



Florida Department of Environmental Protection

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CERTIFIED - RETURN RECEIPT REQUESTED

January 24, 2008

U.S. Army Corps of Engineers
c/o Ms. Marie Burns, Chief
Environmental Branch
P.O. Box 4970
Jacksonville, FL 32232

Permit Modification No. 0262913-002-EM
Permit No. 0262913-001-JC, Palm Beach County
Jupiter Inlet AIWW Maintenance Dredging and Beach Fill Placement

Dear Ms. Burns:

Your request to modify Permit No. 0262913-001-JC has been received and reviewed by Department staff. The proposed permit modification is to remove the portion of Specific Condition No. 14g that prohibits dredging at night, to change the turbidity monitoring protocol, and to make minor changes to the permit language.

The following information describes the project history from the time of original permit issuance, and the subjects directly related to the proposed modification. For additional background, please see the *Consolidated Notice of Intent to Issue* for Joint Coastal Permit (JCP) No. 0262913-001-JC, dated November 30, 2007, available at the Bureau website:
http://bcs.dep.state.fl.us/env-prmt/palm_bch/issued/0262913_Jupiter_AIWW_Maintenance_Dredging/001-JC/Intent/

Joint Coastal Permit No. 0262913-001-JC, issued January 7, 2008, authorized maintenance dredging of a portion of the Atlantic Intracoastal Waterway (AIWW) in the vicinity of Jupiter Inlet to restore full navigation depth of the Federal navigation project. The authorized dredge limits are between Cut P-1 and Cut P-4, with maximum dredge depths varying from 12 feet to 16 feet (MLW), including advance maintenance and allowable overdepth. Beach-quality sand will be placed along 5,500 linear feet of beach immediately south of Jupiter Inlet, between FDEP reference monuments R-13 and R-19. Approximately 25,000 cubic yards of this material will be used for dune reconstruction between R-13 and R-17.

The prohibition on night-time dredging was included in the permit for the protection of manatees. This condition is generally included when there is heightened concern about the potential for manatee impacts. Since this permit does not authorize use of a clamshell dredge, the likelihood of interactions with manatees is low and night-time work is not a concern.

The changes to the turbidity monitoring protocol allow some flexibility in readings due to variations in background water quality while still providing protection to seagrass beds located within the 75 meter mixing zone.

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

SPECIFIC CONDITIONS:

2. No work shall be conducted under this permit until and unless the Department executes a local sponsor agreement with the Florida Inland Navigation District to include monitoring for sand compaction, scarp formation, and leveling, lighting, beach profile surveys, sea turtle surveys, and shorebird surveys. ~~The Corps will not be held responsible for any post-construction work that is completed to the Department's satisfaction by FIND.~~ The Corps is not responsible for conditions accepted under the Local Sponsor Agreement, signed January 24, 2008, by the Department.
3. At least 21 days prior to construction of the initial dredging event, and at least 30 days prior to each subsequent dredging event authorized under this permit, the permittee shall submit, for review by the Department, one (1) printed copy and one (1) electronic copy of detailed *final construction plans and specifications* for all authorized activities, including an Environmental Protection Plan and Grade Stake Recovery Plan (for beach placement), to be provided by the contractor. The plans and specifications shall include a description of the beach and nearshore construction methods to be utilized, including details on dredge location and suction head position monitoring and controls. The construction plans shall show the pipeline corridors, anchoring ~~locations~~ zones, turbidity mixing zone, and results of the pre-dredge seagrass survey.

The construction drawings for the initial dredging event shall be updated with the results of the 2007 pre-dredge survey of the anchor zones, and the perimeter of all seagrass beds with species denotations/densities shall be delineated on the drawings at a resolution sufficient to avoid impacts to seagrasses within the anchor zones. Any significant changes made to these drawings during construction, as necessitated by field conditions, will be addressed pursuant to General Condition #1.

6. The permittee and the Department, within their respective authorities and funding, shall ensure that beach compatible dredged material is placed on Florida's beaches to the extent economically feasible, consistent with Florida's beach management plan adopted pursuant to Chapter 161, F.S. and other beneficial uses criteria as may be specified by the Department and applicable federal standards. To further the parties' goals for sediment management, prior to each dredging event, the Corps shall provide the Department with existing geotechnical information characterizing the sediments to be dredged. If the Corps does not plan to place beach-compatible material within the approved beach

disposal site, the Corps shall provide alternative disposal options with projected costs to allow the Department to consider participating ~~participate~~ in funding alternative disposal options over the least costly method.

