

# Perdido Key Beach Issues 2021

August 2021

Perdido Key has stunningly white beaches created from pure quartz sand deposited by rivers of the Appalachian Mountains. The beaches have received accolades over the years from *USA Today* and other sources, particularly those on Gulf Islands National Seashore. But fame means more visitors to challenge Perdido Key's infrastructure and established order. On good beach days, authorized public parking can fill to capacity and frustrate would-be beachgoers; some visitors then park in restricted areas and intrude on private beaches and sensitive dunes. Maintaining a balance between a pleasurable beach community and one that excludes all but property owners and vacation renters from many of the island's beaches is a significant challenge. With beachgoer visits likely to increase in the years ahead, this paper addresses Perdido Key beach concerns and makes recommendations for community action.

## Beachgoing on Perdido Key

The Perdido Key Area of Gulf Islands National Seashore (Johnson Beach) and Perdido Key State Park provide public access to about half of Perdido Key's more than 12 miles of Gulf front beaches, although four miles of National Seashore beach can be reached only on foot or by boat. Three Escambia County beach access locations provide additional opportunities for public use. The remaining Perdido Key beachfront is privately owned and unavailable to the public. Private property rights extend to the "mean high water line" (MHTL) of the Gulf of Mexico – imprecisely observed as the "wet sand/dry sand boundary"; land on the Gulf-side of the MHTL and beneath the Gulf of Mexico belongs to the State of Florida by virtue of the "Public Trust Doctrine" and is available to the public.<sup>1</sup> The MHTL is reestablished every 19 years to account for sand erosion or accretion and sea level change.<sup>2</sup>

Private property on the Perdido Key beachfront includes single family residences, duplexes, small and large condominiums plus two restaurants/beach lounges – the Flora-Bama and Crab Trap. The three County access locations occupy only single plots of land that are surrounded or adjacent to private beaches so visitor spillover from public to private beaches is not surprising. While those wandering from public to private beaches are usually just looking for a place in the sun, some bring excessive noise and rowdy behavior and leave behind trash, broken beach furniture and occasionally property damage.

## Beachgoing Elsewhere

Perdido Key is not unique in experiencing increased visitation and public/private beach access concerns. Population movement to warmer locations and visiting beaches have been American phenomena for decades. Florida added about 2.7 million residents between 2010 and 2020, bringing its population to 21,538,187. Florida tourism often increases by two or three percent a year but dropped 34% during 2020 because of COVID-19; it will likely return to historic growth following the pandemic.<sup>3</sup>

Beach access regulations in most of Florida and the rest of the United States are like those on Perdido Key, i.e., with MHTL the legal boundary between private and public beaches. Oregon and Texas are among the exceptions and allow public access to most dry sand beach areas. Closer to home, Pensacola Beach and Navarre Beach (now administered by Santa Rosa County) have largely unrestricted beaches because Santa Rosa Island (the location of both beaches) was deeded to Escambia County by the Federal Government with a stipulation its land would not be privately owned, though parking and beach access can be an issue on Pensacola Beach. A 2017 Congressional initiative to privatize Santa Rosa Island that

could have affected beach access faced determined local resistance and, while passing the US House of Representatives, stalled in the US Senate. In nearby Walton County, Okaloosa Island has been able to maintain public beaches except for five resort/condominium complexes and the Gulfarium Marine Adventure Park; further east, however, Walton County has highly publicized public/private beach access disputes discussed later in this paper.<sup>4</sup>

Beach ownership regulations in Coastal Alabama are like those in Florida with the private/public boundary at the MHTL. In Orange Beach (adjacent to Perdido Key) all public beach parking and access, including the two Alabama Gulf State Park parking areas on the island of Perdido Key, are now “pay for use” and charge \$3 for two hours, \$5 for four hours, and \$10 for all-day parking, though the city plans to create a system of permits to allow free parking for residents.<sup>5</sup> With large condominiums and other lodging continuing to be built in Orange Beach, some guests and residents are likely to take advantage of Perdido Key beach access – anecdotal evidence suggests they already are.

