



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

BOB MARTINEZ CENTER
2600 BLAIRSTONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

RICK SCOTT
GOVERNOR

CARLOS LOPEZ-CANTERA
LT. GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

May 15, 2014

The U.S. Army Corps of Engineers
ATTN: Eric P. Summa
Department of the Army
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232

Permit Modification No. 0157891-016-EM
Permit No. 0157891-011-EM, Hillsborough County
Egmont Key Beach Placement

Dear Mr. Summa:

Your request to modify Permit No. 0157891-011-EM was received on March 17, 2014, and has been reviewed by Department staff. The proposed permit modification is to allow placement of dredged fill containing greater than 10% fine material on the beach at Egmont Key, between Department Reference Monuments R-2 and R-10.

Background

On April 7, 2006, the Department issued Permit No. **0157891-009-EI** to the U.S. Army Corps of Engineers (Corps) to conduct maintenance dredging of the federally authorized channels within Tampa Harbor and the berths of the Tampa Port Authority. That project, known as the Tampa Harbor Comprehensive Project, combined many individually authorized channel dredging and disposal projects under a single permit. The project included maintenance of approximately 67 miles of channels and berthing areas with several disposal options.

On June 16, 2005, the Department issued Permit Modification No. **0157891-010-EM** to the Corps to include the maintenance dredging of the Egmont Federal Navigation Channel. The original permit did not include maintenance dredging of the Egmont Channel, although it did include material placement options both onshore and in the nearshore of Egmont Key. The modification was to allow maintenance dredging of Egmont Channel as a source of beach quality material for placement on Egmont Key.

On September 12, 2006, the Department issued a major modification to Permit No. 0157891-009-EI for the Corps' Tampa Harbor Comprehensive Maintenance Dredging Project. That major modification, thereafter referred to as Permit Modification No. **0157891-011-EM** superseded Permit No. 0157891-009-EI. The modified project includes the Ft. Desoto Park shoreline and

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 2 of 32

nearshore disposal site, within the Boca Ciega Bay Aquatic Preserve, and Rock Disposal Area north of Egmont Key, as additional authorized dredged material disposal areas. On October 9, 2006, the Department issued Variance No. **0157891-013-EV** to the Corps. The variance was associated with Permit No. 0157891-011-EM and established an expanded mixing zone of 1,000 meters within the boundary of the Boca Ciega Bay Aquatic Preserve.

For additional background about the current permit, the associated variance and other previous permits at this site, please see the Consolidated Notice Of Intent To Issue A Major Modification To An Environmental Resource Permit, Variance And Authorization To Use Sovereign Submerged Lands for Permit No. 0157891-011-EM at the following website:

ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/hillsbor/issued/0157891_Tampa_Bay_MD/011-EM/Intent/

On July 21, 2006, the Department issued Permit Modification No. **0157891-012-EM** to the Corps to replace two 300 foot long geotextile tube groin structures on the northwest end of Egmont Key.

On October 16, 2006, the Department issued Permit Modification No. **0157891-014-EM** to the Corps to rehabilitate the existing groin located just north of the Gulf-side pier at the southern tip of Mullet Key.

On August 29, 2013, the Corps applied for a de minimis exemption (File No. **0157891-015-BE**) to raise the dike on Spoil Island 3D. The application was later withdrawn.

The Department is currently processing an application requested by the Corps for Permit Modification No. **0157891-017-BI**. The modification is for expansion and maintenance dredging in the Big Bend entrance channel, turning basin, inner channel, east channel, and berthing areas. Dredged material would be placed at upland disposal area 3-D.

Project Justification

Maintenance dredging for navigational safety is necessary in Egmont Cut 1, Egmont Cut 2, and Mullet Key Cut. The average silt content of the dredged material exceeds the maximum allowed in Rule 62B-41.007(2)(k), F.A.C. However, placement of the dredged material on Egmont Key is in response to the State of Florida's desire to stabilize and protect historic and archaeological resources on the key, and to provide nesting and foraging habitat for marine turtles and shorebirds. The placement of the dredged material on Egmont Key is more beneficial and economically viable when compared to placing the material in the nearshore or an upland disposal site.