7. ~~Use of a clamshell dredge is not authorized by this permit. The use of a hydraulic pipeline dredge has been reviewed and approved for this project. Clamshell dredging is not authorized by this permit.~~
9. Pursuant to General Condition #11 and the Department's request, the permittee shall supply to the Bureau a copy of any drawings and surveys of the dredge area cross-sections with the statement of completion. These drawings shall include pre-construction survey data and drawings, acquired within six (6) months of dredging, ~~and following the last major storm~~. Both the original design and constructed elevation should be clearly shown. The statement of completion should also include volume dredged for each work area.

MONITORING REQUIRED:

10. **Seagrass.** A seagrass survey was conducted in August 2006 for Cuts P-1 through P-4 to evaluate the potential for seagrass impacts from this project. An updated, pre-construction seagrass survey was conducted during the summer of 2007 to establish the baseline for the initial maintenance dredging event under this permit. Prior to each subsequent dredging event authorized by this permit, a new pre-construction seagrass survey shall be conducted between June 1 and August 31 in the areas where dredging is to occur for each particular maintenance event.

The survey protocol shall follow the methods established for the 2006 pre-construction survey. The surveys shall involve a visual inspection of the proposed pipeline route(s), the turbidity mixing zone, the anchor zone adjacent to the dredge areas (100 feet to either side of the channel), and all vessel operation areas. The perimeter of all seagrass beds within the anchor zone shall be delineated on a map at a resolution sufficient to avoid anchor impacts within the beds. Patches of *Halophila johnsonii* within the anchor zone, pipeline routes, and vessel operation areas shall be delineated with DGPS and areas of coverage shall be quantified.

One hundred and thirty seven (137) transect locations were established in August 2006 for Cuts P-1 through P-4. Transects run perpendicular to the axis of the channel dredge area for a total length of 150 meters. DGPS positioning of the end points of the transects and the heading of each transect was recorded. Line-intercept and point quadrat samples shall be used to qualitatively describe bottom type and quantitatively assess percent cover of seagrass and species composition within the vegetated areas. A qualified biologist* shall swim the transect lines noting the linear extent of bottom type within a 1-meter wide area centered on the transect line. Qualitative categories of bottom type within the 1-meter wide area under the transect line will include: seagrass (with indication of single

or mixed species composition) at less than < 25% total cover, seagrass 25-50% total cover, seagrass 50-75% total cover and seagrass at > 75% total cover. Special note shall be made of the occurrence of species of special concern (e.g., *H. johnsonii*) and presence of flowering populations of seagrasses along the transect line.

Within the anchor area, point quadrat samples shall be located every 5 meters using a one-square meter quadrat sub-divided into 100, 10-cm² squares. The first sampling point along the transect shall coincide with the first occurrence of seagrass nearest the channel, and the DGPS positioning for each of these points shall be recorded to map the edge of the seagrass bed nearest the channel. Within the mixing zone, but outside of the anchor area, the spacing of quadrats along the transect may be increased to every 10 meters. Within quadrats, total percent cover of submerged aquatic vegetation (SAV) will be determined by counting the number of cells with seagrass or macroalgae present regardless of quantity (frequency of occurrence). Percent cover will also be determined for each species of SAV individually. Visual percent cover shall also be estimated for all seagrass species occurring in the quadrat, and a score based on the cover of the species in that quadrat shall be assigned according to the Braun-Blanquet abundance scale. Presence of flowering populations of seagrasses within the quadrats shall also be noted.

At least 10 days prior to the commencement of the initial maintenance dredging event in 2008 and at least 30 days prior to each subsequent maintenance dredging event authorized under this permit, the updated pre-construction seagrass survey, including a written report with updated seagrass maps (one electronic and one paper copy), shall be submitted to the Department. The report shall contain updated tables of potential seagrass impacts that identify the acreage of seagrass by species and density within the anchor zone, the pipeline corridor, the areas adjacent to the channel that may be subject to sloughing, and the turbidity mixing zone around the shoal areas to be dredged.