### **Parking on Perdido Key**

Perdido Key had major parking problems in the first half of 2021 because of Hurricane Sally which struck the area with unexpected ferocity in September 2020. The storm damaged the Pensacola Bay Bridge restricting access to Pensacola Beach and likely encouraged additional beachgoers to visit Perdido Key. Much of the infrastructure at Perdido Key State Park was also damaged and may not be fully repaired until 2022; in the interim, only one of the two major parking and access locations will be available for public use. At the National Seashore, some dunes and most crossover boardwalks were destroyed leaving sand piled along the access road. Parking has been open at the main pavilion parking area and recently allowed on a section of Johnson Beach Road. Repairs to the National Seashore are also unlikely before 2022. Escambia County’s three beach access locations had only minor disruption from Hurricane Sally.

The National Seashore pavilion parking area can accept about 320 vehicles, with room for another 50 or so on Johnson Beach Road as currently configured. Perdido Key State Park East and West Use Areas can each accommodate about 50 vehicles. Beach Access #1 has 40 on-street parking spaces while Beach Accesses #2 and #3 can hold about 20 vehicles each. The proposed public beach access next to the Crab Trap Restaurant is expected to hold 35 vehicles. Day use fees for the National Seashore are \$25 per vehicle with various senior, military, and annual fee packages available; Perdido Key State Park charges \$3 per vehicle and County beach access is free.

During the summer tourist season and other sunny weekends and holidays, parking space at County beach access locations and Perdido Key State Park can fill-up quickly and day-use visitors without extended period passes may hesitate to pay \$25 to enter the National Seashore – if the Park is not also at capacity. Consequently, vehicles sometimes park illegally along Perdido Key Drive, River Road and Johnson Beach Road as well as on vacant private land. The private lots across Perdido Key Drive from Beach Access #2 and west of Beach Access #3 are popular overflow locations and can each hold 60 to 70 vehicles, with the unauthorized visitors sometimes intruding on private beaches and crossing vulnerable dunes. The lots have steep drop-offs from the roadway, broken concrete and deep sand that can lead to stuck vehicles and personal hazards. Visitors staying at vacation rentals also have parking challenges because multiple vehicles often arrive at rental units where only two or fewer spaces are available. In the 2020 Perdido Key Property Owner Survey, respondents favored greater enforcement of

condominium parking limits and more public parking spaces on the island but were less disposed toward off-island parking with shuttles to beach access locations.

Unauthorized parking along Perdido Key public roadways has been addressed with new “NO PARKING ON RIGHT OF WAY/ TOW-AWAY ZONE” signs along Perdido Key Drive and periodic installation of mobile electronic message signs notifying motorists of parking and speed restrictions. There has also been greater attention to traffic and parking violations by the Escambia County Sheriff’s Office though lack of law enforcement presence on Perdido Key remains a common perception. Unauthorized parking on private property such as the lots near Beach Access #2 and Beach Access #3 can only be addressed by property owners. Vehicles illegally parked on public roads can be towed as directed by law enforcement officers but towing unauthorized vehicles from private lots must be initiated and paid for (at least initially) by property owners. It is rare to see a vehicle towed on Perdido Key, but towing companies may have more incentive to make a trip to Perdido Key following the March 2021 Escambia County decision to increase “the towing fee for most cars in the county from \$100 to \$150 a day and increase the cap for storage from \$20 a day to \$40 a day.”<sup>6</sup>

### **Addressing Beach Access Concerns**

Beach use in Florida and elsewhere is a clash of competing interests and values. People purchase expensive beachfront property because they want to spend time on their own private beach, rent the lodging unit(s) on the property, or develop or resell the property later; “Enjoy your own Private Beach” is a very compelling advertising narrative. Owners of beachfront property have legal rights on how their land is used and may want to exclude uninvited beachgoers, but going to the beach is also a treasured expectation for many people who do not own beachfront property; organizations such as the Surfrider Foundation consider beach access a universal right.<sup>7</sup> Since beaches are usually open stretches of sand without obvious difference between public and private land, beaches seem part of the public domain – some visitors to Perdido Key are in fact surprised that much of the island’s beachfront is privately owned. With more visitors arriving at beach communities every year increased public access would seem an obvious need, but the reverse is true; private property that was once available for public beach access is becoming increasingly restricted.<sup>8</sup>

### ***Enforcing Private Property Rights***

To improve understanding of Perdido Key beach access requirements including restricted access to private beaches, Escambia County has added signage notifications to its three beach access locations. Beachfront property owners can also post a limited number of “NO TRESPASSING” signs to identify their property. While cost prohibitive for private homes and small rental properties, larger condominiums sometimes hire guards to deter unwanted visitors. If people are trespassing on private property and refuse to leave, the Escambia County Sheriff’s Office can be contacted to address violations as appropriate. In other parts of Florida, private property owners have erected fences and other barriers to ward off unwanted beachgoers.

