



Florida Department of Environmental Protection

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

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

CERTIFIED - RETURN RECEIPT REQUESTED

November 19, 2008

Richard Bouchard
St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida 34982

c/o

Tony Maguire
Taylor Engineering, Inc.
10151 Deerwood Park Blvd, Bldg 300, Suite 300
Jacksonville, FL 32256

Permit Modification No. 0269646-004-JN
Permit No. 0269646-001-JC, St. Lucie County
Ft. Pierce Nourishment

Dear Mr. Bouchard:

Your request to modify Permit No. 0269646-001-JC has been received and reviewed by Department staff. The proposed permit modification is to extend the construction window into the early portion of sea turtle nesting season for the upcoming nourishment event. Additionally, the turbidity monitoring will be modified to reflect the change from a 1,000-meter to a 150-meter downcurrent mixing zone at the beach placement site.

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. 0269646-001-JC, dated January 19, 2007, available at the Bureau website:
http://bcs.dep.state.fl.us/env-prmt/st_lucie/issued/0269646_Ft.%20Pierce_Nourishment/001-JC/

Project Area History

The Ft. Pierce Shore Protection project was first constructed in 1971 by the U.S. Army Corps of Engineers (USACE). The initial restoration event placed 718,000 cubic yards from a nearshore

borrow area between FDEP reference monuments R-34 and R-41. The beach was nourished in 1980, 1999, 2003, 2004, and 2005.

Most recently, the beach was nourished in 2007 under Joint Coastal Permit No. 0269646-001-JC, which was issued by the Department on February 23, 2007. This project placed approximately 503,800 cubic yards of material from Capron Shoal, the same borrow area that was used in the previous four events. Variance No. 0269646-002-EV was issued in conjunction with this permit and authorized a temporary expanded mixing zone of 1,000 meters downcurrent and 150 meters offshore from the point of sand discharge on the beach.

Joint Coastal Permit No. 0269646-001-JC authorized sand placement to occur during the early portion of nesting season in order to facilitate construction in 2007. However, the permit clearly stated that this construction window extension applied to the 2007 nourishment event only. It also specified that the construction should begin at R-41 and be completed between R-41 and R-37 by May 15 and between R-37 and R-34 by May 30. Due to rough sea conditions during the month of May, the northern portion of the project was not completed by May 30. Permit Modification 0269646-003-EM authorized construction in the northern portion of the project through June 9 in 2007 only.

Proposed Modification

In the current application, St. Lucie County requested that the permit be modified to allow construction to continue into the early portion of the sea turtle nesting season for each nourishment event, for the life of the permit. The U.S. Fish and Wildlife Service's Biological Opinion allows for construction through May 15 in "Zone B" (R-41 through R-37) and through May 31 in "Zone A" (R-37 through R-34). The Florida Fish and Wildlife Service is not comfortable with extending the construction window for the life of the permit but will authorize the extension for the 2009 event, under the condition that a report is prepared analyzing the effect of working into nesting season on leatherbacks and loggerheads. The completion of the report will be required as a condition of this modification.

In addition to the requested modification, the Department will modify the turbidity monitoring condition. Specific Condition #10 states:

"Following the first nourishment event authorized in this permit, the permittee shall review the turbidity data provided from the intermediate monitoring locations (100m offshore; 150m, 300m, and 600m downdrift) and reevaluate the length of both the offshore and downdrift dimensions of the mixing zone for the beach placement site. The permittee shall provide a summary of this analysis, along with the compiled data, to the Department within 90 days following completion of construction of the first nourishment event. If warranted, the Department shall adjust the dimensions of this mixing zone to minimize its size and the potential impacts to nearshore hardbottom communities."

A report submitted June 6, 2008 by the County indicates that a 150-meter mixing zone is adequate to control turbidity for this project.

