Habitat Conservation Plan

III. The Habitat Conservation Plan Solution

What Created the Current Conflict?

Although the County had lawful authorization to issue emergency permits for temporary shoreline protection measures following Hurricane Dennis, there were numerous cases where the emergency shoreline protection measures undertaken by coastal property owners did not conform to State law or were not covered for potential violations under the Federal ESA. In some cases structures were improperly sited or were not constructed within the 60 day period allowed under the emergency permit. In other cases, the structures were placed on properties that were either ineligible for protection (e.g., vacant lots), as defined under Florida code, or were not vulnerable to future storm events. Some property owners installed permanent rather than temporary structures, and many property owners failed to apply to FDEP to retain their structures or remove them within the allotted 60 days. Additionally, Chapter 62B-33 FAC advises local governments who anticipate authorizing installation of emergency shoreline protection structures to obtain a Federal Incidental Take Permit (ITP) for impacts to sea turtles. No such authorization was in place at the time Walton County issued its emergency permits. Because of the apparent lack of compliance with State law, the County was threatened with public lawsuit. Furthermore, the County, as well as the affected property owners where the structures were installed, did not have the necessary Federal protection afforded under the ESA and became liable for any take of endangered species resulting from the structures.

What is the Solution to This Conflict?

Fortunately, in 1989 the ESA was amended to address potential conflicts between the provisions of the ESA and traditional land uses on non-federal property. Specifically, Section 10(b) of the ESA allows for non-federal government and private entities to apply for permits that allow the incidental take of protected species during the course of otherwise legal activities. An ITP can be issued if a number of criteria are met. Foremost among those is a determination that the proposed activity(s) will not appreciably reduce the likelihood of survival and recovery of the species in the wild. The USFWS is the federal agency responsible for issuing ITPs for species such as nesting sea turtles, piping plover, and beach mice.

What is a Habitat Conservation Plan (HCP)?

A HCP is a requisite component of the ITP application. It describes all of the programs and policies that the applicant will implement to minimize take over the term of the ITP and presents a plan for mitigating unavoidable take. The HCP also includes a description of the area to be regulated, lists the activities to be managed, provides an implementation schedule, describes program administration, and identifies funding mechanisms to ensure the plan can be implemented.