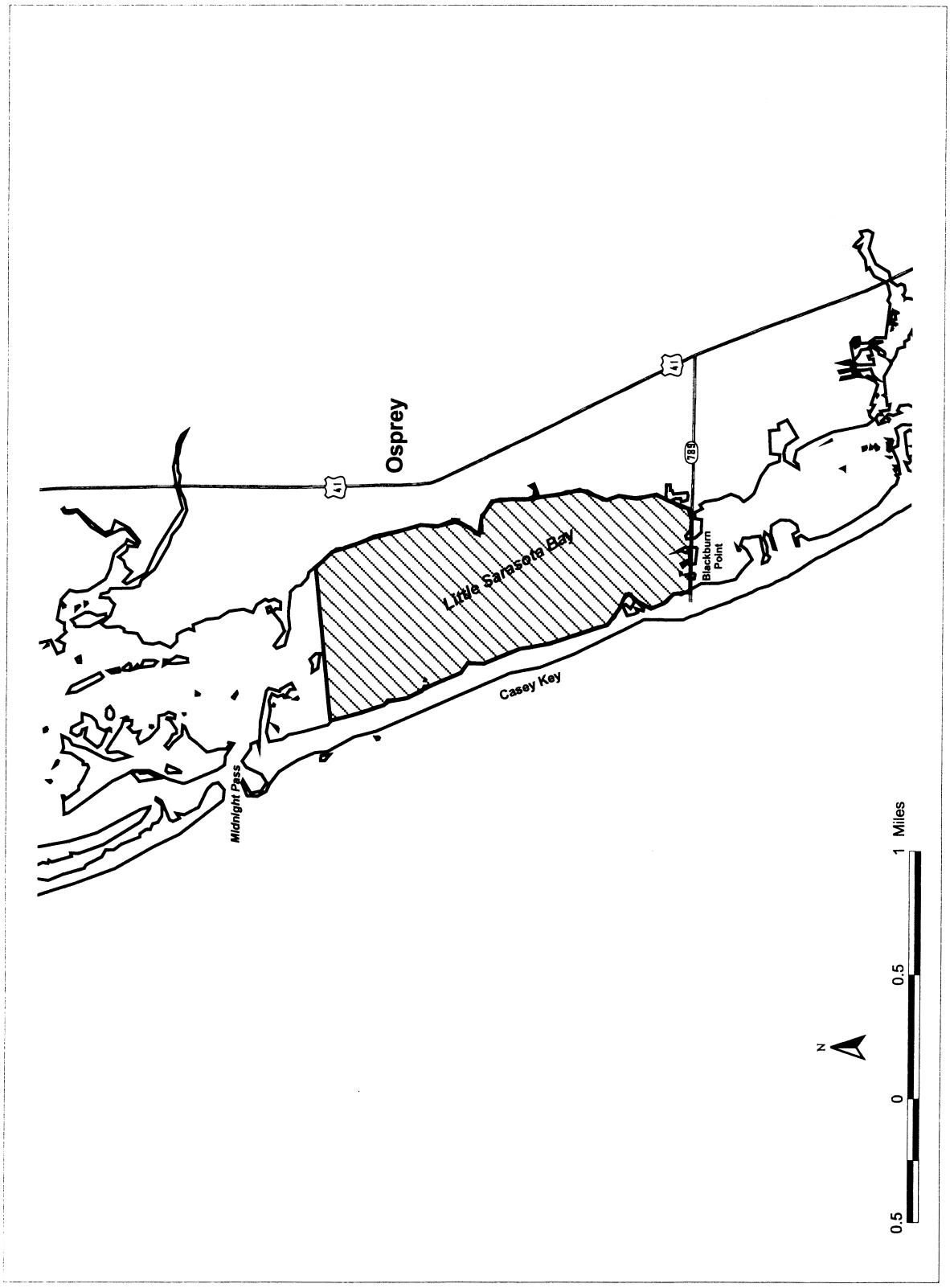

Figure 9. Proposed Little Sarasota Bay Manatee Refuge

(6)(i) The Lemon Bay Manatee Refuge (Figure 10) is described as those waters of Lemon Bay lying south of the Sarasota/Charlotte County boundary and north of a line north 60 degrees 14′00″ E (true) parallel with a series of small islands approximately 1.6 kilometer (1 mile) south of the Bay Road Bridge; containing approximately 379.9 ha (938.8 acres).

(ii) Watercraft are required to proceed at slow speed (channel exempt) all year.