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

SPECIFIC CONDITIONS:

14. In order to ensure that marine turtles are not adversely affected by the construction activities authorized by this permit, the permittee shall adhere to the following conditions:
 - a. Beach restoration shall be started after October 31 and shall be completed by May 1 except as authorized below.
 - b. During 2007 and 2009 only, sand placement activities between DEP Reference Monuments R-37 and R-41 shall be completed on or before May 15. Sand placement activities after May 15 shall only occur between R-37 and R-34, and shall be completed on or before May 30. Tilling shall be completed immediately after completion of each fill section, with all tilling of the beach between R-41 and R-37 completed by May 15 and all tilling of the beach between R-37 and R-34 completed by May 30. All equipment shall be removed from the beach between R-41 and R-37 by May 15 and between R-37 and R-34 by May 30, and no additional transport of equipment or vehicle movement associated with this project shall occur in that area after that time.
 - c. Construction-related activities are authorized to occur on the nesting beach (seaward of the existing coastal armoring structures or the dune crest) during the early part of the nesting season (March 1 through May 1 (it shall run through May 15 for R-41 to R-37 and through May 30 for R-37 to R-34 for 2007 and 2009 only)) under the following conditions:
 - i. A daily marine turtle nest survey of the nesting beach in the vicinity of the project (including areas of beach access) shall be conducted starting March 1 and continue until October 31.
 - ii. Only those nests that may be affected by construction activities shall be relocated. Nests requiring relocation shall be moved no later than 9 a.m. the morning following deposition to a nearby self-release beach site in a secure setting where artificial lighting will not interfere with hatchling orientation. Nest relocations in association with construction activities shall cease when construction activities no longer threaten nests.

- iii. Nests deposited within areas where construction activities have ceased or will not occur for 65 days shall be marked and left in place unless other factors threaten the success of the nest. Such nests will be marked and the actual location of the clutch determined. A circle with a radius of ten (10) feet, centered at the clutch, shall be marked by stake and survey tape or string. No construction activities shall enter this circle and no adjacent construction shall be allowed which might directly or indirectly disturb the area within the staked circle.
- iv. Nighttime surveys for nesting turtles must be conducted from 9:00 p.m. until 6:00 a.m. if work occurs after March 1. Surveys shall begin on March 15 during 2007 and 2009 only. The project area must be surveyed at 1-hour intervals (since leatherbacks require at least 1 ½ hours to complete nesting, this will ensure that all nesting leatherbacks are encountered).
- v. If nighttime surveys are not conducted, then no construction activity may commence until completion of the morning marine turtle survey.
- vi. It is the responsibility of the permittee to ensure that the project area and access sites are surveyed for marine turtle nesting activity. All nesting surveys, nest relocations screening or caging activities etc. shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Fish and Wildlife Conservation Commission (FWC), pursuant to Florida Administrative Code 68E-1.
- d. If the beach nourishment project will be conducted during the period from November 1 through November 30, daily early morning sea turtle nesting surveys must be conducted 65 days prior to project initiation and continue through September 30, and eggs must be relocated per the preceding requirements.
- e. In the event a sea turtle nest is excavated during construction activities, all work shall cease in that area immediately and the permitted person responsible for egg relocation for the project should be notified so the eggs can be moved to a suitable relocation site.
- f. Reports on all nesting activity shall be provided for the initial nesting season and for a minimum of two additional nesting seasons after fill placement. Monitoring of nesting activity in the seasons following construction shall include daily surveys and any additional measures authorized by the FWC. Reports submitted shall include daily report sheets noting all activity, nesting success rates, hatching success of all relocated nests, hatching success of a representative sampling of nests left in place (if any), dates of construction and names of all personnel involved in nest surveys and relocation activities. Data should be reported separately for the nourished areas and

