



Department of Environmental Protection

Jeb Bush
Governor

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

Colleen M. Castille
Secretary

CERTIFIED - RETURN RECEIPT REQUESTED

August 28, 2006

Mr. Richard Bonner, P.E.
Jacksonville District
U. S. Army Corps of Engineers
Post Office Box 4970
Jacksonville, Florida 32232

Permit Modification No. 0168748-002-EM,
Permit No. 0168748-001-JC, Volusia County
Ponce De Leon Inlet South Jetty Extension

Dear Mr. Bonner:

Your request to modify Permit No. 0168748-001-JC has been received and reviewed by Department staff. The proposed permit modification is to construct a 1,000-foot long straight jetty extension to the south jetty at Ponce De Leon Inlet rather than the 1,000-foot long 'dog leg' jetty extension that is currently approved in the WQC. You are also requesting a five year extension of the existing permit, to expire on July 27, 2011 instead of July 27, 2006.

Background

The original Joint Coastal Permit (File No. 0168748-001-JC) was issued on July 27, 2001, to allow for the construction of a 1000-foot long extension of the south jetty at Ponce de Leon Inlet. This particular jetty design was curved slightly, in a dog leg, causing the south jetty alignment to be parallel to the north jetty.

Justification

A south jetty is needed at this location, because the littoral sediments immediately south of the inlet are transported northward off the south beach into the inlet. Continuous maintenance dredging is currently required to avoid the formation of a large accretional spit on the inside of the inlet, on the northern edge of the south jetty. Re-alignment of the authorized south jetty extension should reduce the quantity of sand transported around the seaward end of the south

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jetty into the inlet. The re-alignment of the jetty extension is not expected to cause an increase in the wave climate within the inlet, and should not adversely affect navigation.

Department staff has assessed the proposed re-alignment of the south jetty extension, and has determined that it is still consistent with the adopted Ponce de Leon Inlet Management Plan. Staff has also determined that the proposed south jetty extension is expected to result in beneficial impacts to the beach and inlet system.

The Florida Fish and Wildlife Conservation Commission (FWC) had concerns about the potential impacts to shorebirds, which were not addressed in the original permit. To minimize potential adverse impacts to shorebirds during construction, shorebird protection conditions have been added to this permit modification.

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

PROJECT DESCRIPTION:

The project is to construct a straight, 1,000 ft. long seaward extension of the south jetty at Ponce de Leon Inlet. ~~The jetty will parallel the alignment of the existing north jetty.~~ The work will also include the construction of a new walkway over portions of the jetty, in accordance with final plans and specifications.

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

SPECIFIC CONDITIONS:

5. **Shorebird Surveys.** Shorebird surveys should be conducted by trained, dedicated individuals (Shorebird Monitor) with proven shorebird identification skills and avian survey experience. Credentials of the Shorebird Monitor will be submitted to the FWC Regional Biologist for review and approval. Shorebird Monitors will use the following survey protocols:

Nesting Season Surveys. Shorebird Monitors should review and become familiar with the general information and data collection protocols outlined on the FWC's Beach-Nesting Bird Website (<http://myfwc.com/shorebirds/>). An outline of what data should be collected, including downloadable field data sheets, is available on the website.

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- a. The nesting season is generally 1 April – 1 September, but some nesting may occur through September. 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 if no shorebird nesting activity is observed.
- b. 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.
- c. 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.
- d. Surveys should 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.
 - i. 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.
- e. Once breeding is confirmed by the presence of a scrape, eggs or young, the Bird Monitor will notify the FWC Regional Biologist at (352) 732-1225 within 24 hours. All breeding activity will be reported to the Beach-Nesting Bird website within one week of data collection.
- f. Observations of non-breeding shorebirds should be reported to the Shorebird-Seabird Occurrence Database, as described below.

Non-Breeding Shorebird Surveys. Data collected on non-breeding shorebirds should be compatible with, and reported to, the Shorebird-Seabird Occurrence Database (<http://myfwc.com/...>).

- a. Surveys for non-breeding shorebirds should begin 14 days prior to construction commencement and be conducted once every 2 weeks until construction is

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- complete. Data collected during these surveys will provide valuable information on the use of nourished beaches to shorebirds.
- b. Survey for non-breeding shorebirds will include all potential shorebird habitat within the project boundary.
 - c. Data should be entered into the database within one month of collection.
6. **Buffer Zones and Travel Corridors.** Within the project area, the permittee shall establish a 300 ft-wide buffer zone around any location where shorebirds have been engaged in nesting behavior, including territory defense. Any and all construction activities, including movement of vehicles, should be prohibited in the buffer zone.
- a. The width of the buffer zone shall be increased if birds appear agitated or disturbed by construction or other activities in adjacent areas.
 - b. Site-specific buffers may be implemented upon approval by FWC as needed. Reasonable and traditional pedestrian access should not be blocked where nesting birds will tolerate pedestrian traffic. This is generally the case with lateral movement of beach-goers walking parallel to the beach at or below the highest tide line. Pedestrian traffic may also be tolerated when nesting was initiated within 300 feet of an established beach access pathway. The permittee shall work with FWC staff to determine if pedestrian access can be accommodated without compromising nesting success.
 - c. Designated buffer zones must be posted with clearly marked signs around the perimeter. If pedestrian pathways are approved within the 300-foot buffer zone, these should be clearly marked. These markings shall be maintained until nesting is completed or terminated. In the case of solitary nesters, nesting is not considered to be completed until all chicks have fledged.
 - d. No construction activities, movement of vehicles, or stockpiling of equipment shall be allowed within the buffer area.
 - e. FWC-approved travel corridors should be designated and marked outside the buffer areas. Heavy equipment, other vehicles, or pedestrians may transit past nesting areas in these corridors. However, other activities such as stopping or turning shall be prohibited within the designated travel corridors adjacent to the nesting site.