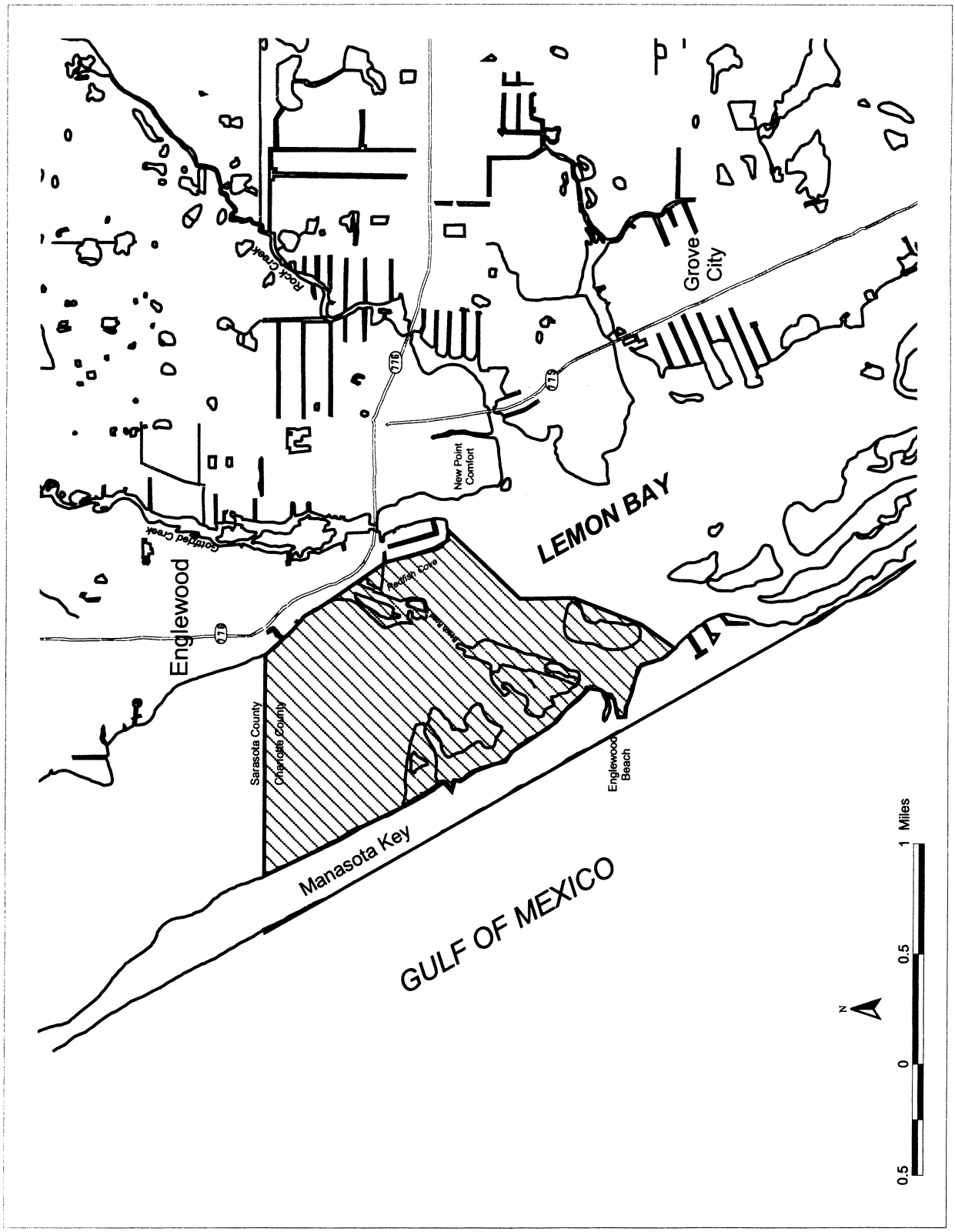

Figure 10. Proposed Lemon Bay Manatee Refuge

(7)(i) The Peace River Manatee Refuge (Figure 11) is described as all waters of the Peace River and associated water bodies north and east of the Tamiami Trail (U.S. Highway 41), Charlotte and Desoto Counties; containing approximately 4,892 ha (12,088.1 acres).

(ii) Watercraft are allowed to travel at a maximum speed of 40 kilometers per hour (25 miles per hour) all year within the marked navigation channel. Outside of the marked channel, watercraft are required to proceed at slow speed all year.

