



Florida Department of Environmental Protection

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3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

CERTIFIED - RETURN RECEIPT REQUESTED

March 27, 2008

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

and

Florida Inland Navigation District
c/o David Roach, Executive Director
1314 Marcinski Road
Jupiter, FL 33477

Permit Modification No. 0262913-003-JN Permit No. 0262913-001-JC, Palm Beach County Jupiter AIWW Maintenance Dredging and Beach Fill Placement

Dear Ms. Burns and Mr. Roach:

Your request to modify Joint Coastal Permit (JCP) No. 0262913-001-JC has been received and reviewed by Department staff. The proposed permit modification is to transfer the permit and all responsibility for permit conditions from the U.S. Army Corps of Engineers, Jacksonville District (Corps), to the Florida Inland Navigation District (FIND).

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 Permit No. 0262913-001-JC, dated December 3, 2007, available at the Bureau website:

http://bcs.dep.state.fl.us/env-prmt/palm_bch/issued/0262913_Jupiter_AIWW_Maintenance_Dredging/001-JC/

Background

On January 7, 2008, the Department issued Permit No. **0262913-001-JC** to the Corps. The project is to maintenance dredge a portion of the Atlantic Intracoastal Waterway (AIWW) in the vicinity of Jupiter Inlet, from Cut P-1 through Cut P-4, to restore full navigation depth of the Federal navigation project. The maximum excavation depth of the channel dredging varies from 12 feet to 16 feet (MLW). These maximum depths include the design depth, advance maintenance and allowable overdepth. Cuts P-1 and P-2 are to be dredged to a maximum depth of -12 feet MLW, and Cuts P-3 and P-4 are to be dredged to a maximum depth of -16 feet MLW. Beach-quality sand that is dredged from the channel will be placed along 5,500 linear feet of beach, immediately south of Jupiter Inlet, between FDEP monuments R-13 and R-19.

On January 18, 2008, the Department issued Permit Modification No. **0262913-002-EM**, which was primarily to allow nighttime dredging, but prohibited the use of a clamshell dredge.

During the initial maintenance event in 2008, approximately 140,000 cubic yards of sand will be dredged and the material will be placed within the Jupiter/Carlin Shore Protection Project fill template (Permit No. 0163093-001-JC). Approximately 25,000 cubic yards of the dredged material will be utilized for dune reconstruction between FDEP monuments R-13 and R-17 during the initial maintenance event of this permit.

Justification

Due to a lack of consistent funding, the Corps cannot commit to continued maintenance dredging of Jupiter Inlet. Therefore, the Corps has agreed to transfer the permit to FIND and FIND has agreed to accept the permit. FIND will subsequently take responsibility for construction of the project and all permit conditions. Additionally, FIND will now be responsible for all requirements of the Sediment QA/QC Plan, which was prepared by the Corps and approved by the Department on September 7, 2007, per Specific Condition No. 4 of the permit. All references to the Corps in the QA/QC Plan will be interpreted as references to FIND. Finally, FIND entered into a Local Government Agreement with the Department on January 7, 2008, to conduct monitoring associated with the project. All conditions of that agreement have been incorporated into this modification.

The name and address of the permittee shall be revised as follows (~~strikethroughs~~ are deletions, underlines are additions):

PERMITTEE/AUTHORIZED ENTITY:

Florida Inland Navigation District
c/o David Roach, Executive Director

1314 Marcinski Road
Jupiter, FL 33477

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

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

GENERAL CONDITIONS:

1. All activities authorized by this permit shall be implemented as set forth in the plans and specifications approved as a part of this permit, and all conditions and requirements of this permit. The permittee shall notify the Department in writing of any anticipated deviation from the permit prior to implementation so that the Department can determine whether a modification of the permit is required pursuant to section 62B-49.008, Florida Administrative Code.
2. If, for any reason, the permittee does not comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Bureau of Beaches and Coastal Systems and the appropriate District office of the Department with a written report containing the following information: a description of and cause of noncompliance; and the period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.
3. This permit does not eliminate the necessity to obtain any other applicable licenses or permits that may be required by federal, state, local, special district laws and regulations. This permit is not a waiver or approval of any other Department permit or authorization that may be required for other aspects of the total project that are not addressed in this permit.
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of sovereignty land of Florida seaward of the mean high-water line, or, if established, the erosion control line, unless herein provided and the necessary title, lease, easement, or other form of consent authorizing the proposed use has been obtained from the State. The permittee is responsible for obtaining any necessary authorizations from the Board of Trustees of the

Internal Improvement Trust Fund prior to commencing activity on sovereign lands or other state-owned lands.

5. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under section 373.421(2), F.S., provides otherwise.
6. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee. The issuance of this permit does not convey any vested rights or any exclusive privileges.
7. This permit or a copy thereof, complete with all conditions, attachments, plans and specifications, modifications, and time extensions shall be kept at the work site of the permitted activity. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
8. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel with proper identification and at reasonable times, access to the premises where the permitted activity is located or conducted for the purpose of ascertaining compliance with the terms of the permit and with the rules of the Department and to have access to an copy any records that must be kept under conditions of the permit; to inspect the facility, equipment, practices, or operations regulated or required under this permit; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules. Reasonable time may depend on the nature of the concern being investigated.
9. At least forty-eight (48) hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Bureau of Beaches and Coastal Systems (JCP Compliance Officer) and the appropriate District office of the Department a written notice of commencement of construction indicating the actual start date and the expected completion date and an affirmative statement that the permittee and the contractor, if one is to be used, have read the general and specific conditions of the permit and understand them.
10. If historic or archaeological artifacts, such as, but not limited to, Indian canoes, arrow heads, pottery or physical remains, are discovered at any time on the project site, the permittee shall immediately stop all activities in the immediate area that disturb the soil in the immediate locale and notify the State Historic Preservation Officer and the Bureau of Beaches and Coastal Systems (JCP Compliance Officer). In the event that unmarked human remains are encountered during permitted activities, all work shall stop in the

immediate area and the proper authorities notified in accordance with Section 872.02, F.S.

11. Within 30 days after completion of construction or completion of a subsequent maintenance event authorized by this permit, the permittee shall submit to the Bureau of Beaches and Coastal Systems (JCP Compliance Officer) and the appropriate District office of the Department a written statement of completion and certification by a registered professional engineer. This certification shall state that all locations and elevations specified by the permit have been verified; the activities authorized by the permit have been performed in compliance with the plans and specifications approved as a part of the permit, and all conditions of the permit; or shall describe any deviations from the plans and specifications, and all conditions of the permit. When the completed activity differs substantially from the permitted plans, any substantial deviations shall be noted and explained on two paper copies and one electronic copy of as-built drawings submitted to the Bureau of Beaches and Coastal Systems (JCP Compliance Officer).
- ~~1. All activities approved shall be implemented as set forth in the drawings incorporated by reference and in compliance with the conditions and requirements of this document. The Corps shall notify the Department in writing of any anticipated significant deviation from this authorization prior to implementation so that the Department can determine whether a modification is required. If the Department determines that a deviation is significant, then the Corps or the local sponsor, as appropriate, shall apply for and obtain the modification prior to its implementation.~~
- ~~2. If, for any reason, the Corps does not comply with any condition or limitation specified herein, the Corps shall immediately provide the Department with a written report containing the following information: a description of and cause of noncompliance; and the period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. Compliance with the provisions of this condition shall not preclude the Department from taking any enforcement action allowed under state law to the extent that federal sovereign immunity has been waived under 33 U.S.C. 1323 and 1344(t).~~
- ~~3. The Corps shall obtain any applicable licenses or permits which may be required by federal, state, local or special district laws and regulations. Nothing herein constitutes a waiver or approval of other Department permits or authorizations that may be required for other aspects of the total project. Projects shall not proceed until any other required permits or authorizations have been issued by the responsible agency.~~
- ~~4. Nothing herein conveys title to land or water, constitutes State recognition or acknowledgment of title, or constitutes authority for the use of sovereign land of Florida seaward of the mean high water line, or, if established, the erosion control line, unless~~

~~herein provided, and the necessary title, lease, easement, or other form of consent authorizing the proposed use has been obtained from the State.~~