Within 30 days following the completion of construction of each maintenance dredging event, or after June 1 (whichever is later), a post-construction seagrass survey shall be conducted following the same transect locations and methods that were established during the pre-construction survey in August 2006. If construction is completed prior to June 1, the post-construction survey shall be completed between June 1 and June 30. Areas identified as barren sand during the pre-construction survey do not need to be re-surveyed. Scientific divers shall visit all anchor locations that were positioned within the perimeter of a seagrass bed during this survey for the evaluation of potential anchor damage to seagrasses.

Within 60 days following the completion of the post-construction seagrass survey, a report (one electronic and one paper copy) shall be submitted to the Department documenting all signs of impact to the seagrass beds since the pre-construction survey (e.g., reduced perimeter, reduced density, sediment coverage and scouring), an approximate quantification of the extent of the impacts, and an evaluation of the likelihood that the listed impacts are attributable to the dredge operations.

* A qualified biologist is an individual with an academic background in marine biology/ecology (B.S. degree or higher), good working knowledge of seagrass habitat in Florida, and who is trained in seagrass species identification and density assessments.

12. **Marine Turtles**

- f. FIND shall till the beach immediately ~~Immediately~~ after completion of the beach fill placement event and prior to March 1 for three subsequent years if placed sand still remains on the beach, ~~the beach shall be tilled as described below~~ or FIND the applicant may follow the procedure outlined below to request a waiver of the tilling requirement. During tilling, at a minimum, the protocol provided below shall be followed:
- i. The area shall be tilled to a minimum depth of 36 inches. All tilling activity must be completed prior to March 1.
 - ii. An annual summary of compaction surveys and the actions taken shall be submitted to the FWC.
 - iii. If the project is completed just before the nesting season, tilling shall not occur in areas where nests have been left in place or relocated unless authorized by the U.S. Fish and Wildlife Service in an Incidental Take Statement.
 - iv. This condition shall be evaluated annually and may be modified if necessary to address sand compaction problems identified during the previous year.
- g. To request a waiver of the tilling requirement, FIND the permittee or local sponsor may measure sand compaction in the area of restoration in accordance with a protocol agreed to by the FWC, the Department, the U.S. Fish & Wildlife Service, and FIND the applicant to determine if tilling is necessary. The following protocol shall be followed:
- i. Compaction sampling stations shall be located at 500-foot intervals along the project area. One station shall be at the seaward edge of the dune/bulkhead line (when material is placed in this area) and one station shall be midway between the dune line and the high water line (normal wrack line).
 - ii. At each station, the cone penetrometer shall be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes,

especially if sediment layering exists. Layers of highly compact material may lie over less compact layers. Replicates shall be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments.

- iii. The three replicate compaction values for each depth shall be averaged to produce final values for each depth at each station. Reports shall include all 18 values for each transect line, and the final 6 averaged compaction values.
- iv. If the average value for any depth exceeds 500 psi for any two or more adjacent stations, then that area shall be tilled prior to March 1. If values exceeding 500 psi are distributed throughout the project area but in no case do those values exist at two adjacent stations at the same depth, then consultation with the FWC shall be required to determine if tilling is required. If a few values exceeding 500 psi are present randomly within the project area, tilling shall not be required.
- h. Visual surveys for escarpments along the beach fill area shall be made by FIND immediately after completion of the beach placement project and prior to March 1 for the following three years if placed sand still remains on the beach. All scarps shall be leveled or the beach profile shall be reconfigured to minimize scarp formation. In addition, weekly surveys of the project area shall be conducted during the two nesting seasons following completion of fill placement as follows:
 - i. The number of escarpments and their location relative to DNR-DEP reference monuments shall be recorded during each weekly survey and reported relative to the length of the beach surveyed (e.g., 50% scarps). Notations on the height of these escarpments shall be included (0 to 2 feet, 2 to 4 feet, and 4 feet or higher), as well as the maximum height of all escarpments.
 - ii. Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet shall be leveled to the natural beach contour by March 1. Any escarpment removal shall be reported relative to R-monument.
 - iii. If weekly surveys during the marine turtle nesting season document subsequent reformation of escarpments that exceed 18 inches in height for a distance of 100 feet, the FWC shall be contacted immediately to determine the appropriate action to be taken. Upon written notification, FIND ~~the permittee~~ shall level escarpments in accordance with mechanical methods prescribed by the FWC.

