



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Colleen M. Castille
Secretary

CERTIFIED - RETURN RECEIPT REQUESTED

October 16, 2006

U.S. Army Corps of Engineers
c/o Ms. Marie Burns
P.O. Box 4970
Jacksonville, Florida
32232-0019

Permit Modification No. 0157891-014-EM, Pinellas County
Permit No. 0157891-011-EM, Hillsborough and Pinellas Counties
Ft. DeSoto Groin Rehabilitation

Dear Ms. Burns:

Your request to modify Permit No. 0157891-011-EM has been received and reviewed by Department staff. The proposed permit modification is to rehabilitate the existing groin located just north of the Gulf-side pier at the southern tip of Mullet Key in Pinellas County. This work would include placement of large armor stones and smaller chinking stones to restore the groin from its current height of 1.0 foot NGVD to a final height of +3.0 feet NGVD. The groin will extend approximately 250 feet from the shoreline and end in an L-shaped head extending 65 feet to the north and measuring 20 feet in width. This work will not change the previously permitted footprint of the groin.

On October 8, 1963, Pinellas County applied for a permit to construct a groin on the southern tip of Mullet Key, located in Fort DeSoto Park, at the mouth of Tampa Bay. The County anticipated that this groin would slow the erosion rate along the Gulf beaches, which was threatening the remains of the Fort. Studies carried out at the Coastal Engineering Laboratory of the University of Florida had indicated that the construction of this groin would force the littoral current further offshore and cause sand to be deposited to the North. The groin was built in 1965, following issuance of a permit (DBS 65-51) from the Trustees of the Internal Improvements Trust Fund.

Segments of Ft. DeSoto beach have recently been designated by the Department as critically eroded. As a result, on August 23, 2006, the Department issued Permit Number 0157891-011-EM, which was a major modification of the Tampa Harbor Comprehensive Maintenance Dredging Permit (Number 0157891-009-EM). This allowed the Corps to place beach-compatible material, dredged from the federally authorized channels within Tampa Harbor, on

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the Ft. DeSoto Park shoreline. The littoral transport in this area is generally from north to south, and sand from Pinellas County beaches is transported across the Tampa Bay, toward the beaches of Manatee County. Restoration of the groin would help trap the placed sand and prevent it from drifting back into the bay.

Ft. DeSoto, a public recreational facility and historical site and the largest Pinellas County park, attracts more than 2.7 million visitors annually. Known for the Fort itself, as well as its beautiful beaches, this site is important to the County and the State as a tourist destination. In addition to attracting tourists, the beaches serve as habitat for nesting sea turtles and various species of shorebird. Protection of this shoreline is vital to the local economy and to the continued existence of threatened and endangered species.

The proposed work is to rehabilitate this low profile terminal groin, which was previously authorized and constructed to hold the past fill project. The presence of the groin does not have adverse impacts on any down-drift shoreline because the south point of Mullet Key is armored with a seawall and revetment. Rehabilitating this structure to make it less permeable would greatly benefit retention of the new fill and hopefully minimize the frequency of any future fill projects while maximizing protection to the fort, park infrastructure, and beaches.

A number of Endangered Species Act listed species are expected to be present in the area where work will be conducted. Both loggerhead and green sea turtles, as well as various species of shorebird, are known to nest on the beaches in this area. Staff at Ft. DeSoto Park reported that the last sea turtle nest hatched on September 24 and that the majority of shorebirds have nested 3 miles to the North of the project site. Based on this information from the Park, the Florida Fish and Wildlife Conservation Commission has determined that this work is unlikely to harm sea turtles or shorebirds. Manatees may also be present in the vicinity of the groin. Specific conditions in the permit will ensure their protection.

Aquatic Preserve staff raised concerns about the potential for impacts to historical resources, as this area is rich in Spanish-American war history. However, the Florida Department of State's Division of Historical Resources has concluded that this minor rehabilitation work will pose no threat to the resources since the footprint of the existing jetty will not be changed.

This modification also requires a proprietary authorization, as the groin is located on sovereign submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 and 253.77, F.S. An easement was not granted at the time of construction and the rehabilitation work is not exempt from the need to obtain a proprietary authorization. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that this activity, due to its time-sensitive nature, qualifies for a letter of consent pursuant to Section 18-

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21.005(1)(c)14, F.A.C. This letter of consent is being granted to Pinellas County, as the local sponsor for this part of the project. However, according to Rule 18-21.005(1)(c)14, F.A.C., and as a condition of the letter of consent, Pinellas County must apply for and obtain an easement for the structure within a year of issuance of this modification.