- ~~5. Any delineation of the extent of a wetland or other surface water submitted as part of the application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this authorization or a formal determination under section 373.421(2), F.S., provides otherwise.~~
- ~~6. Nothing herein conveys to the Corps or creates in the Corps any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the Corps or local sponsor, or convey any vested rights or any exclusive privileges.~~
- ~~7. This document or a copy thereof, complete with all conditions, attachments, modifications, and time extensions shall be kept at the work site on the authorized activity. The Corps shall require the contractor to review this document prior to commencement of the authorized activity.~~
- ~~8. The Corps specifically agrees to allow Department personnel with proper identification, at reasonable times and in compliance with Corps specified safety standards access to the premises where the authorized activity is located or conducted for the purpose of ascertaining compliance with the terms of this document and with the rules of the Department and to have access to and copy any records that must be kept; to inspect the facility, equipment, practices, or operations regulated or required; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance. Reasonable time may depend on the nature of the concern being investigated.~~
- ~~9. At least forty eight (48) hours prior to the commencement of authorized activity, the Corps shall submit to the Department a written notice of commencement of activities indicating the anticipated start date and the anticipated completion date.~~
- ~~10. If historic or archaeological artifacts are discovered at any time on the project site, the Corps shall immediately notify the State Historic Preservation Officer, and if a significant deviation is necessary, shall also notify the Department.~~
- ~~11. Within a reasonable time after completion of project construction or a periodic maintenance dredging event, the Corps shall submit to the Department a written statement of completion. This statement shall notify the Department that the work has been completed as authorized and shall include a description of the actual work completed. The Department shall be provided, if requested, a copy of any as-built drawings required of the contractor or survey performed by the Corps.~~

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

SPECIFIC CONDITIONS:

1. All reports or notices relating to this permit shall be sent to the DEP, Bureau of Beaches and Coastal Systems, JCP Compliance Officer, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000 (e-mail address: JCPCCompliance@dep.state.fl.us) and the DEP Southeast District Office, 400 N. Congress Avenue, Suite 200 West Palm Beach, FL 33401.
- ~~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 is not responsible for conditions accepted under the Local Sponsor Agreement, signed January 24, 2008, by the Department.~~
- 2 3. No work shall be conducted under this permit until the permittee has received a written notice to proceed (NTP) from the Department. 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 and approval by the Department;
 - a. One ~~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 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.

For subsequent dredging events, the plans and specifications shall include the proposed date of construction and the total quantity of material to be dredged, the

location and areal extent of the shoals to be dredged, the designated disposal sites, and bathymetric and topographic surveys, as appropriate, for the areas to be dredged and the disposal site.

- b. *Turbidity monitoring qualifications.* Construction at the project site shall be monitored closely to assure that turbidity levels do not exceed the compliance standards established in this permit. This monitoring shall be conducted by an independent third party (not associated with the dredging contractor). An individual familiar with dredging techniques and turbidity monitoring shall be present at all times. This individual shall have authority to alter construction techniques or shut down the dredging or beach construction operations if turbidity levels exceed the compliance standards established in this permit. The names and qualifications of those individuals performing these functions along with 24-hour contact information shall be submitted for approval.

- 3 4. At least 21 days prior to the first maintenance dredging event and at least 30 days prior to any subsequent dredging events authorized by this permit, the permittee shall conduct a conference to review the specific conditions and monitoring requirements of this permit with the permittee's contractors (including the authorized marine turtle handler) and the engineer of record. Florida Fish and Wildlife Conservation Commission (FWC) personnel and Department staff representatives shall be invited to attend this meeting. The permittee shall provide written notification, at least 10 days in advance of the meeting, to the following offices advising of the date, time, and location of the pre-construction conference. This will provide an opportunity for explanation and/or clarification of the environmental protection measures.

DEP Bureau of Beaches & Coastal Systems
JCP Compliance Officer
Mail Station 300
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
Phone: (850) 488-7708
Fax: (850) 488-5257

FWC Imperiled Species Management Section
620 South Meridian Street
Tallahassee, Florida 32399-1600
Phone: (850) 922-4330
Fax: (850) 921-4369

DEP Southeast District Office
Submerged Lands & Environmental Resources Program
400 N. Congress Avenue, Suite 200