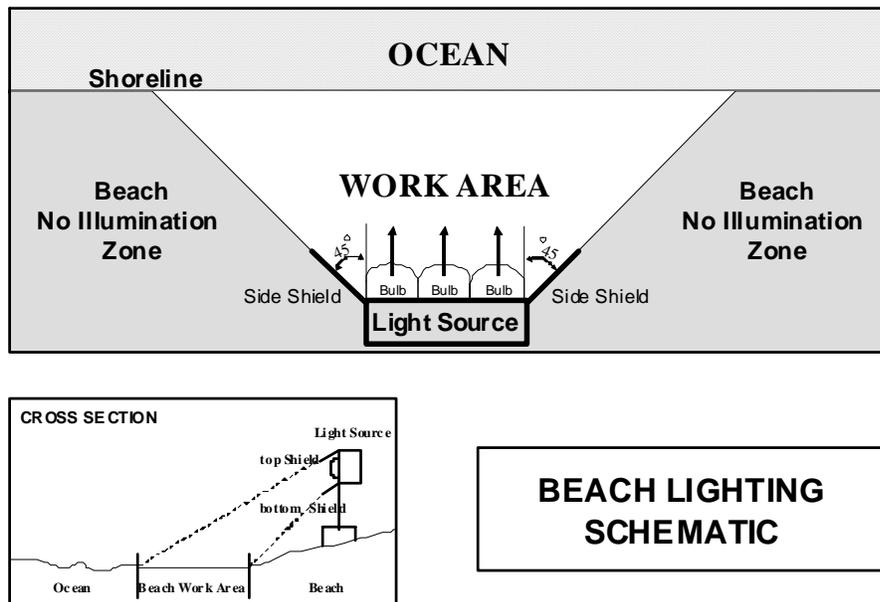
for an equal length of adjacent beach that is not nourished in accordance with the attached Table (Table 1). Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted by January 15 of the following year.

Table 1
Marine Turtle Monitoring for Beach Restoration Projects

The following monitoring is required for beach restoration projects. Reports summarizing the nesting should be submitted to the Tequesta office with a copy to the Tallahassee office and the BBCC JCP Compliance Officer by January 15 of the subsequent year. Data for nesting activity on the nourished beach and on an equal length of beach that is not nourished shall be reported separately, and should include numbers of nests lost to erosion or washed out. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets).

Characteristic	Parameter	Measurement	Variable
Nesting Success	False crawls - number	Visual assessment of all false crawls	Number and location of false crawls the project area: any interaction of the turtle with obstructions, such as scarps, should be noted.
	False crawl - type	Categorization of the stage at which nesting was abandoned	Number in each of the following categories: emergence-no digging, preliminary body pit, abandoned egg chamber.
	Nests	Number	The number of marine turtle nests should be noted. If possible, the location of all marine turtle nests shall be marked on map of project, and approximate distance to sea walls or scarps measured using a meter tape. Any abnormal cavity morphologies should be reported as well as whether turtle touched groins, seawalls, or scarps during nest excavation
		Lost Nests	The number of nests lost to inundation, erosion or the number with lost markers that could not be found.
	Lighting Impacts	Disoriented sea turtles	The number of disoriented hatchlings and adults shall be documented and reported in accordance with existing FWC protocol for disorientation events.
Reproductive Success	Emergence & hatching success	Standard survey protocol	Numbers of the following: unhatched eggs, depredated nests and eggs, live pipped eggs, dead pipped eggs, live hatchlings in nest, dead hatchlings in nest, hatchlings emerged, disoriented hatchlings, depredated hatchlings

- g. From March 1 through May 1 (and through May 15 from R-41 to R-37 for 2007 and 2009 only) (and through May 30 from R-37 to R-34 for 2007 and 2009 only) and November 1 through November 30, all project lighting shall be limited to the immediate area of active construction only and shall be minimal lighting necessary to comply with U.S. Coast Guard and/or OSHA requirements. Stationary lighting on the beach and all lighting on the dredge shall be minimized through reduction, shielding, lowering, and appropriate placement of lights to minimize illumination of the nesting beach and water. Shields must be affixed to the light housing and be large enough to block light from all lamps from being transmitted outside the construction area (Figure 1).



- h. A survey shall be conducted of all lighting visible from the beach placement area, using standard techniques for such a survey immediately after construction and no later than June 15, in 2007 and 2009 only, and by March 15 each year following fill placement. For each light source visible, the local sponsor shall provide documentation that the property owner(s) have been notified of the light and specify the action(s) recommended for correcting the light with a reasonable resolution timeline within one month of the survey. At a minimum, all lights that are observed from the nourished berm must be brought into compliance with the St. Lucie Lighting Ordinance (#98-11). A summary report of the survey and documentation of property owner notification shall be submitted by May 30 of each year following fill placement. Additional lighting surveys shall be conducted monthly through September and results reported in a final report by December 1 of each year. The Permittee (St. Lucie County) shall arrange for a meeting between FWC, FWS, DEP,