### ***Acquiring More Public Beach Access***

Purchasing beachfront from fully developed properties such as Perdido Key’s large condominiums is probably cost prohibitive and an unlikely option for improving public beach access, but lots that are currently undeveloped present greater opportunity. In 2014, Escambia County acquired the four-acre parcel of beachfront property between the Crab Trap Restaurant and Seafarer Condominium for \$3.1

million. Three-quarters of the funding came from the Federal Government as a grant for habitat conservation and public access; the remaining funds were provided by the County. District 2 Commissioner Doug Underhill has consistently opposed public beach access at the location and hoped to reserve the land for Perdido Key beach mouse habitat, thus enabling the County to create more public access elsewhere on the island. Notwithstanding Underhill's opposition, in November 2018 the Commission voted to develop the parcel as Beach Access #4.<sup>9</sup> Legal proceedings filed by nearby condominiums opposing the action have slowed progress, but the County Commission has continued to push the new location forward – most recently in July 2021 when additional funds were authorized. As stated by District 1 Commissioner Jeff Bergosh, “We’re going to have 35 parking spots.” “We’re going to have handicap spots. Importantly, we’re going to protect the habitat.”<sup>10</sup> Based on experience at the other County public beach access locations, maintaining appropriate wildlife habitat at Beach Access #4 will be a challenge.

Efforts by Escambia County to acquire further beachfront lots for public access have been unsuccessful. Current construction of private home developments such as Vivian and Eleana Beach and the Portico Perdido and possibly LaVista Perdido Key condominiums on east Perdido Key, along with the Krystal Key condominium and residential construction on west Perdido Key, will further consolidate the island's private beaches and diminish prospects for additional public beach access.

Neighboring Orange Beach has been more successful. In partnership with two co-owners of the Flora-Bama, the city is purchasing over eight acres of beachfront across Perdido Beach Boulevard from The Shoppes at Palm Point (where Publix is located) for \$13 million. The site had been previously slated for two 30-plus story condominiums but will now have public beach access, green space, and a restaurant/bar complex.<sup>11</sup> In Walton County, Commissioners have evaluated several beachfront parcels over the last few years and in early 2021 were considering a \$5.695 million purchase of a 4.88-acre tract along US 98 as a possible parking area for Miramar Regional Beach Access.<sup>12</sup>

### ***Invoking Customary Use***

When private property intrudes on public beach access, governments can pursue a variety of options to regain the right. These include prescriptive easements, “dedication” in various forms, eminent domain, purpresture and customary use. Discussion of each option can be found in the article “Sand for the People” by Erika Krantz (see endnote), but only customary use is discussed in this paper.<sup>13</sup>

“Customary use” is a centuries old doctrine whereby the public can establish over time a right to use beaches and where private property owners may not interfere with continued enjoyment of that right. To establish a customary right, the use must be “ancient, exercised without interruption, peaceable and free from dispute, reasonable, certain, obligatory, and consistent with other customs or other law.” In 1974, the Florida Supreme Court *City of Daytona Beach v. Tona-Rama Inc.*, 294 So. 2d 73 decision recognized a common law principle of the public's “customary use” of the state's dry sand beaches (i.e., those above the MHTL). In the 1995 *Reynolds v. County of Volusia*, 659 So. 2d 1186 (Fla. 5th DCA) case, however, the court limited the scope of *Tona-Rama* by ruling that courts must determine the degree of customary and ancient use for each beach for the doctrine to be invoked.<sup>14</sup>