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- f. Where such a travel corridor must be established within the project area, it should avoid critical areas for shorebirds (known nesting sites, wintering grounds, FWC-designated Critical Wildlife Areas, and USFWS-designated critical piping plover habitat) as much as possible, and be marked with signs clearly delineating the travel corridor from the shorebird buffer areas described above.
 - g. To the degree possible, the permittee should maintain some activity within these corridors on a daily basis, without directly disturbing any shorebirds documented on site or interfering with sea turtle nesting, especially when those corridors are established prior to commencement of construction. Passive methods to modify nesting site suitability must be approved by FWC Regional Biologist for that region.
7. **Notification.** If shorebird nesting occurs within the project area, a bulletin board will be placed and maintained in the construction area with the location map of the construction site showing the bird nesting areas and a warning, clearly visible, stating that “BIRD NESTING AREAS ARE PROTECTED BY THE FLORIDA THREATENED AND ENDANGERED SPECIES ACT and THE STATE AND FEDERAL MIGRATORY BIRD ACTS”.
8. **Placement of Equipment and Sand.** If it will be necessary to extend construction pipes past a known shorebird nesting site or over-wintering area for piping plovers, then whenever possible those pipes should be placed landward of the site before birds are active in that area. No pipe or sand shall be placed seaward of a known shorebird nesting site during the shorebird nesting season.

After thorough review of your application, staff finds that the proposed modification is not expected to adversely affect water quality or be contrary to 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.

As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the activity qualifies for a modification to the public easement to use sovereign, submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein. Therefore, a

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modification to the public easement is being granted to Volusia County, pursuant to Chapter 253.77, Florida Statutes to perform the activity on the specified sovereign submerged lands.

The final documents required to execute the modified public easement have been sent to the Division of State Lands. The Department intends to issue the modification to the public easement, upon satisfactory execution of those documents.

This letter of approval also authorizes a five year extension of the July 27, 2006 expiration date (new permit expiration date is **July 27, 2011**). 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

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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;

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- (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 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 Jamie Christoff at the letterhead address (add Mail Station 300) or by telephone at (850) 414-7756.

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Sincerely,



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

MKS/jc

cc: Marie Burns, USACE- Jax
Matt Miller, USACE-Jax
David Roach, FIND
Joe Nolin, Volusia County Ponce Inlet Port Authority
John Milio, USFWS, Jacksonville
Paden Woodruff, BBCS
Bob Brantly, BBCS
Ralph Clark, BBCS
James Lagrone, BBCS
Brian Taylor, BBCS
Ryan Murray, Field Engineer
Ann Marie Lauritsen, USFWS
Robbin Trindell, FWC-ISMS
Dave Herbster, DEP, Central District
Jon Griffin, USACOE, Regulatory Branch, Palatka
BBCS Permit 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.



