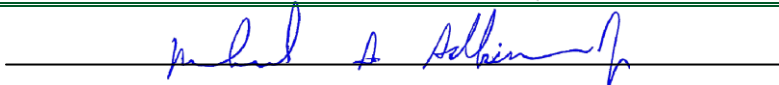


WALTON COUNTY SHERIFF'S OFFICE STANDARD OPERATING PROCEDURE



Standard Operating Procedure Title: Trespassing on Gulf front beaches		
Standard Op Procedure #: 15-004	Effective Date: 05/26/15	Amends:
Applicable CFA Standards: N/A		
Approved:  Sheriff Michael A. Adkinson, Jr.		

I. Purpose:

The purpose of this Standard Operating Procedure ("SOP") is to provide direction to agency members when answering calls for service related to alleged trespassing on private property on Gulf front beaches in Walton County.

II. Policy:

Walton County Sheriff's Office deputies shall use the following guidelines regarding complaints of alleged trespassing on Gulf front beaches in Walton County.

Attachment No. 1 – Beach Re-nourishment Areas with established Erosion Control Line ("ECL"): Deputies shall not enforce trespass laws anywhere in the area seaward of the ECL.

Attachment No. 2 – Non-Beach Re-nourished Areas without established ECL: Deputies shall not enforce trespass laws in the area seaward of either (i) the wet sand areas; or (ii) seaward of the MHWL.

III. Authority:

FSS 177
FSS 161
FSS 810

IV. Definitions:

Beach Nourishment— also referred to as **beach replenishment** or **sand replenishment**—describes a process by which sediment (usually sand) lost through long-shore drift or erosion is replaced from sources outside of the eroding beach by local, state or federal funds.

Mean High Water (MHW) - means the average height of the high waters over a 19-year period. For shorter periods of observation, "Mean High Water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

Mean High Water Line (MHWL) - means the intersection of the tidal plane of mean high water with the shore.

Mean Low Water (MLW) - means the average height of the low waters over a 19-year period. For shorter periods of observation, “mean low water” means the average height of low waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of mean 19-year value.

Mean Low-Water Line (MLWL) - means the intersection of the tidal plane of mean low water with the shore.

Erosion Control Line (ECL) – the ECL is a location determined by regulatory authorities and recorded in the public records of Walton County. The location was derived by establishing the amount of erosion or avulsion, and provides public use of the area seaward of the ECL and the MHWL.

V. Background

This SOP is intended to provide some clarification concerning (i) beach property rights as it pertains to trespassing on private property along the Walton County coast line; and (ii) the right of the public to access portions of the beach. In order for Law Enforcement to take lawful actions against a person trespassing, two things must occur. First the officer must reasonably believe that the person making the complaint is the owner of the property. Second, that the person trespassing is in fact on the complainant’s property, and refuses to leave once requested by the officer.

In cases involving complaints from coastal residents, deputies are routinely presented with inadequate documentation as to upland property ownership and the boundaries of the resident’s property. Often times the officer is shown a survey that indicates the boundaries of a coastal property to include the property line extending to the water’s edge. The surveys may or may not show linear foot dimensions, or observable reference points from which linear dimensions are measured. In most all cases there is no permanent staking showing the boundaries of the property or the placement of “No Trespassing” signs. Some residents will also claim that according to their survey, their property line extends into the water.

VI. Determining Mean High Water Line

A. In order to determine private coastal property boundaries along the shoreline, the “Mean High-Water Line” must be established. The mean high-water line is the boundary between the state sovereignty land and the uplands subject to private ownership. Establishing the mean high-water line is governed by Chapter 177, Florida Statutes, which provides several requirements, to wit:

1. “The establishment of local tidal datum’s and the determination of the location of the mean high-water line or the mean low-water line, whether by federal, state, or local agencies or private parties, shall be made in accordance with the standards and procedures set forth in ss. 177.37 – 177.39 and in accordance with supplementary regulations promulgated by the department (Department of Environmental Protection, FDEP).”
2. “The establishment of local tidal datum’s and the determination of the location of the mean high-water line or the mean low-water line must be performed by

qualified personnel licensed by the Board of Professional Surveyors and Mappers or by representatives of the United States Government when approved by the department (FDEP)."

3. "Any surveyor undertaking to establish a local tidal datum and to determine the location of the mean high-water line or the mean low-water line shall submit a copy of the results thereof to the department (FDEP) within 90 days after the completion of such work, if the same is to be recorded or submitted to any court or agency of state or local government."
4. "The location of the mean high-water line or the mean low-water line shall be determined by methods which are approved by the department (FDEP) for the area concerned. Geodetic bench marks shall not be used unless approved by the department (FDEP)." To obtain approval, a form must be completed and submitted to FDEP (Florida Department of Environmental Protection)."