- i. ~~Artificial beachfront lighting in the dredged material placement area must be monitored by the applicant or local sponsor. The lighting ordinance adopted by the county or municipality must be followed and enforced. For each light not in compliance, the applicant or local sponsor must provide documentation that the property owner(s) has been notified of the problem light with recommendations for correcting the light. Recommendations must be in accordance with the county's or municipalities' specific lighting ordinance. FIND The applicant or local sponsor must complete a survey of artificial beachfront lighting by May 15 of and document all lighting visible from the filled beach, using standard techniques for such a survey. For each light not in compliance with the lighting ordinance adopted by the county or municipality, FIND must provide documentation that the property owner(s) has been notified of the problem light with recommendations for correcting the light. Recommendations must be in accordance with the county's or municipalities' specific lighting ordinance. A summary report of the survey and documentation of property owner notification must be submitted to FWC by June 1 of that nesting season. Additional lighting surveys must be conducted by June 15, July 15, August 15, and September 15 of that nesting season and results reported by the 1st of the following month; and a final summary report provided by December 15 of that year.~~

13. **Shorebird Surveys**

- b. *Nesting Season Surveys.* Shorebird Monitors shall review and become familiar with the general information and data collection protocols outlined on the FWC's Florida Beach-Nesting Birds Website (<http://myfwc.com/shorebirds/>). An outline of what data should be collected, including downloadable field data sheets, is available on the website. Nesting Season Surveys shall be conducted in the following manner:
 - i. The nesting season is generally 1 April – 1 September, but some nesting may occur through September.
 - ii. Nesting season surveys shall begin on April 1 or 10 days prior to project commencement (including surveying activities and other pre-construction presence on the beach), whichever is later, and be conducted daily throughout the construction period or through August, whichever is earlier. ~~Following construction, FIND shall conduct weekly~~ Weekly surveys of the project site shall continue through August or through fledgling or loss of identified nests or hatchlings, whichever is later.
 - iii. Nesting season surveys shall be conducted in all potential beach-nesting bird habitat within the project boundaries that may be impacted by construction or pre-construction activities during the nesting season.

Portions of the project in which there is no potential for project-related activity during the nesting season may be excluded.

- iv. Surveys for detecting new nesting activity will be completed on a daily basis prior to movement of equipment, operation of vehicles, or other activities that could potentially disrupt nesting behavior or cause harm to the birds or their eggs or young.
 - v. Surveys shall be conducted by traversing the length of the project area and visually inspecting, using binoculars or spotting scope, for the presence of shorebirds exhibiting breeding behavior.
 - vi. If an ATV or other vehicle is needed to cover large project areas, the vehicle must be operated at a speed <6 mph, shall be run at or below the high-tide line, and the Shorebird Monitor will stop at no greater than 200 meter intervals to visually inspect for nesting activity.
- d. *Non-Breeding Shorebird Surveys.* Data collected on non-breeding shorebirds shall be compatible with, and reported to, the Shorebird-Seabird Occurrence Database (<http://myfwc.com/shorebirds/Obs>). Non-breeding Shorebird Surveys shall be conducted in the following manner:
- i. Surveys for non-breeding shorebirds shall begin 14 days prior to construction commencement and be conducted once every 2 weeks for at least one year post-construction. The Corps will be responsible for the surveys before and during project construction and FIND will be responsible for post-construction surveys. Data collected during these surveys will provide valuable information on the use of filled beaches to shorebirds.
 - ii. Surveys for non-breeding shorebirds will include all potential shorebird habitat within the project boundary.
 - iii. Data shall be entered into the database within one month of collection.
 - iv. No construction activities, movement of vehicles, or stockpiling of equipment shall be allowed within the buffer area.
- h. *Beach Contours.* All tilling and scarp removal should be done outside the shorebird nesting season. It is the responsibility of FIND ~~the contractors~~ to avoid tilling or scarp removal in areas where nesting birds are present.