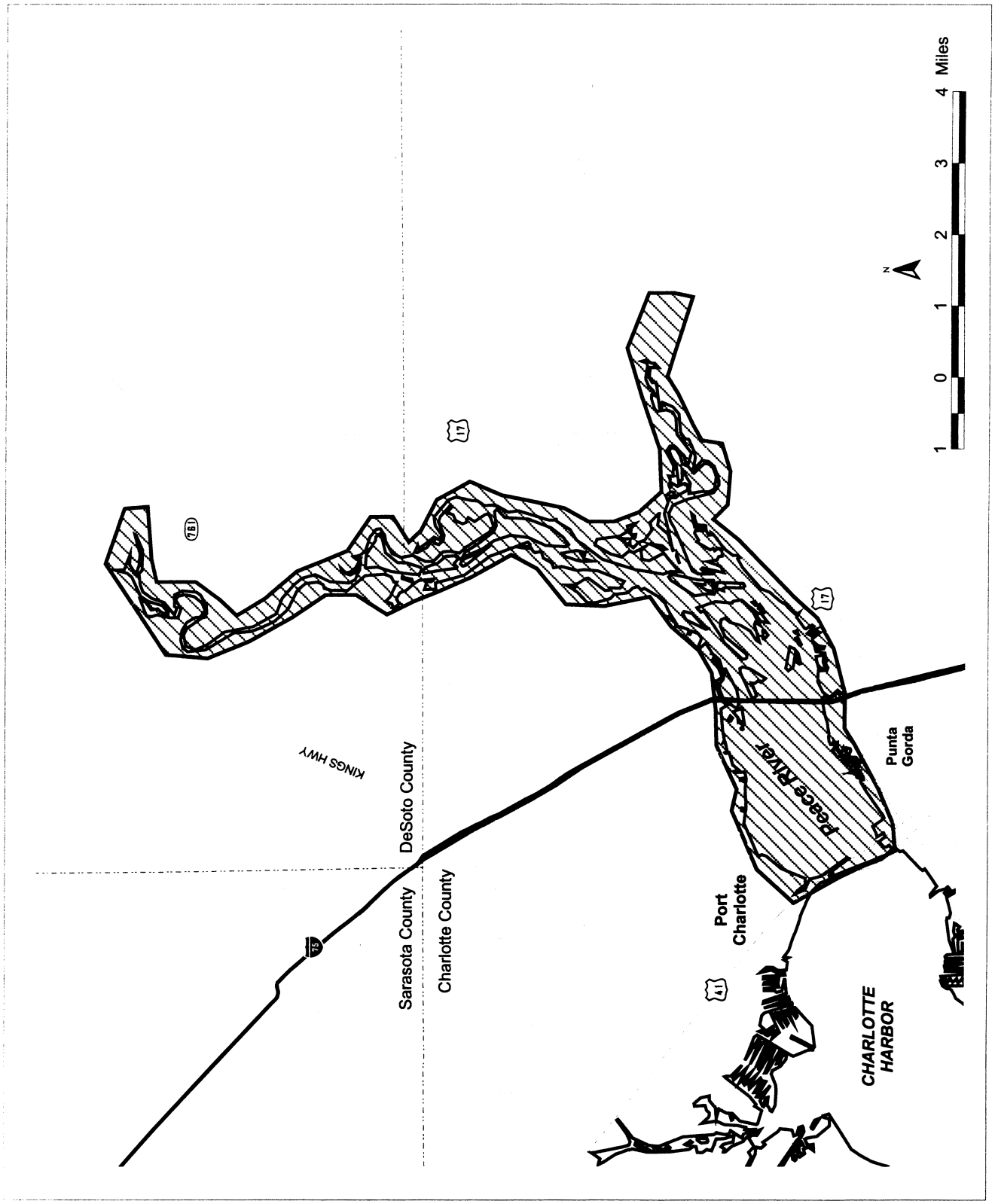

Figure 11. Proposed Peace River Manatee Refuge

(8)(i) The Shell Island Manatee Refuge (Figure 12) is described as all waters within the marked Intracoastal Waterway channel between Green Marker ''99'' (approximate latitude 26 degrees 31′00″ N, approximate longitude 82 degrees 00′52″ W) and Green Marker ''93'' (approximate latitude 26 degrees 31′37″ N, approximate longitude 81 degrees 59′46″ W), Lee County; containing approximately 32.6 ha (80.5 acres).