The activity description shall be revised as follows (~~strikethroughs~~ are deletions, underlines are additions):

ACTIVITY DESCRIPTION:

The project is to conduct maintenance dredging of the federally authorized channels within Tampa Harbor and the berths of the Tampa Port Authority. This project consists of approximately 67 miles of existing channels and berthing areas and the previously approved disposal sites. The channels to be maintained include:

- Egmont Bar Channel, Cuts 1-2 (sheets 2-4).
- Mullet Key Channel (sheet 4).
- Tampa Bay Channel, Cuts A, B, C, D, E, F, G, J, J-2, and K (sheets 5-8).
- Gadsden Point Cut (sheets 7 and 9).
- Big Bend Channel (sheet 9).
- Hillsborough Bay Channel, Cuts A, C and D (sheets 9-10).
- Alafia Channel (sheet 10).
- Port Sutton Channel (Sheet 10).
- East Bay Channel, East Bay Extensions 1 and 2, Lower Sparkman Channel, Upper Sparkman Channel, Sparkman Channel, Ybor Channel and Seddon Channel (sheet 11).

The authorized dredged material disposal areas include:

- Ocean Dredged Material Disposal Site (ODMDS) #4, (sheet 12).
- Egmont Key shoreline and nearshore disposal sites (beneficial use sites) (sheet 13).
- Ft. DeSoto Park shoreline and nearshore disposal site (beneficial use site) (sheets 18 & 19)
- Rock Disposal Area north of Egmont Key (sheet 18)
- Diked Construction Maintenance Disposal Areas 2D and 3D (sheet 15).
- Upland disposal areas A, B, and C, and Bird Island (sheet 15).
- In-water dredged holes (beneficial use sites).
- MacDill Runway Extension (sheet 14).

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- McKay Bay (sheet 15).
- Whiskey Stump Key Holes 1 & 2 (sheet 15).
- Northshore Beach (sheet 14).
- Gandy Channel North (sheet 14).

The project also includes replacement of two geotextile tube groin structures on the north end of Egmont Key (sheets 16 & 17) and rehabilitation of an existing terminal groin located just north of the Gulf-side pier at the Southern tip of Mullet Key. The rehabilitation will consist of adding armor and chinking stone to raise the elevation of the groin from its current elevation of +1.0 foot NGVD to the originally authorized elevation of +3.0 feet NGVD and filling in any gaps to sand-tighten the structure. The final dimensions of the groin will be approximately 250 feet in length, with an L-shaped head extending 65 feet to the north and measuring 20 feet in width.

The specific conditions shall be revised as follows (~~strikethroughs~~ are deletions, underlines are additions):

SPECIFIC CONDITIONS:

22. During groin rehabilitation work, if performed by boat or barge, any anchoring shall be conducted in areas where there are no seagrass, algal, hardbottom, or coral communities. No direct or secondary impacts are authorized to submerged aquatic vegetation, shellfish beds, or hardbottom communities. If any impacts occur, the permittee shall immediately report the damage to the JCP Compliance Officer and take corrective action to avoid any further damage. Within 30 days of any such damage, the permittee shall propose a remediation/mitigation plan, which shall be implemented upon approval by the Department.

After thorough review of your application, staff finds that the proposed modification is not expected to adversely affect water quality and is expected to be clearly in the public interest. Staff has also determined that the proposed alteration does not increase the potential for adverse impact on the coastal system, public beach access seaward of the mean high water line or nesting sea turtles and hatchlings and their habitat, and that the proposed alteration does not reduce the design adequacy of the project. Since the proposed modification is not expected to result in any adverse environmental impact or water quality degradation, the **permit is hereby modified** as stated above. By copy of this letter and the attached drawings, we are notifying all necessary parties of the modification.

This letter of approval does not alter the **April 7, 2016** expiration date, other Specific or General Conditions, or monitoring requirements of the permit. This letter and the accompanying

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drawings must be attached to the original permit.

This permit is hereby modified unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, Florida Statutes, as provided below. The procedures for petitioning for a hearing are set forth below. Mediation under Section 120.573, F.S., is not available for this proceeding.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in further modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit modification automatically becomes only proposed agency action on the application subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit modification until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time has expired.

Under Rule 62-110.106(4), Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding judge upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

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In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first.

Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

In accordance with Rule 28-106.201, F.A.C., a petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

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A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

This permit modification constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

The Department does not require notice of this agency action to be published. However, the applicant may elect to publish notice as prescribed in Rule 62-110.106, F.A.C., which constitutes notice to the public and establishes a time period for submittal of any petition.

If you have any questions regarding this matter, please contact me at the letterhead address (add Mail Station 300) or by telephone at (850) 414-7728.

Sincerely,



Martin K. Seeling
Environmental Administrator
Bureau of Beaches & Coastal Systems

MKS/cl

Attachments: 3 permit drawings

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cc: Cece McKiernan, DEP, Southwest District
Paul Karch, Corps, Jacksonville
Nicole Elko, Pinellas County DEM
Randy Runnels, Aquatic Preserve Manager
Bob Brantly, BBCS
BBCS Permit Information Center

Steve West, BBCS, Field Representative
James McAdams, Corps, Jacksonville
FWC Florida Marine Patrol
Robbin Trindell, FWC, ISMS
Ralph Clark, BBCS
JCP Compliance Officer

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.



Deputy Clerk



Date