Customary use entered Florida's public consciousness in a big way in 2016 because of events in Walton County. With more development and increased restrictions by private beach owners on public beach

access along Santa Rosa Beach (Route 30A), the Walton County Commission enacted an ordinance barring no trespassing signs and fencing on the sand between the water and the dune line citing customary use as its rationale. In response the Florida Legislature passed HB 631, signed into law by Governor Rick Scott in 2018, preventing local communities from granting public access to private beaches and allowing Santa Rosa Beach developments to continue restricting public access.<sup>15</sup> Governor Scott reacted to criticism of HB 631 by issuing a follow-on executive order to clarify the law and place a moratorium on regulations inhibiting public beach access, but the law remains in effect: “A city or county must submit one lawsuit to decide whether a beach fits the definition of customary use — ancient, reasonable, without interruption and free from dispute.”<sup>16</sup> As of late-2020, Walton County had filed “customary use” complaints for 1,194 privately held parcels it believes are subject to the doctrine.<sup>17</sup>

### ***Beach Erosion and Renourishment***

Some Perdido Key beaches are relatively narrow and can aggravate beach access conflicts; with less room for owners and the public to spread out, trespassing onto private beaches is more likely. During the 2019-2020 season, winter storms and tides severely eroded beaches at condominiums and private homes near the National Seashore creating considerable anxiety among some property owners. Seasonal erosion may recover, but major tropical storms cause more permanent harm. Hurricane Ivan in 2004 greatly damaged area beaches and led to FEMA financed dune replacement; Hurricane Sally in 2020 reduced or destroyed many Perdido Key dunes and creating three breaches in the National Seashore near the eastern end of the island. Beach erosion on Perdido Key is also the result of human activity. Large condominiums along the coast hamper the deposition of sand on dunes by northerly winds. More serious is the Pensacola Inlet Pass east of Perdido Key where the deep ship channel traps sand making its east to west migration along the Gulf Coast and cutting off sand needed to replenish Perdido Key beaches. The Pass is routinely dredged but the captured sand is dumped offshore.

Perdido Key beaches were designated as “critically eroded” by the Florida Department of Environmental Protection (DEP) in 2004, a decision upheld in 2009 but changed in 2019 so that only the developed eastern portion of Perdido Key was assigned “critically eroded” status; the western portion was not considered eroded and National Seashore beaches considered “eroded.” Eroded beaches can be renourished, i.e., have sand collected elsewhere dumped along their shorelines – a process used periodically in Orange Beach, Pensacola Beach and Navarre Beach.<sup>18</sup> On February 27, 2009, the Florida Department of Environmental Protection approved Escambia County’s request for Perdido Key Beach Restoration and issued Permit No. 0273340-001-JC “to construct the initial beach and dune restoration project along the westernmost 6.5 miles of shoreline at Perdido Key,” a request modified in 2014 to include only the eastern three miles of Perdido Key.<sup>19</sup>

Under Florida’s Beach and Shore Preservation Act, when public money is used to fund the expansion of a beach, the “engineered beach” becomes the property of the state and available for public use to the extent of renourishment, which may be up to the dune line.<sup>20</sup> Beach renourishment on Perdido Key would likely create hundreds of feet of new beach belonging to the State of Florida and greatly increase the dry sand area available to the public. But beachfront property owners would no longer be on Gulf of Mexico waters – a substantial sacrifice. Renourishment also requires easements on private property so government can properly maintain the beach. Because several owners refused to grant necessary easements and Escambia County was unwilling to pursue eminent domain – an action that may have resulted in a long and expensive legal battle – the project was not pursued and in 2019 its permit allowed

to expire. Perdido Key property owners expressed strong support (>80%) for beach renourishment in the 2015 and 2020 Perdido Key Property Owner Surveys, but not for easements and eminent domain.

Renourishment is not without problems: it can cost \$15 to \$25 million for each application and once begun may be needed every 10 to 15 years. As alternatives to beach renourishment, Commissioner Underhill proposed “incremental” projects to address beach erosion. The Perdido Key Dune Restoration Project was proposed in 2017 and used \$500,000 of BP restitution money to plant sea oats and other appropriate vegetation on Perdido Key dunes.<sup>21</sup> More ambitious was the “Pensacola Pass Inlet Management Plan” to deposit sand dredged from Pensacola Pass onto National Seashore beaches where private beach owner permission was not required; the east to west flow of sand from the National Seashore should renourish the rest of Perdido Key. While changing the sand dump site to the National Seashore was approved by Escambia County Commissioners in 2018, implementing the project has been a complex undertaking. It involves coordination among many governmental and private stakeholders and, crucially, the allocation of sufficient funds to plan and execute the dredging on a “schedule and methodology” most beneficial to the beaches concerned.<sup>22</sup> In March 2021, Escambia County submitted a RESTORE grant request called “Perdido Key Sediment Placement” for \$6,773,000 to help fund the project.<sup>23</sup>