(ii) Watercraft are required to proceed at slow speed (channel included) all year.

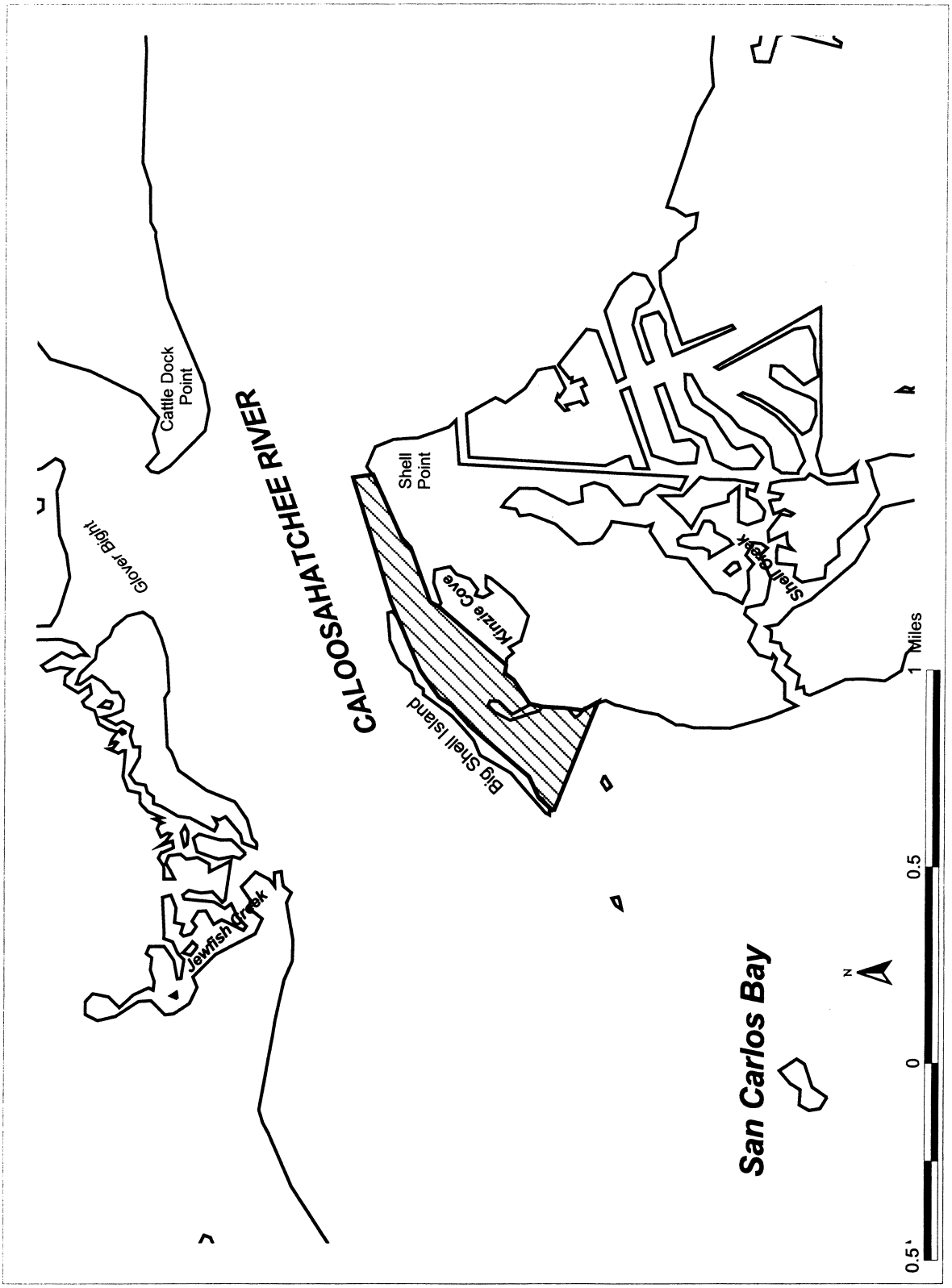

Figure 12. Proposed Shell Island Manatee Refuge

(9)(i) The Haulover Canal Manatee Refuge (Figure 13) is described as all waters lying within a radius of 0.8 kilometer (0.5 mile) of each end of the Haulover Canal and including the canal itself, in Brevard County; containing approximately 408.1 ha (1,008.3 acres).

(ii) Watercraft are required to proceed at slow speed (channel included) all year.