- and code enforcement staff from all local municipalities within the project area to discuss appropriate actions to be taken to address all lights documented during the lighting surveys; this meeting must occur within two weeks of completion of the first post-construction lighting survey after each nourishment.
- i. From March 1 through May 1 (and through May 15 from R-41 to R-37 for 2007 and 2009 only) (and through May 30 from R-37 to R-34 for 2007 and 2009 only), staging areas for construction equipment shall be located off the beach. Nighttime storage of construction equipment not in use shall be off the beach to minimize disturbance to sea turtle nesting and hatching activities. All construction pipes that are placed on the beach shall be located as far landward as possible without compromising the integrity of the existing or reconstructed dune system.
 - j. Immediately after completion of the fill placement event and prior to March 1 for two additional years if placed sand still remains on the beach, the beach shall be tilled as described below or 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 depth of 36 inches. All tilling activity must be completed immediately after completion of sand placement and then prior to March 1 for the following years.
 - ii. An annual summary of compaction surveys and the actions taken shall be submitted to the FWC.
 - iii. If the project is completed during the nesting season, tilling shall not occur in areas where nests have been left in place or relocated unless authorized by FWC.
 - iv. This condition shall be evaluated annually and may be modified if necessary to address sand compaction problems identified during the previous year.
 - k. To request a waiver of the tilling requirements, the permittee 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 and Wildlife Service, and the applicant to determine if tilling is necessary. The protocols provided below 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 reside 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 18 values for each transect line, and the final 6 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.
1. Visual surveys for escarpments along the beach fill area shall be made immediately after completion of the beach nourishment project and prior to March 1 and for two additional 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 April 15. 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, the permittee shall level escarpments in accordance with mechanical methods prescribed by the FWC.

- m. The applicant shall arrange a meeting between representatives of the contractor, the Department, the FWC, and the permitted person responsible for marine turtle (and shorebird) monitoring at least 30 days prior to the commencement of work on this project. At least 15 days advance notice shall be provided prior to conducting this meeting. This will provide an opportunity for explanation and/or clarification of the sea turtle protection measures.
- n. Upon locating a dead, injured, or sick endangered or threatened sea turtle specimen, initial notification must be made to the FWC at 1-888-404-FWCC. Care should be taken in handling sick or injured specimens to ensure effective treatment and care and in handling dead specimens to preserve biological materials in the best possible state for later analysis of cause of death. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.
- o. In the event a hopper dredge is utilized, the following requirements shall be met in addition to the Terms and Conditions of the NMFS Regional Biological Opinion for Hopper Dredging of Channels and Beach Nourishment Activities in the Southeastern United States from North Carolina through Florida East Coast:
 - i. Handling of sea turtles captured during hopper dredging projects shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Florida Fish and Wildlife Conservation Commission (FWC), pursuant to Florida Administrative Code 68E-1.
 - ii. *Dredging Pumps*: Standard operating procedure shall be that dredging pumps shall be disengaged by the operator when the dragheads are not firmly on the bottom to prevent impingement or entrainment of sea turtles within the water column. This precaution is especially important during the cleanup phase of dredging operations.
 - iii. *Sea Turtle Deflecting Draghead*: A state-of-the-art rigid deflector draghead must be used on all hopper dredges in all Gulf of Mexico channels at all times of the year.
 - iv. The Sea Turtle Stranding and Salvage Network (STSSN) Coordinator, Dr. Allen Foley, shall be notified at (904) 573-3930 of the start-up and completion of hopper dredging operations.

- v. Relocation trawling shall be undertaken at all projects where any of the following conditions are met:
 - i. Two or more turtles are taken in a 24-hour period in the project.
 - ii. Four or more turtles are taken in the project.
- vi. The permittee shall fax (850-921-6988) or email (Megan.Conti@MyFWC.com) weekly reports to the Imperiled Species Management section on Friday each week that relocation trawling is conducted in Florida water. These faxes shall include: the species and number of turtles captured in Florida waters, general health, and release information. A summary of all turtles captured in Florida waters, including all measurements, the latitude and longitude (in decimal degrees) of captures and tow start-stop points, and times for the start-stop points of the tows, including those tows on which no turtles are captured shall be submitted to the ISM by January 15 of the following year.
- p. Reports on the distribution and abundance of marine turtles in the vicinity of the nearshore hard bottom in the project area, on mitigation sites, and on adjacent undisturbed “control” sites shall also be provided prior to any beach filling activity, during all restoration work, and then for a minimum of two additional years. Monitoring of in-water sea turtle distributions shall include quarterly surveys and any additional measures authorized by FWC.
- q. Within 30 days of sand placement, the Applicant shall provide to FWC (with a copy to the JCP Compliance Officer) an analysis of working into the early portion of the sea turtle nesting season and the impacts on loggerheads and leatherbacks. This analysis will be used to make future decisions about allowing work into the nesting season in this area