- i. A relatively even surface, with no deep ruts or furrows, shall be created during tilling. To do this, chain-linked fencing or other material shall be dragged over those areas as necessary after tilling.
 - ii. The slope between the mean high water line and the mean low water line must be maintained in such a manner as to approximate natural slopes.
14. **Manatees.** The permittee shall comply with the following standard manatee construction conditions intended to protect manatees from direct project effects.
 - g. At least one person shall be designated as a dedicated manatee observer when in-water work is being performed. That person shall have experience in manatee observation, be approved by FWC two weeks before the beginning of construction, and be equipped with polarized sunglasses to aid in observation. The manatee observer must be on site during all in-water construction activities and will advise personnel to cease operation upon sighting a manatee within 50 feet of any in-water construction activity. Movement of a work barge or other associated vessels shall be minimized to the extent possible after sunset. ~~Movement of a work barge, other associated vessels, or any in-water work shall not be performed after sunset,~~ when the possibility of spotting manatees is negligible. Any work vessels, particularly crew shuttle boats, that do move after sunset shall operate at slow speed with minimum wake. Any change in observer personnel must be approved by the Imperiled Species Management Section.
15. **Water Quality Monitoring (Turbidity)**
 - a. Dredge Site (Cuts P-1,P-2 and P-3 or within 75 meters of the Jensen Beach-to-Jupiter Inlet Aquatic Preserve and Cut P-4 inside or within 75 ~~100~~ meters of the Loxahatchee River-Lake Worth Creek or Jensen Beach-to-Jupiter Inlet Aquatic Preserve boundary):

Frequency: At least three (3) times daily during daytime dredging, at least four (4) hours apart, after dredging has been continual for an hour. Additional times, as necessary, when abnormally turbid plumes are observed, or as directed by Department staff following turbidity exceedances.

Location: Compliance 1: (Within 75 meters of and inside the Aquatic Preserves) No more than 50 ~~75~~ meters downcurrent of the point of dredging or unauthorized discharge, within the densest portion of any visible turbidity plume, or in the direction of flow if no plume is visible, at mid-depth.

Compliance 2: Downcurrent, at the nearest edge of any seagrass bed within ~~50~~ 75 meters of the point of dredging or unauthorized discharge, within the densest portion of any visible turbidity plume, or in the direction of flow if no plume is visible, at mid-depth.

Background: At least 300 meters upcurrent of the point of dredging or unauthorized discharge, outside any visible turbidity plume and any influence of this project, at mid-depth.

Threshold: 5 ~~9~~ NTUs (rounded to nearest whole number) above background at Compliance Location 1 and 15 NTUs above background at Compliance Location 2.

If a visible plume caused by dredging activities is observed at the edge of the 75 meter mixing zone, compliance samples shall be taken 75 meters from the dredge within the densest portion of the turbidity plume.

- b. Dredge site (Cut P-4, when more than 75 meters from Loxahatchee River-Lake Worth Creek or Jensen Beach-to-Jupiter Inlet Aquatic Preserve boundary,):

Frequency: Twice daily, at least four (4) hours apart, after dredging has been continual for at least one (1) hour.

Location: Compliance 3: No more than 75 meters downcurrent of the point of dredging or unauthorized discharge, within the densest portion of any visible turbidity plume, at mid-depth.

Compliance 4: Downcurrent, at the nearest edge of any seagrass bed within 75 meters of the point of dredging or unauthorized discharge, within, or in the direction of, the densest portion of any visible turbidity plume, at mid-depth.

Background: At least 300 meters upcurrent of the point of dredging or unauthorized discharge, outside any visible turbidity plume and any influence of this project, at mid-depth.

Threshold: 29 NTUs above background at Compliance Location 3 and 15 NTUs above background at Compliance Location 4.

- c. Beach Disposal Site:

Frequency: Twice daily, at least four (4) hours apart, after disposal has been continual for at least one (1) hour.

Location: Compliance: 150 meters from the point where effluent from the discharge pipe enters the ocean, within, or in the direction of, the densest portion of any visible turbidity plume, at surface and mid-depth. If no plume is visible, samples shall be collected 150 meters downcurrent of the point where effluent from the discharge pipe enters the ocean and 50 meters offshore.

Background: At least 300 meters upcurrent of the discharge point outside of any visible turbidity plume and any influence of this project, at the same distance offshore as the compliance point.

Threshold: 29 NTUs above background.