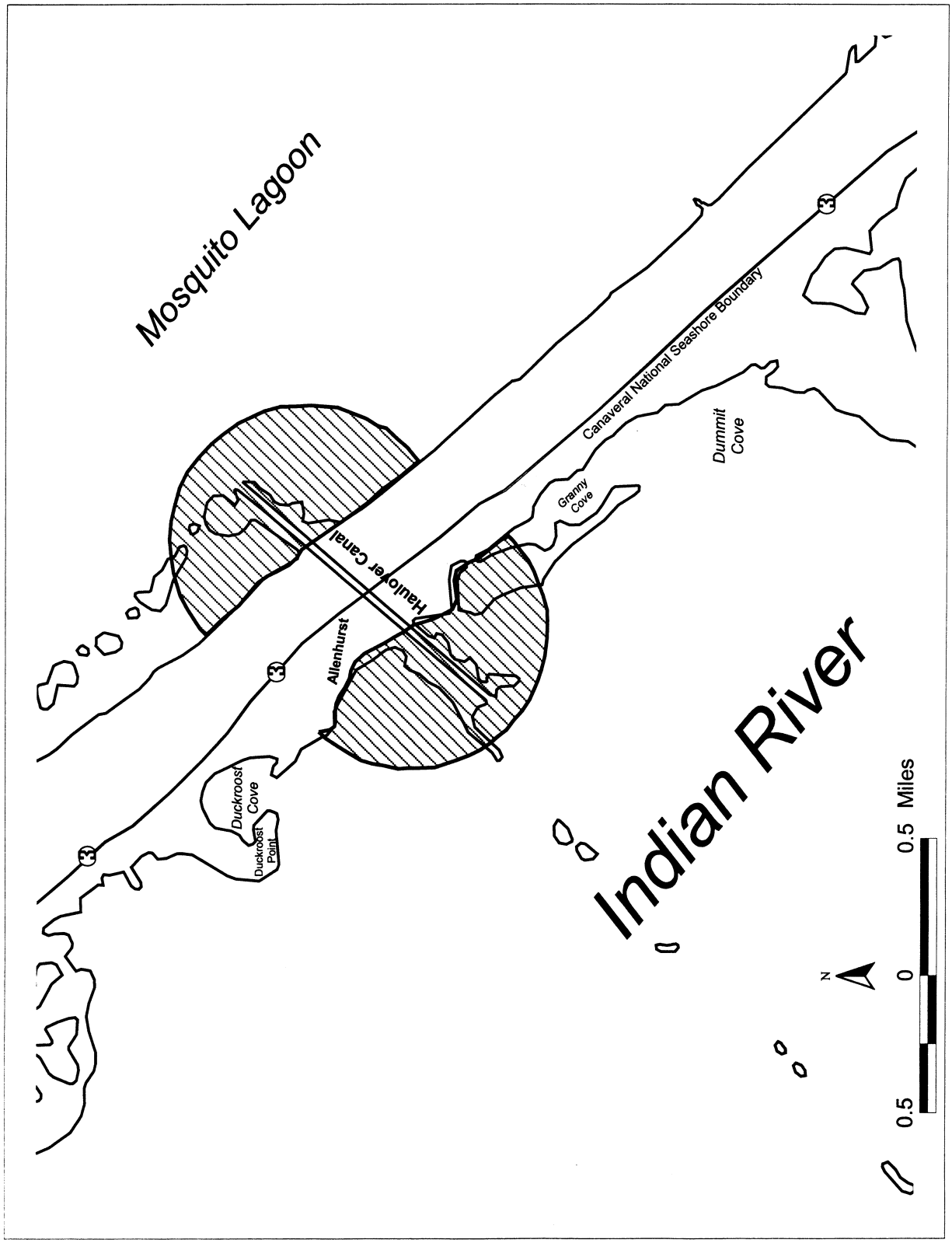

Figure 13. Proposed Haulover Canal Manatee Refuge

(10)(i) The Barge Canal Manatee Refuge (Figure 14) is described as all waters lying within the banks of the Barge Canal, Brevard County, including all waters lying within the marked channel in the Banana River that lie between the east entrance of the Barge Canal and the Canaveral Locks; containing approximately 276.3 ha (682.7 acres).

(ii) Watercraft are required to proceed at slow speed (channel included) all year.