### **Looking Ahead**

Perdido Key has ample beach for public use during most of the year because of its miles of National Seashore and State Park shoreline.<sup>24</sup> Beach conflicts are usually associated with County beach access locations but even these have diminished in recent months with the opening of the Pensacola Bay Bridge to Pensacola Beach, installation of descriptive signage and somewhat greater law enforcement presence. But with visitation expected to grow in the coming years, further action should be considered to reduce conflicts and make Perdido Key a more complete beachside community. These could include securing additional public beach access, preventing unauthorized parking, improving beach management and enforcement, and reconsidering beach renourishment.

Commissioner Underhill argued in 2019 that Escambia County should purchase more Perdido Key beachfront parcels or it will end up just like Walton County fighting beachfront property owners for beach access using the customary use argument.<sup>25</sup> As predicted, beachfront construction on Perdido Key has continued and vacant parcels are disappearing rapidly. A logical acquisition for Escambia County would be the two lots west of Beach Access #3 (three if the proposed LaVista Perdido Key Condominium parcel is included) to expand public access toward Perdido Key State Park. This would create a substantial public space for parking, shelter and rest rooms. Although the 2020 Perdido Key Property Owner Survey revealed less than 30% of owners favored new or increased beach access locations, acquiring the parcels would significantly improve Perdido Key’s infrastructure.

As a minimum, the lots adjacent to Beach Access #3 and across Perdido Key Drive from Beach Access #2 need proper management to eliminate the “Wild West atmosphere” experienced in 2021 where drivers were scrambling for unauthorized parking spaces. Parking in the lots is hazardous to personnel and vehicles, damages nearby dunes and leads to public/private beach conflicts. Lot owners should take action to prevent unauthorized parking, such as posting “NO PARKING/ TOW-AWAY ZONE” signs and placing physical barriers at access points.

Perdido Key beaches have little supervision. Unlike Pensacola Beach, Perdido Key has no lifeguards except at the National Seashore; responding to inappropriate visitor behavior often falls to property owners and trash pickup to volunteers. Additional attention to Perdido Key and its beaches by appropriate state and county organizations as well as law enforcement personnel is essential. Consideration could also be given to some form of collective security arrangement among beachfront property owners. While having guards restrict access to private beaches creates an unpleasant image for Perdido Key, their presence may be needed during peak visitation periods.

The Pensacola Pass Inlet Management Plan will help counter erosion but will not protect against major storm damage; wide beaches are needed to absorb the energy of a hurricane's pounding surf. Yet area beaches will probably decrease in size in the coming years because of sea level rise. According to NOAA data, the sea level around Florida is eight inches higher than it was in 1950; in the last decade, the rate of sea level rise has increased to about one inch every three years.<sup>26</sup> To prolong its relevance as a beach community Perdido Key will sooner or later need government-sponsored measures to save its beaches, leading to renourishment and greater public access.

Current and future Perdido Key beach concerns need to be understood and addressed by Escambia County officials, organizations like the Perdido Key Area Chamber of Commerce and Perdido Key Association, condominium and homeowner associations, and individual property owners and residents. Perhaps noteworthy is that more than 50% of property owners supported Perdido Key incorporation in the 2020 Perdido Key Property Owner Survey.