Deputy Clerk

8/28/06

Date

PRELIMINARY DESIGN, SUBJECT TO REVISION

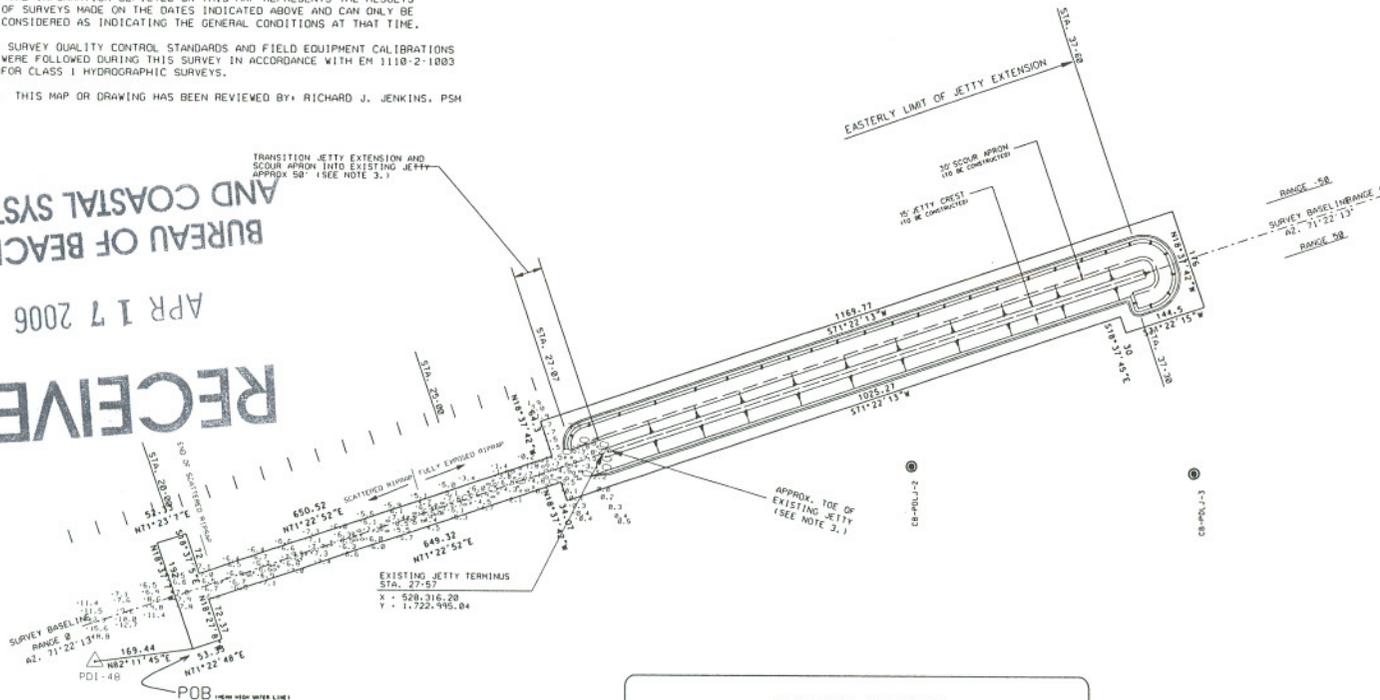
SURVEY NOTES (STA. 18+30 TO STA. 27+00)

- REFER TO SURVEY NO. 99-270.
- ELEVATIONS ARE IN FEET AND TENTHS AND REFER TO MEAN LOW WATER (MLW) WHICH IS 2.10 FEET BELOW NGVD 1929.
- ALL ELEVATIONS ARE BELOW THE CHART DATUM UNLESS PRECEDED BY A (-) SIGN.
- TIDAL REDUCTIONS WERE MADE FROM A STAFF SET IN THE VICINITY OF 'PDI-48'.
- PLANE COORDINATES ARE BASED ON THE TRANSVERSE MERCATOR PROJECTION FOR THE EAST ZONE OF FLORIDA AND REFERENCED TO NORTH AMERICAN DATUM OF 1927 (NA027).
- ALL AZIMUTHS ARE GRID, RECKONED CLOCKWISE FROM SOUTH.
- ALL STATIONING REFERS TO THE INDIVIDUAL SURVEY BASELINES FOR EACH SITE.
- SURVEY WAS PERFORMED USING DIFFERENTIAL GPS FOR POSITIONING AND UTILIZING THE USCG CAPE CANAVERAL NAVBEACON AS THE REFERENCE SITE. VERTICAL MEASUREMENTS WERE MADE USING AN INERSPACE MODEL 448 FATHOMETER WITH A 200KHZ (HIGH FREQUENCY) TRANSDUCER.
- AIDS TO NAVIGATION WERE LOCATED DURING THIS SURVEY.
- REFER TO FIELD BOOKS NO. 99 VOLUSIA CO. NO. 94.
- THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULTS OF SURVEYS MADE ON THE DATES INDICATED ABOVE AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS AT THAT TIME.
- SURVEY QUALITY CONTROL STANDARDS AND FIELD EQUIPMENT CALIBRATIONS WERE FOLLOWED DURING THIS SURVEY IN ACCORDANCE WITH EM 1110-2-1003 FOR CLASS 1 HYDROGRAPHIC SURVEYS.
- THIS MAP OR DRAWING HAS BEEN REVIEWED BY RICHARD J. JENKINS, PSM

BUREAU OF BEACHES
AND COASTAL SYSTEMS

APR 17 2006

RECEIVED



BENCHMARK	NGVD ELEV. (FT)
PDI-26	4.69

CONTROL MONUMENT	PLANE COORDINATES (NA027)		EL (FT)
	X	Y	NGVD
PDI-48	527,431.44	1,722,628.77	18.19
T-150	527,577.20	1,722,202.89	19.66



NOTES:

- REFER TO DWG. NO. 1/2 FOR LEGEND AND GENERAL NOTES.
- REFER TO THIS DWG. FOR SURVEY NOTES.
- FINAL TRANSITION SHALL NOT LEAVE ANY GAP BETWEEN EXISTING STONE AND NEW EXTENSION OR SCOUR APRON. CONTRACTOR SHALL LOCATE EXACT TOE OF JETTY. DO NOT EXCAVATE EXISTING JETTY STONE. REMOVE SAID AS NECESSARY AND CONSTRUCT NEW TEMPLATE OVER EXISTING JETTY.

US Army Corps of Engineers
Jacksonville District

SAFETY OF DEFENSE

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT, CORPS OF ENGINEERS
JACKSONVILLE, FLORIDA

PROJECT NO. 23D-37, 917
DATE: OCTOBER 2004

SCALE AS SHOWN

DRAWING NO. 2/1