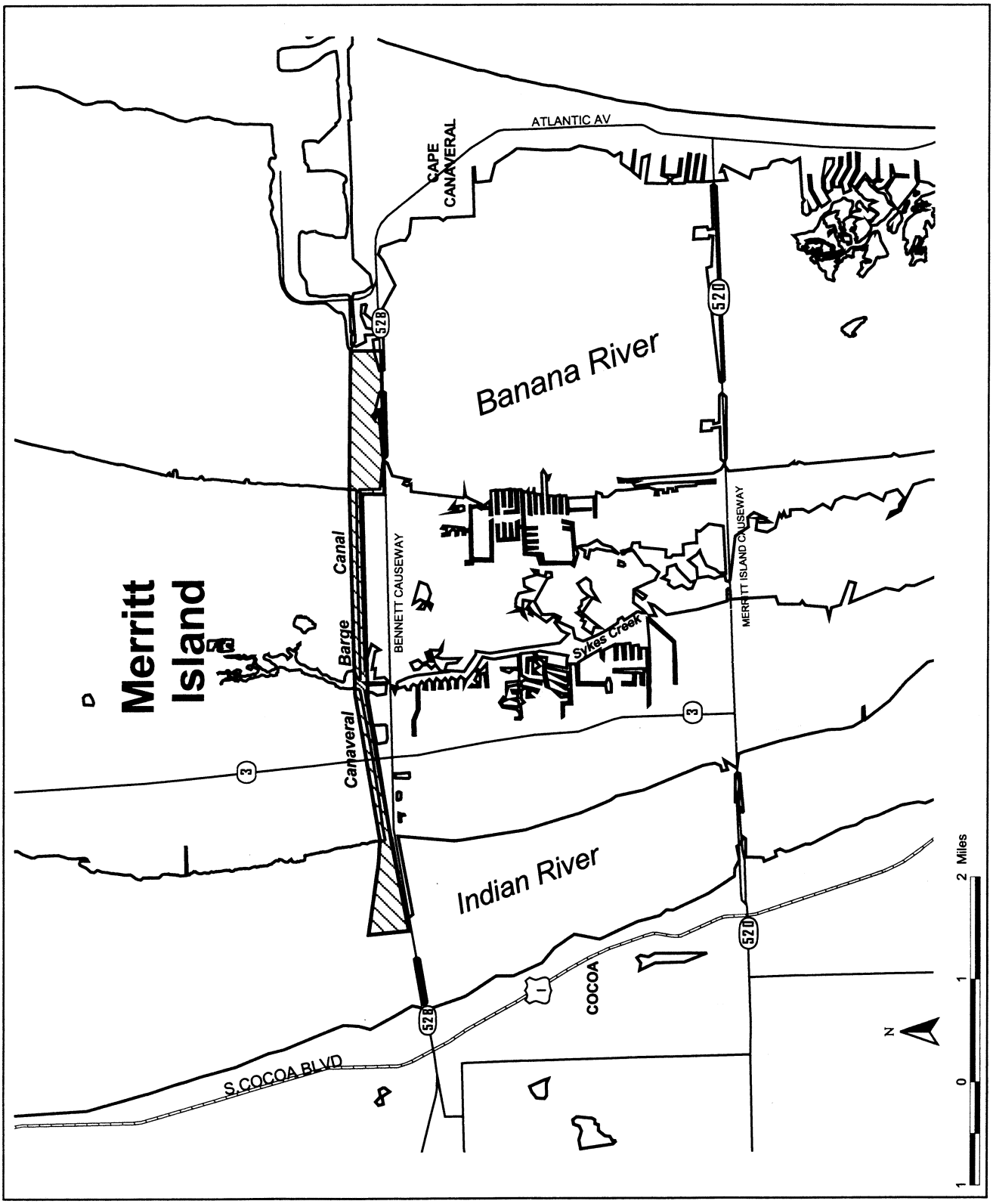

Figure 14. Proposed Barge Canal Manatee Refuge

(11)(i) The Sykes Creek Manatee Refuge (Figure 15) is described as all waters, including the marked channel in Sykes Creek, Brevard County. In particular, the portion of Sykes Creek southerly of the southern boundary of that portion of the creek commonly known as the ''S'' curve (said boundary being a line bearing East from a point on the western shoreline of Sykes Creek at approximate latitude 28 degrees 23′24″ N, approximate longitude 80 degrees 41′27″ W) and northerly of the Sykes Creek Parkway; containing approximately 342.3 ha (845.8 acres).

(ii) Watercraft are required to proceed at slow speed (channel included) all year.