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

MONITORING REQUIRED:

17. Turbidity monitoring in the vicinity of the dredging area and disposal sites shall be conducted during construction. Turbidity shall be measured in NTUs at background and compliance stations as follows:

a. Borrow Site:

Frequency: Every six hours during dredging.

Location: **Background:** One meter below the surface and one meter above the bottom, at least 300 meters upcurrent from the dredge site, clearly outside of any turbidity generated by the project.

Compliance: One meter below the surface and one meter above the bottom, no more than 150 meters down current from the dredge site, within the densest portion of any visible turbidity plume.

b. Beach disposal Area:

Frequency: Every six hours during pumping operations.

Location: **Background:** Mid-depth, at a point approximately 150 meters offshore and at least 150 meters upcurrent from the discharge point, clearly outside of any turbidity generated by the project or coming from the inlet.

Compliance: Mid-depth, at a point no more than 150 meters offshore and 150 ~~1,000~~ meters down current from the point where runoff from the discharge pipe re-entering waters of the state, within the densest portion of any visible turbidity plume.

~~**Intermediate Monitoring:** Mid depth, at a point approximately 100 meters offshore and 150, 300, and 600 meters downcurrent from the point where runoff from the discharge pipe re-entering waters of the state, within the densest portion of any visible turbidity plume.~~

c. All monitoring data shall be submitted within one week of analysis with documents containing the following information: (1) "Permit Number 0269646-001-JC"; (2) "Ft. Pierce Nourishment Project"; (3) dates of sampling and analysis;

(4) a statement describing the methods used in data collection, handling, storage and analysis of the samples; (5) a map indicating the sampling locations; (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 and calibration of the meter. **Each exceedance of 29 NTUs above background shall be highlighted in the table and discussed in the report.** Monitoring reports shall also include the following information for each sample that is taken:

- i. time of day samples taken;
- ii. depth of water body;
- iii. depth of sample;
- iv. antecedent weather conditions;
- v. tidal stage and direction of flow; and
- vi. wind direction and velocity.

The compliance locations given above shall be considered the limits of the mixing zone for turbidity allowed during construction. If monitoring reveals turbidity levels at the compliance site greater than or equal to 29 NTUs above background turbidity levels, construction activities shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence shall also be immediately reported to the BBCS's JCP Compliance Officer and DEP Southeast District Office, Submerged Lands and Environmental Resources, in West Palm Beach, Florida.

The regular monitoring reports shall be submitted to the BBCS's JCP Compliance Officer in Tallahassee and to the DEP Southeast District Office, Submerged Lands and Environmental Resources, in West Palm Beach, Florida. Failure to submit reports in a timely manner constitutes ground for revocation of the permit. When submitting this information to the DEP, please clearly include, at the top of each page or as a cover page to the submittal: "This information is provided in partial fulfillment of the monitoring requirements in Permit No. 0269646-001-JC for the Ft. Pierce Nourishment Project."

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 and is expected to be of environmental benefit, the **permit is hereby modified** as stated above. By copy of this letter, we are notifying all necessary parties of the modification.

This letter of approval does not alter the **February 22, 2017** expiration date, other Specific or General Conditions, or monitoring requirements of the permit. This letter 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.

NOTICE OF RIGHTS

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.

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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.

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 Caitlin Lustic at the letterhead address (add Mail Station 300) or by telephone at (850) 413-7766.

Sincerely,



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

MKS/cl

cc: Michael Barnett, BBBS, Chief
Vladimir Kosmynin, BBBS – JCP

Bob Brantly, BBBS – CE
Wagner Yajure, BBBS – BECP

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Paden Woodruff, BBCS – BECP
Robbin Trindell, FWC
JCP Compliance Officer

Roxane Dow, BBCS – BECP
Jeff Howe, USFWS
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



Date