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<sup>1</sup> For more on Public Trust doctrine, go to the June 2009 *Florida Bar Journal*, Vol. 83, No. 6 article "Sand for the People: The Continuing Controversy over Public Access to Florida's Beaches" by Erika Krantz in at <https://www.floridabar.org/the-florida-bar-journal/sand-for-the-people-the-continuing-controversy-over-public-access-to-floridas-beaches/>

<sup>2</sup> For current commentary on beach access issues, see the July 21, 2021 *US News and World Report* article "Who Owns the Beach? It Depends on State Law and Tide Lines" by Thomas Ankersen at <https://www.usnews.com/news/best-states/articles/2021-07-19/who-owns-the-beach-it-depends-on-state-law-and-tide-lines>

<sup>3</sup> February 16, 2021 *News Service of Florida* article "Florida tourism industry sees 34% drop in visitors in 2020 compared to 2019, lowest since 2010" by Jim Turner at <https://www.news-journalonline.com/story/business/2021/02/16/pandemic-brings-end-decade-record-setting-florida-tourism-numbers-business-coronavirus/6764767002/> and the *Florida and Review Travel Guide* article "Florida Tourism Statistics for 2020" at <https://floridareview.co.uk/useful-resources/florida-tourism-numbers>

<sup>4</sup> August 12, 2018 *nwfdailynews.com* article "Which beaches are public and private?" by Annie Banks at <https://www.nwfdailynews.com/news/20180811/which-beaches-are-public-and-private>

<sup>5</sup> April 20, 2021 *OBA Community Website* article "Parking passes approved for Orange Beach residents at state park accesses in city" by John Mullen at <https://www.obawebsite.com/parking-passes-approved-for-orange-beach-residents-at-state-park-accesses-in-the-city>

<sup>6</sup> May 28, 2021 *Pensacola News Journal* article "Need a car towed in Pensacola? That might soon cost more as towing rate rises by 76%" by Jim Little at <https://www.pnj.com/story/news/local/pensacola/2021/05/28/pensacola-towing-rates-could-rise-76-percent-after-council-vote/7475389002/>

<sup>7</sup> See Surfrider Foundation "Beach Access" discussion at <https://www.surfrider.org/initiatives/beach-access>

<sup>8</sup> For discussion of disappearing beaches elsewhere in Florida, go to the September 3, 2021 September-October 2020 *Sarasota Magazine* article "Who Owns Florida's Beaches?" by Isaac Eger at <https://www.sarasotamagazine.com/news-and-profiles/2020/09/who-owns-florida-beaches>

<sup>9</sup> January 3, 2019 *Pensacola News Journal* article "Perdido Key condo owners take Escambia County to court over beach access" by Jim Little at <https://www.pnj.com/story/news/2019/01/03/perdido-key-beach-access-condo-ownerstake-escambia-county-court/2463317002/>