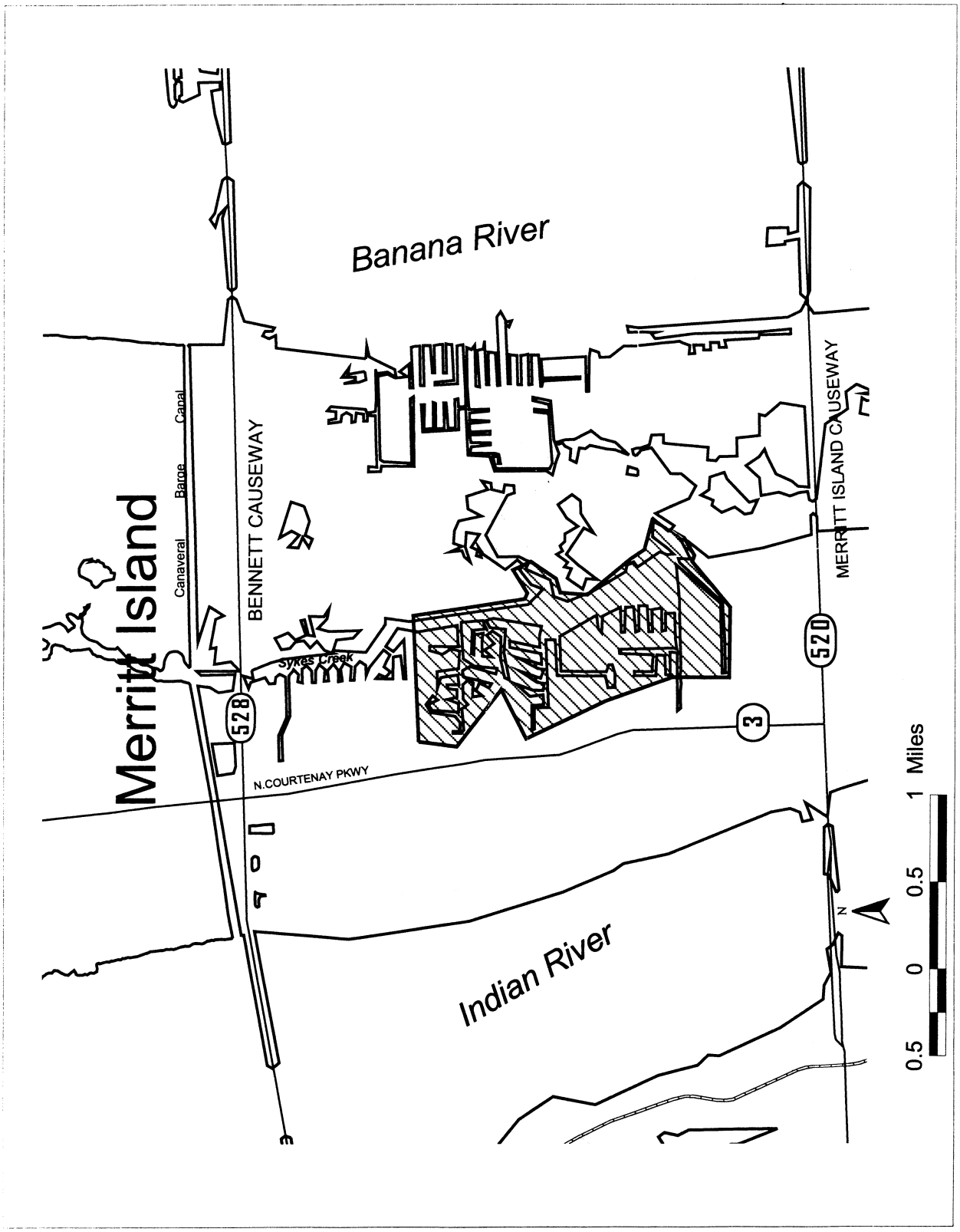

Figure 15. Proposed Sykes Creek Manatee Refuge

(12)(i) The Cocoa Beach Manatee Refuge (Figure 16) is described as the waterbody west of Municipal Park within the City of Cocoa Beach commencing at a point 45.7 meters (150 feet) west of the southwest corner of the canal running between Willow Green and Country Club Roads, thence southerly (and parallel to the golf course shoreline) to a point 45.7 meters (150 feet) west of the southwest corner of the Municipal Golf Course shoreline, thence south to marker ''502,'' thence westerly (inclusive of the area known as the ''400 Channel'') to Red marker ''500,'' thence northerly to Red marker ''309,'' inclusive of the ''400 Channel,'' thence southeasterly to the southwest corner of the canal referenced as the point of origin, all these waters being within the eastern half of Sections 8 and 17, Township 25 South, Range 37 East; containing approximately 23.9 ha (59.1 acres).