VII. Enforcement

- A. If residents of Walton County wish to have trespass laws enforced on their coastal properties, the Sheriff's Office will need several documents presented by the owner, and to be retained by the officer for use as evidence in any criminal prosecution. If these items are not presented, the Walton County Sheriff's Office will not be able to clearly establish the necessary elements for criminal trespassing on private property inland of the mean high water line. Those documents needed are:
 1. Copy of owner's deed (certified copy preferred). This can be obtained from the Walton County Clerk's office at the South Walton Annex.
 2. If property is part of a subdivision or condominium plat, a copy of the Plat (certified copy preferred). Also available from the Walton County Clerk's office.
 3. Copy of owner's driver's license, which name thereon shall be on the deed. If the property is titled in something other than the owner's individual name (i.e., corporation; limited liability company; limited partnership; trust; etc.), then in addition to the driver's license, a resolution executed by all principals of the entity authorizing the person with the driver's license to act on behalf of the entity. If the beach area in question is designated as "common area" and dedicated on the plat to a homeowner's association, or condominium association, than a Board of Directors resolution or trespass authorization letter must also be presented authorizing the person with the driver's license to act on behalf of the association.
 4. A signed, sealed and certified survey approved by and submitted to the Florida Department of Environmental Protection (FDEP) that establishes the mean-high water line and such survey is recorded in the Walton County Clerk's Office. If the survey does not contain an FDEP approval stamp, then a letter from FDEP approving the survey will suffice. All linear dimensions of the property's boundary need be shown on the survey with recognizable upland marks. (NOTE: FDEP does not require linear dimensions be shown on MHWL FDEP approved survey thus such survey may or may not show dimensions. If the survey does not show linear dimensions, the owner must have their surveyor update their survey to show same). (NOTE: If the alleged trespasser is far

enough away from the wet sand where it is obvious to the officer based on other documents received they are on the owner's property, a signed and sealed survey not approved by FDEP for purposes of establishing mean high-water line will suffice.)

5. The property boundaries of the upland owners property are adequately marked on the ground indicating the boundary between the mean-high water line and their upland property. The Erosion Control Line must also be shown on the survey (if applicable), and properly staked in the event the owner's property has such line established thereon by FDEP.

- B. In the event the officer is satisfied he has all required documentation, he still may be unable to issue a criminal trespass notice if the alleged trespasser is in any of the areas described below.

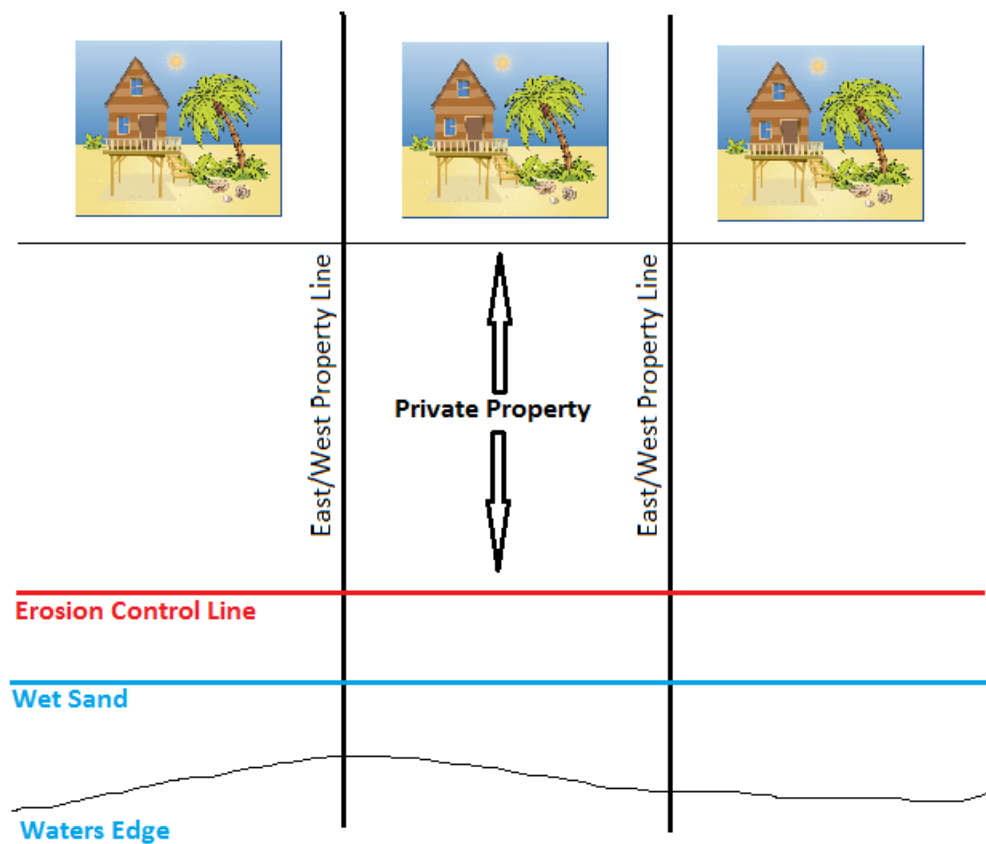
The State Attorney for the First Judicial Circuit has clearly stated that criminal action for trespassing along the Walton County coastline will not be taken in the following areas: See Attachment #3