West Palm Beach, FL 33401
Phone: (561) 681-6600
Fax: (561) 681-6755

- ~~4~~ 5. The Permittee shall adhere to the attached *Sediment Quality Assurance / Quality Control (QA/QC) Plan*, approved by the Department on September 7, 2007. The *Sediment QA/QC Plan* includes assurance of compliance with 62B-41.007(2)(j), F.A.C., by requiring beach sampling during construction, rock removal during dredging, electronic positioning equipment documenting dredge location, and remediation for unacceptable material placed on the beach. The Plan is incorporated into this permit by reference. The requirements of this Plan shall be incorporated in the relevant Terms and Conditions of the Construction Specifications. The permittee shall acquire written approval from the Department prior to implementing any substantial revisions to this Plan.
- ~~5~~ 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, FIND the Corps shall provide the Department with existing geotechnical information characterizing the sediments to be dredged. If FIND the Corps does not plan to place beach-compatible material within the approved beach disposal site, FIND the Corps shall provide alternative disposal options with projected costs to allow the Department to consider participating in funding alternative disposal options over the least costly method.
- ~~6~~ 7. Use of a clamshell dredge is not authorized by this permit.
- ~~8.~~ ~~At least 30 days prior to the commencement of each maintenance dredging event conducted under this permit, the following information shall be provided to the Bureau:~~
- ~~a. the proposed date of construction and the total quantity of material to be dredged, the location and areal extent of the shoals to be dredged, and the designated disposal sites;~~
 - ~~b. bathymetric and topographic surveys, as appropriate, for the areas to be dredged and the disposal site.~~
- ~~7~~ 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. Both the original

design and constructed elevation should be clearly shown. The statement of completion should also include volume dredged for each work area.

- ~~8~~ **10. Impacts to seagrasses located outside of the maintenance dredging channel footprint are not authorized by this permit.** The anchor drop points and identified pipeline corridor (within 5 meters from the centerline) shall be free of seagrass resources. Coordinates of all dredge anchor drop points shall be recorded using DGPS technology, accurate to one (1) meter. Refer to Specific Condition 11 for the seagrass monitoring and reporting requirements. Unauthorized impacts to seagrasses shall require remediation and may be subject to further compensatory mitigation requirements. Divers shall visit all anchor locations that were positioned within the perimeter of a seagrass bed within 14 days following completion of construction of each maintenance dredging event to investigate potential damage to seagrasses. Anchor damage to seagrass shall be reported to the Department within 48 hours of discovery of impact. If the post-construction seagrass monitoring reveals that unintentional impacts to seagrasses have occurred as a result of project-related activities (e.g., anchoring impacts, pipeline impacts, sedimentation and/or burial impacts, side slope sloughing, propeller wash, etc.), FIND the ~~Cops~~ shall submit a remediation/compensatory mitigation plan within 15 days of discovery of impact for Department approval. The plan shall be implemented within 30 days of Department approval.

MONITORING REQUIRED:

- ~~9~~ **11. 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.