(ii) Watercraft are required to proceed at slow speed all year.

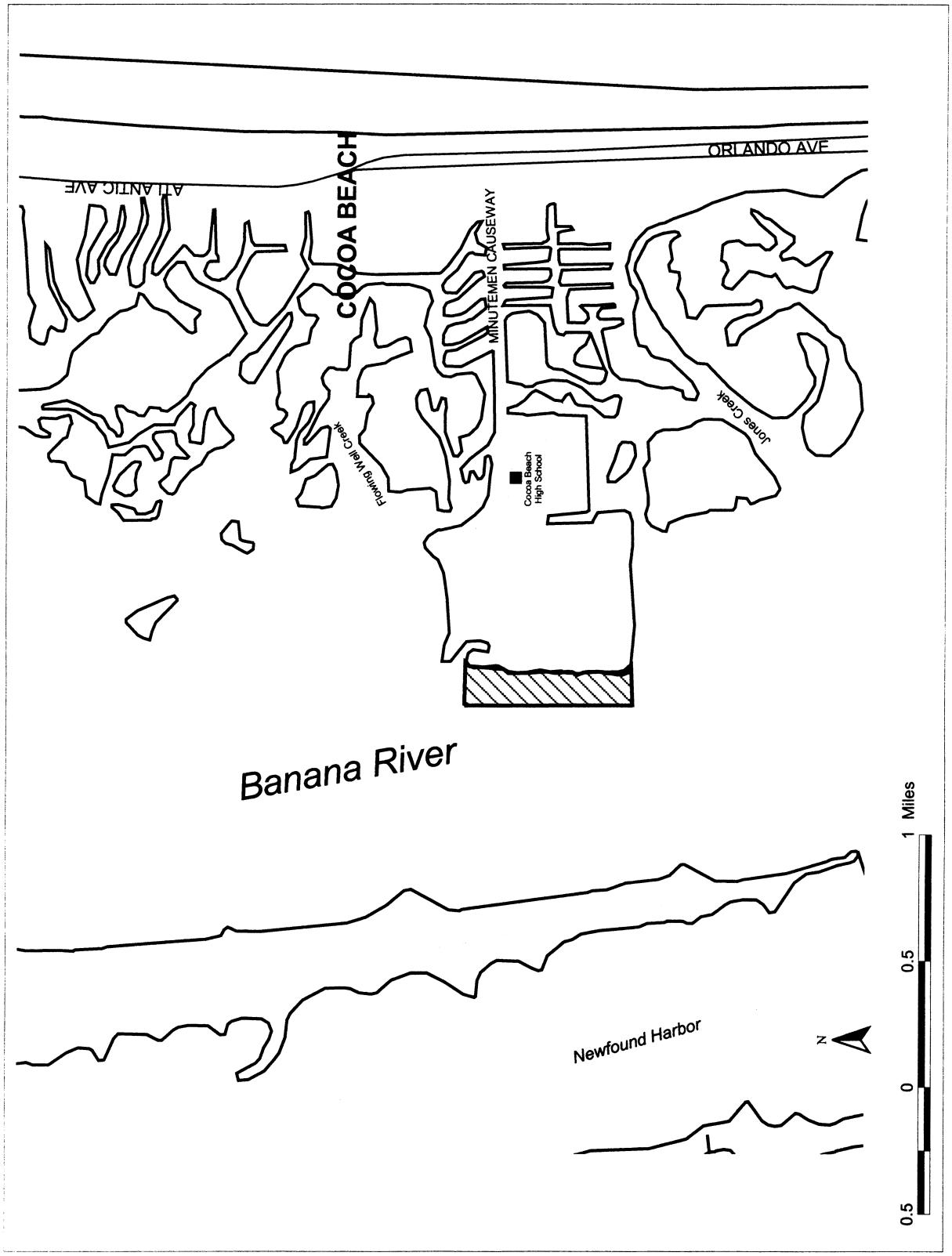

Figure 16. Proposed Cocoa Beach Manatee Refuge

Dated: August 2, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–19929 Filed 8–9–01; 8:45 am]

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