1. Wet sand areas
2. Re-nourished areas where Federal, State, or Local monies were used (i.e. areas seaward of the Erosion Control Line ("ECL")).
3. Areas seaward of the mean high tide mark

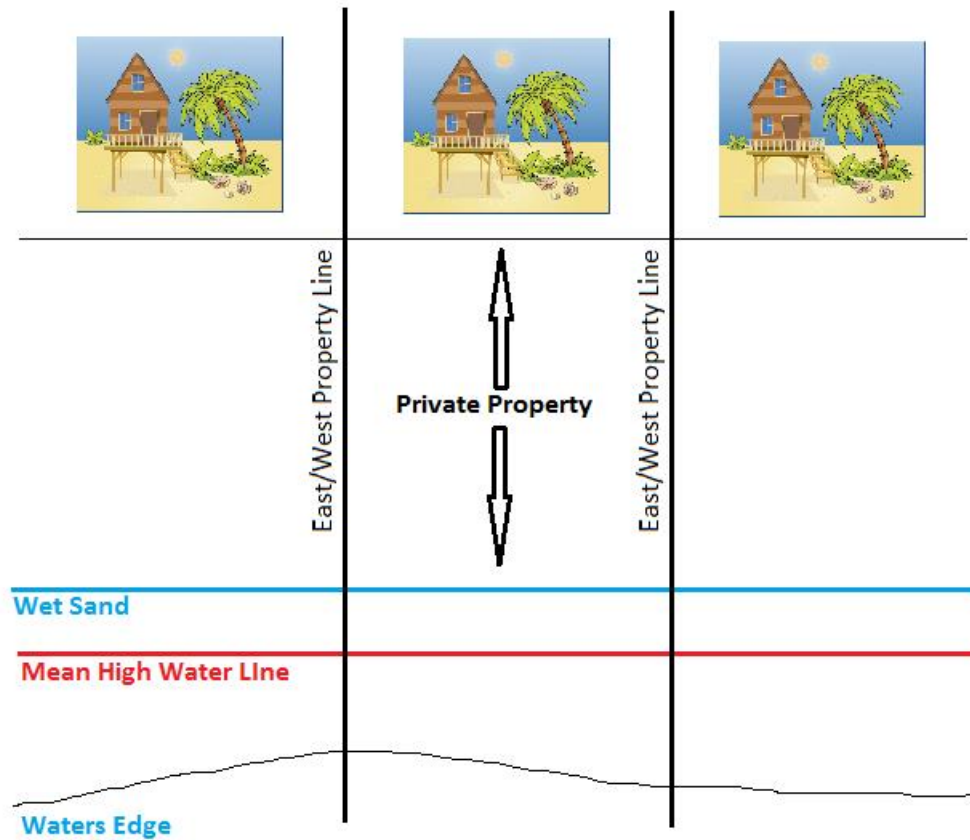
- C. Deputies may enforce trespass laws in the area inland of the erosion control line on Gulf front beaches which have received nourishment, provided they receive copies of the documents required in this SOP. See Attachment 1
- D. Deputies may enforce trespass laws on identified private property in the area inland of the wet sand area on Gulf front beaches which have not been nourished, provided they receive copies of the documents required in this SOP. See Attachment 2
- E. Deputies may exercise their discretion in enforcing trespass laws, but may not physically arrest anyone for trespassing on such beach areas. A Notice to Appear may be issued to a person remaining in such area after being requested to leave, but only if the owner or agent of the owner of said property is present to sign an affidavit of complaint, and has provided the officer with the documents required in this SOP.
- F. All deputies shall use discretion in making decisions to cite anyone for trespassing on beach areas, based on the circumstances of each particular case.

VIII. Attachments

Attachment 1 – Currently applies to beaches from Okaloosa County to the west boundary of Top Sail Hill Preserve State Park.



Attachment 2 – Currently applies to beaches from the eastern boundary of Top Sail Hill Preserve State Park to Bay County.



*MHWL shown as example only; proper survey can show exact location as specified in this SOP.

Memo

To: Whom It May Concern
Re: Criminal Action for Trespass
From: Gregory M. Anchors, Assistant State Attorney Supervisor
Date: May 12, 2009

The Walton County Sheriff's Department, the Office of the State Attorney, and the Walton County Commissioners have determined that criminal action for trespass will **not** be taken in the following areas along the beach:

- a. Wet sand areas
- b. Re-nourished areas where Federal or State or Local monies were used
- c. Areas south of the mean high tide mark