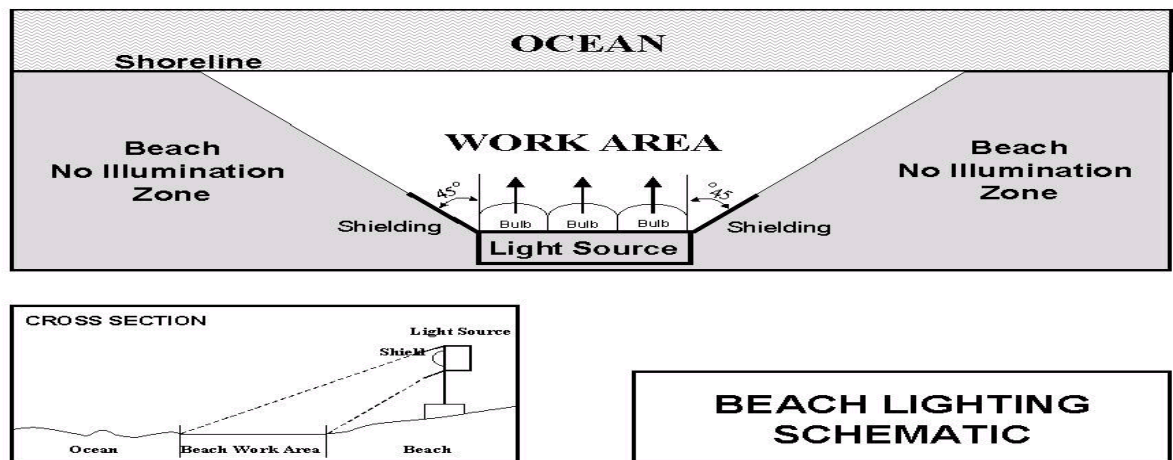
10 12. Marine Turtles

- a. Beach placement shall be started after October 31 and be completed before May 1.
- b. If sand will be placed on the beach during the period from March 1 through April 30, early morning surveys for sea turtle nests must be conducted daily from March 1 through April 30 or until completion of the project (whichever is earliest), and eggs must be relocated per the following requirements. If sand will be placed on the beach during the period from November 1 through November 30, daily early morning sea turtle nesting surveys must be conducted at least 65 days prior to project initiation and continue through September 30, and eggs must be relocated per the following requirements:
 - i. Nesting surveys and egg relocations will only be conducted by personnel with prior experience and training in nesting survey and egg relocation procedures. Surveyors must have a valid Florida Fish and Wildlife Conservation Commission (FWC) permit issued pursuant to Rule 68E-1, Florida Administrative Code. Nesting surveys must be conducted daily between sunrise and 9 a.m. The contractor shall not initiate work until daily notice has been received from the sea turtle permit holder that the morning survey has been completed. Surveys shall be performed in such a manner so as to ensure that construction activity does not occur in any location prior to completion of the necessary sea turtle protection measures.
 - ii. Only those nests that may be affected by construction activities will be relocated. Nests requiring relocation must 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. Relocated nests shall not be placed in organized groupings; relocated nests shall be randomly staggered along the length and width of the beach in settings that are not expected to experience daily inundation by high tides or known to routinely experience severe erosion and egg loss, or subject to artificial lighting. Nest relocations in association with construction activities must 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 must be marked and left *in situ* unless other factors threaten the success of the nest. The turtle permit holder shall install an on-beach marker at the nest site and/or a secondary marker at a point landward as possible to assure that future location of the nest will be possible should the on-beach marker be lost. A series of stakes and highly visible survey ribbon or string must be installed to establish a 10-foot radius around the nest. No activity will occur within this area or will any activities occur which could result in impacts to the nest. Nest sites must be inspected daily to assure nest markers remain in place and the nest has not been disturbed by the restoration activity.
- iv. If sand will be placed on the beach during the period from March 1 through April 30, daytime surveys for leatherback sea turtle nests must be conducted beginning March 1. Nighttime surveys for leatherback sea turtles will begin when the first leatherback crawl is documented within the project area and through April 30 or until completion of the project (whichever is earliest). Nesting surveys must be conducted nightly from 9 p.m. until 6 a.m. The project area must be surveyed at 1-hour intervals (since leatherbacks require at least 1.5 hours to complete nesting, this will ensure all nesting leatherbacks are encountered) and eggs must be relocated per the preceding requirements.

- c. From March 1 through April 30 and from November 1 through November 30, direct lighting of the beach and nearshore waters must be limited to the immediate construction area and must comply with safety requirements. Lighting on offshore or onshore equipment must be minimized through reduction, shielding, lowering, and appropriate placement to avoid excessive illumination of the waters surface and nesting beach while meeting all Coast Guard, EM 385-1-1, and OSHA requirements. Light intensity of lighting plants must be reduced to the minimum standard required by OSHA for General Construction areas, in order not to misdirect sea turtles. 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.



- d. From March 1 through April 30 and from November 1 through November 30, staging areas for construction equipment must be located off the beach to the maximum extent practicable. Nighttime storage of construction equipment not in use must be off the beach to minimize disturbance to sea turtle nesting and hatching activities. In addition, all construction pipes that are placed on the beach must be located as far landward as possible without compromising the integrity of the existing or reconstructed dune system. Temporary storage of pipes must be off the beach to the maximum extent possible. Temporary storage of pipes on the beach must be in such a manner to minimize the impact to nesting habitat and must not compromise the integrity of the dune systems.
- e. Pipes placed parallel to the dune must be five to ten feet away from the toe of the dune.

- 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 permittee 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 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 permittee 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 the permittee ~~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. The permittee ~~FIND~~ must complete a survey of artificial beachfront lighting by May 15 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, ~~the permittee~~ ~~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 results reported by the 1st of the following month; and a final summary report provided by December 15 of that year.

- j. The applicant shall arrange a meeting between representatives of the contractor, the Department, the FWC, and the permitted person responsible for marine turtle nest 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. This meeting may be held in conjunction with the pre-construction conference specified under Specific Condition 2, provided that the timelines specified under this Specific Condition are met.
- k. Reports on all nesting activity shall be provided for the initial nesting season and for a minimum of three additional nesting seasons. 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 filled areas and for an equal length of adjacent beach that is not filled in accordance with the attached Table. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted by January 15 of the following year.
- l. 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.
- m. 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.