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- <sup>10</sup> May 6, 2021 *Pensacola News Journal* article “Controversial Perdido Key beach access point gets OK from state environmental regulators” by Jim Little at <https://www.pnj.com/story/news/2021/05/06/perdido-key-beach-access-point-okd-stateenvironmental-regulators/4973834001/>
- <sup>11</sup> June 26, 2021 *Mobile Real-Time News* article “Orange Beach buys land for new public beach access, restaurant, bar, green space” by Dennis Pillion at <https://www.al.com/news/mobile/2021/06/orange-beach-buys-land-for-new-public-beach-access-restaurant-bar-green-space.html>
- <sup>12</sup> January 16, 2019 *WUWF* article “Local Governments Looking To Purchase Beachfront Properties to Increase Access” by Jennie McKeon at <https://www.wuwf.org/local-news/2019-01-16/local-governments-looking-to-purchase-beachfront-properties-to-increase-access> and August 9, 2021 *nwfdailynews* article “What is Walton County doing wrong – or right? Commissioner wants ‘operations inspector’” by Jim Thompson at <https://www.nwfdailynews.com/story/news/local/2021/08/09/walton-county-florida-commissioners-set-move-land-acquisition/5538306001/>
- <sup>13</sup> For additional ways to increase public access go to “Sand for the People” in *Florida Bar Journal* by Erika Krantz
- <sup>14</sup> “Sand for the People” in *Florida Bar Journal* by Erika Krantz
- <sup>15</sup> January 5, 2021 *nwfdailynews* article “YEAR IN REVIEW: HB 631 sparked intense debate on public’s customary use of beach” by Tom McLaughlin at <https://www.nwfdailynews.com/news/20190105/year-in-review-hb-631-sparked-intense-debate-on-publics-customary-use-of-beach>
- <sup>16</sup> March 28, 2018 *Naples Daily News* article “Public access to private beaches to be affected by new Florida law” by Thaddeus Mast available at <https://www.naplesnews.com/story/news/local/2018/03/28/gov-rick-scott-signs-bill-affecting-public-access-private-beaches-florida/465452002/>
- <sup>17</sup> February 18, 2021 *Daniel W. Uhlfelder P.A. Attorneys at Law* website article “First Court Hearing held on County’s Filing to Affirm Customary Use of the Beach” by Dotty Nist at <https://www.dwulaw.com/news/first-court-hearing-held-on-county-s-filing-to-affirm-customary-use-of-the-beach/>; for more discussion on Walton County customary use legal action, see the January 13, 2021 *DeFuniak Herald Quinton News* article “Court denies customary use opponents motion for summary judgement” by Dotty Nist at <https://defuniakherald.com/news/court-denies-customary-use-opponents-motion-for-summary-judgment/> and the May 26, 2021 *nwfdailynews* article “Customary use hearing raises question: Can nonlitigants’ land ‘default’ to the public” by Tom McLaughlin at <https://www.nwfdailynews.com/story/news/local/2021/05/26/walton-county-florida-considering-public-ownership-beaches-if-owners-fail-to-respond/5200245001/>
- <sup>18</sup> Navarre Beach is an example of an “engineered beach” as discussed in the March 30, 2019 *The Destin Log* article “Navarre Beach Open to All” by Tom McLaughlin at <https://www.thedestinlog.com/news/20190330/navarre-beaches-open-to-all>
- <sup>19</sup> See “Perdido Key, FL Beach Restoration Project” at [http://agenda.myescambia.com/docs/2017/REGBCC/20170817\\_3913/12635\\_PK%20NourishmentProj-FDEP%2018-19%20LocalGovtFundingRequest-2017%20Aug%2017.pdf](http://agenda.myescambia.com/docs/2017/REGBCC/20170817_3913/12635_PK%20NourishmentProj-FDEP%2018-19%20LocalGovtFundingRequest-2017%20Aug%2017.pdf)
- <sup>20</sup> “Florida Beach and Shore Preservation Act,” 161 Fla. Stat. §§161.088; 161.101; 161.141; 161.161; 161.191; 161.201; 161.211 (2005)
- <sup>21</sup> Escambia County web entry at <https://myescambia.com/our-services/natural-resources-management/water-quality-landmanagement/perdido-key-habitat-conservation-plan/perdido-key-dune-restoration-project>
- <sup>22</sup> February 8, 2018 *Pensacola News Journal* article by Melissa Nelson Gabriel “New plan would ‘naturally replenish’ erosion on Perdido Key beaches” at <http://www.pnj.com/story/news/local/pensacola/beaches/2018/02/08/perdido-key-erosion-plannaturally-replenish/308582002/>
- <sup>23</sup> For the “Perdido Key Sediment Placement” grant request, go to <https://www.gulfspillrestoration.noaa.gov/sites/default/files/2021-03%20FL%20Draft%20RP%202%20FM2%20Perdido%20Key%20Sediment%20Placement.pdf>
- <sup>24</sup> Escambia County requested a RESTORE grant of \$3,200,000 for “Johnson Beach Access Management and Habitat Protection” that will alter parking arrangements from roadside to new parking areas off the beach road
- <sup>25</sup> January 3, 2019 *Pensacola News Journal* article “Perdido Key condo owners take Escambia County to court over beach access” by Jim Little at <https://www.pnj.com/story/news/2019/01/03/perdido-key-beach-access-condo-ownerstake-escambia-county-court/2463317002/> and July 22, 2019 *Pensacola News Journal* article “Opening of controversial Perdido Key beach parking lot delayed for environmental changes” by Melissa Nelson Gabriel at <https://www.pnj.com/story/news/local/pensacola/beaches/2019/07/22/controversialperdido-key-beach-parking-plan-delayed-environmental-impacts/1778110001/>
- <sup>26</sup> Drawn from “Florida’s Sea Level is Rising And It’s Costing Over \$4 Billion” at *SeaLevelRise.org*, available at <file:///F:/USB%20DISK/01%20PKA/Perdido%20Key%20Beach%20Issues/Florida's%20Sea%20Level%20Rise%20-%20Sea%20Level%20Rise.html>