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 3 of 32

Staff Assessment

Dredged material with a 15% silt content from the St. Petersburg Harbor Maintenance Dredging Project (Permit No. 0157891-003-DF) was placed on Egmont Key in 2000. In 2006, dredged material was placed on Egmont Key and Fort De Soto beach from the maintenance dredging of Egmont Channel and Mullet Key Cut. This material contained a higher silt content than that of the previous fill, averaging 25% silt, and a maximum of 82%. Pre-construction and post-construction analysis conducted for the 2006 dredging event indicated that the high silt content of the dredged materials did not result in a silt content higher than pre-fill levels following placement. Natural processes had removed the silt and returned the beach sand characteristics to the pre-fill conditions. The placement of this material onto the beaches of Egmont Key had no definitive adverse impacts on resources.

The average silt content of the material to be dredged from Cut A is approximately 28 percent. The dredged material does not meet the criteria specified in Rule 62B-41.007(2)(k), F.A.C. However, significant beach erosion threatens the historical and environmental resources on the key, and threatens the long term existence of the key, such that beach placement of dredged material with a higher fines content is acceptable, and the deviation from the silt criterion is permissible pursuant to Rule 62B-41.007(3), F.A.C.

Placement of the dredged material will be done using a traditional method, where the material will be discharged landward of a longitudinal dike designed to limit turbidity in the runoff and deposit as much material as possible on the beach. Additional dredged material will be piped to R-8 and discharged below mean high water using “cross shore swash placement.” This methodology should result in most fine sediment and organic material being “washed out” from the dredged material that will augment the beach, and will allow currents and wave action to sort sediments into an appropriate beach profile.

The project will include a “Ship to Shore” fine sediment monitoring study conducted by the Corps’ Engineer Research and Development Center. Sediment samples will be collected at intake and pump-out for estimation of the percentage of fine materials lost immediately, over time and in the final beach composition. These data may be used by the Corps and the Department to guide decision-making regarding the suitability of dredged material for nearshore or beach placement in future dredging events.

Sands with high silt content may impact successful marine turtle nest excavation, incubation, hatching, and emergence. Monitoring associated with the project will document the composition of the material in the nesting beach after fill placement and any changes in composition over time; the response of nesting females to the material; the hatching success of any nests deposited in the material; and the ability of hatchlings to emerge from their nests. If the monitoring indicates that impacts are occurring, the beach will be managed to mitigate these impacts through measures deemed appropriate. No seagrass, hardbottom, or dune habitat will be affected by the project.

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 4 of 32

As the waves remove the high silt content from the dredged material during and after placement, the suspended sediment will result in elevated turbidity levels. The highest turbidity levels are expected to occur during placement. The Permittee will monitor turbidity levels during construction and must meet the State's water quality standard for turbidity.

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

1. At least 30 days prior to the commencement of each maintenance dredging event to be conducted during the term of this permit, the Permittee shall electronically submit to the Department's JCP Compliance Officer (e-mail address: JCPCCompliance@dep.state.fl.us) ~~DEP Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000~~ and to the DEP Southwest Office, Submerged Lands and Environmental Resource Program, 3804 Coconut Palm Drive, Tampa, Florida, 33619, a proposed schedule of dredging for the maintenance dredging event.
2. At least 7 days prior to commencement of the dredging authorized by this permit, the Permittee shall conduct a pre-construction conference to review the specific conditions and monitoring requirements of this permit with the Permittee's contractors, Contracting Officer Representative, and Department staff representatives. The Permittee shall provide written notification, at least 14 days in advance of the meeting, to the following offices advising of the date, time, and location of the pre-construction conference:

~~DEP Bureau of Beaches &
Coastal Systems (BBCS)
JCP Compliance Officer
Mail Station 300
3900 Commonwealth
Boulevard
Tallahassee, FL 32399-3000
Phone: (850) 414-7716
Fax: (850) 414-7725
JCP Compliance Officer
e-mail:
JCPCCompliance@dep.state.fl.us~~

DEP Southwest District Office
Permitting &
Compliance/Enforcement
3804 Coconut Palm Drive
Tampa, FL 33619-8318
Phone: (813) 744-6100

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

DACS Division of Aquiculture
Shellfish Harvesting Management
South Gulf Office
P. O. Box 189
Murdock, FL 33938-0189
Phone: (813) 255-0083