Weekly summaries of all turbidity monitoring data shall be submitted to the JCP Compliance Officer of the Bureau of Beaches and Coastal Systems and to the Southeast District Office of the Department within one week of collection, with documents containing the following information: (1) **“Permit Number 0262913-001-JC”**; (2) **“Jupiter AIWW Maintenance Dredging and Beach Fill Placement”** (3) dates and times of sampling and analysis; (4) a statement describing the methods used in collection, handling, storage and analysis of the samples; (5) a map indicating the sampling locations, current direction, plume configuration and the location of the dredge and discharge point(s); and (6) a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data. Monitoring reports shall also include the following information for each sample that is taken: a) time of day samples taken; b) depth of water body; c) depth of sample; d) antecedent weather conditions; e) tidal stage and direction of flow; f) wind direction and velocity; and g) DGPS position. Reports may be submitted electronically.

The mixing zone for the dredging sites shall extend 75 meters from the dredge, but with 50 meter compliance locations. The mixing zone for the beach disposal sites shall extend 150 meters downdrift and 50 meters offshore from the point where effluent from the discharge pipe enters the ocean. These temporary turbidity mixing zones shall only be in effect during the authorized dredging and filling. ~~75 meter compliance locations at the dredging site and the 150 meter compliance locations at the beach disposal site given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction.~~ If monitoring reveals that the turbidity levels at the compliance sites, including those located the edge of seagrass beds within the mixing zones, are greater than the indicated thresholds, construction activities shall cease immediately (unless otherwise directed by the Department) and shall not resume until corrective measures have been taken and turbidity has returned to acceptable levels (i.e., following two consecutive measurements resulting in below-threshold values).

Any measurement greater than five (5) NTUs above background at Compliance Location 1 zero (0) NTUs above background within the Aquatic Preserve (dredge site), 15 NTUs above background at Compliance Location 2 and Compliance Location 4, or 29 NTUs above background outside the Aquatic Preserve (beach disposal site and a portion of Cut P-4) shall constitute a turbidity violation and must be immediately reported to the JCP Compliance Officer and the Jensen Beach-to-Jupiter Inlet Aquatic Preserve and Loxahatchee River-Lake Worth Creek Aquatic Preserve Manager (Laura Herren, Phone (772) 429-2995, email address Laura.Herren@dep.state.fl.us). If a visible plume caused by dredging activities is observed at the edge of the 75 meter mixing zone **within an aquatic preserve**, compliance samples shall be taken 75 meters from the dredge within the densest portion of the turbidity plume. Any measurement greater than zero (0) NTUs above background at the edge of a mixing zone that terminates within an aquatic preserve shall constitute a turbidity violation and must be immediately reported, as indicated above.

After thorough review of your application, staff finds that the proposed modification is not expected to adversely affect water quality and the modification does not change the determination that the project is 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 and is expected to be of environmental benefit, 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 January 6, 2018 expiration date, other Specific or General Conditions, or monitoring requirements of the permit. This letter and the accompanying 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.

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.

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.

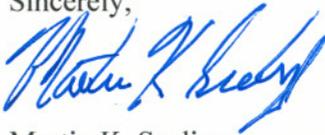
When there has been no publication of notice of agency action or notice of proposed agency action as prescribed in Rule 62-110.106, F.A.C., a person may request a copy of the agency action. The Department shall upon receipt of such a request, if agency action has occurred, promptly provide the person with notice. 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

Notice of Permit Modification
Permit Modification No. 0262913-002-EM
Jupiter Inlet AIWW Maintenance Dredging and Beach Fill Placement
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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 Caitlin Lustic at the letterhead
address (add Mail Station 300) or by telephone at (850) 414-7766.

Sincerely,



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

MKS/cl

cc:

| | |
|----------------------------------|--|
| Matt Miller, USACE, Jacksonville | David Roach, Florida Inlet Navigation District |
| Robbin Trindell, FWC, ISMS | Laura Herren, CAMA, South Indian River Aquatic Preserves |
| Mary Duncan, FWC, ISMS | Jennifer Smith, DEP, Southeast District |
| Jeffrey Howe, USFWS | Daniel Bates, PBC DERM |
| Martin Seeling, BBBS | Robert Brantly, BBBS |
| El Kromhout, BBBS | JCP Compliance Officer |
| BBBS File | |

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.

| | |
|---|---------|
|  | 1-24-08 |
| Deputy Clerk | Date |