11 ~~13~~. **Shorebird Surveys**

- a. Shorebird surveys shall 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.
- 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 w~~ 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.
- c. Once breeding is confirmed by the presence of a scrape, eggs, or young, the Bird Monitor will notify the Regional Nongame Biologist of the FWC within 24 hours.
- i. All breeding activity will be reported to the Beach-Nesting Bird website within one week of data collection.
 - ii. Observations of non-breeding shorebirds shall be reported to the Shorebird-Seabird Occurrence Database, as described below.
- 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 shall be responsible for the surveys before and during 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.
- e. *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, shall be prohibited in the buffer zone.
- i. The width of the buffer zone shall be increased if birds appear agitated or disturbed by construction or other activities in adjacent areas.

- ii. Site-specific buffers may be implemented upon approval by FWC as needed.
 - iii. Reasonable and traditional pedestrian access shall 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.
 - iv. 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.
 - v. No construction activities, movement of vehicles, or stockpiling of equipment shall be allowed within the buffer area.
- f. 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.
- i. 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.
 - ii. To the degree possible, the permittee ~~or local sponsor~~ shall 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.

- g. *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.”
- h. *Beach Contours.* All tilling and scarp removal should be done outside the shorebird nesting season. It is the responsibility of 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.
- i. *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.

12 14. **Manatees.** The permittee shall comply with the following standard manatee construction conditions intended to protect manatees from direct project effects.

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement. In order to avoid manatee entrapment by turbidity barriers, the

presence of manatees should be checked at least once in the morning and once in the evening if the barriers are to be left unattended at night or over a weekend. If a manatee becomes entangled, the Florida Fish and Wildlife Conservation Commission should be notified immediately at 1-888-404-FWCC.

- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Vero Beach (1-772-562-3909).
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 feet by 4 feet which reads *Caution: Manatee Area* must be posted in a location prominently visible to all personnel engaged in water-related activities. A second sign measuring at least 8 ½ inches by 11 inches explaining the requirements for “Idle Speed/No Wake” and the shut down of in-water operations must be posted on vessels associated with the construction, and should be placed visible to the vessel operator.
- 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 coordinated with 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, 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 coordinated with the Imperiled Species Management Section.
- h. Within 30 days following completion of the project, a report detailing manatee sightings, boat-manatee collisions, and manatee injuries shall be submitted to the

Imperiled Species Management Section, Division of Habitat and Species
Conservation, 620 South Meridian Street, Mailbox 6A, Tallahassee, FL 32399-
1600.

13 ~~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 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 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 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 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. If monitoring reveals that the turbidity levels at the compliance sites, including those located 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, 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 (Lauren 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 transfer is not expected to adversely affect water quality and the project is expected to remain clearly in the public interest. Staff has also determined that the proposed transfer 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 transfer does not

reduce the design adequacy of the project. Since the proposed transfer is not expected to result in any adverse environmental impact or water quality degradation, the **permit is hereby transferred** as stated above. By copy of this letter, we are notifying all necessary parties of the transfer.

This letter of approval does not alter the **January 6, 2018** expiration date, other Specific Conditions, or monitoring requirements of the permit. This letter must be attached to the original permit.

This permit is hereby transferred 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.

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

Notice of Permit Modification (Transfer)
Permit Modification No. 0262913-003-JN
Jupiter AIWW Maintenance Dredging and Beach Fill Placement
Page 29 of 29

MKS/cl

Attachments: QA/QC Plan (7 pages)
Permit Drawings (20 pages)

Copies furnished to:

Matt Miller, USACE, Jacksonville
Robbin Trindell, FWC, ISMS
Mary Duncan, FWC, ISMS
Jeffrey Howe, USFWS
Martin Seeling, BBCS, JCP
El Kromhout, BBCS, CE
JCP Compliance Officer

Jim McAdams, USACE, Jacksonville
Lauren Herren, CAMA, South Indian River Aquatic Preserves
Jennifer Smith, DEP, Southeast District
Daniel Bates, PBC DERM
Robert Brantly, BBCS, CE
Mark Taynton, BBCS, CCCL
BBCS 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.

 3-27-2008
Deputy Clerk Date