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 5 of 32

3. Final Plans and Specifications for this permit and subsequent maintenance dredging events under this permit shall be provided to the JCP Compliance Officer (via e-mail: JCPCompliance@dep.state.fl.us) ~~BBCS~~ before work may begin.
4. At least 90 days prior to commencement of placement of material in the beneficial use sites at Egmont Key, Ft. DeSoto or at the in-water dredged hole disposal areas, the ~~P~~permittee shall submit for review and approval, a dredged material **QA/QC plan**. The plan shall provide:
 - Assurance that the material to be placed along the shore, or in the nearshore, of Egmont or Mullet Keys during future events, meets the criteria specified in 62B-41.007, F.A.C., for the placement of dredged material. For the 2014 maintenance dredge event only, the dredged material to be disposed on Egmont Key may contain greater than 10% fines.
 - Assurance that material identified for placement sites within any Aquatic Preserve will be free from elevated levels of fines in order to minimize turbidity to the maximum extent practicable.
 - Assurance that any material to be placed within the dredged hole (beneficial use) sites is free from elevated levels of metals or other contaminants and the sediment type is suitable to restore bay bottom contours and provide for re-colonization of estuarine habitat and organisms comparable to that of the neighboring bay bottom environments.

The QA/QC plan may be submitted in parts to address the individual beneficial use sites.

7. Within 90 days following completion of each dredging event, a final report shall be submitted to the ~~JCP Compliance Officer Bureau of Beaches and Coastal Systems at~~ JCPCompliance@dep.state.fl.us ~~BBCS~~ and DEP Southwest District Office. This report shall include the following information:
 - a. The location of the dredging and disposal sites used;
 - b. A description of the dredging and disposal methods and equipment used;
 - c. The dates on which construction began and the dates of completion;
 - d. Tables of turbidity data collected at the dredging and upland and nearshore disposal areas, including the location, date, and time for each sample collected, values for background samples, values for compliance samples, and the difference between background and compliance samples. Each table shall include a statement identifying any violations of turbidity standards which occurred during dredging or disposal, the probable causes of the violations, and corrective measures taken to reduce turbidity; and
 - e. The quality and quantity of material dredged and the quality and quantity of material placed in each disposal area.

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 6 of 32

10. The following measures shall be taken by the Permittee whenever turbidity levels at the limit of the mixing zone exceed the standards described in the Monitoring Required section, pursuant to Rule 62-302, F.A.C.:
- a. Immediately cease all work contributing to the water quality violation;
 - b. Modify the work procedures that were responsible for the violation; and
 - c. Notify the JCP Compliance Officer ~~Bureau of Beaches and Coastal Systems~~ at JCPCompliance@dep.state.fl.us (850) 414-7716 and the DEP Southwest District Office at (813) 744-6100 within 24 hours of the time the violation is first detected.

MONITORING REQUIRED:

12. Water Quality Sampling/Compliance

Turbidity - Nephelometric Turbidity Units (NTUs)

Frequency

Background: Equivalent to the corresponding Compliance Site Type.

Compliance Site Type 1 (where the mixing zone does not abut seagrass): Twice daily at least 4 hours apart during all dredging, filling, or disposal operations. If overflow occurs from filling of hopper dredge, disposal barge or scow barge, then monitoring shall occur at least once during each loading event when the turbidity reaches the edge of the mixing zone.

Compliance Site Type 2 (where a shortened mixing zone abuts seagrass): Hourly, when visual observation indicates a turbidity plume extends into areas containing seagrasses. If overflow occurs from filling of hopper dredge, disposal barge or scow barge, then monitoring frequency shall be increased to every 30 minutes during loading and up to 30 minutes after overflow has ceased.

Location

Background: At mid-depth, at least 300 meters upcurrent from the dredge, fill, or disposal site discharge point and clearly outside the influence of any turbidity generated by this project or other obvious turbidity plumes.

Compliance Site Type 1- At mid-depth, at the **mixing zone boundary** (150 meters from the edge of the active construction within waters/wetlands or point of discharge into waters/wetlands, but not beyond the edge of the nearest seagrass bed), downcurrent from the dredge or disposal site discharge point, within the densest portion of any visible turbidity plume.

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 7 of 32

Compliance Site Type 2- At mid-depth, within the densest portion of any visible turbidity plume, no more than 150 meters downcurrent from the dredge, fill, or disposal site discharge point, or 1 meter within the **edge of seagrass areas** closest to the construction activity (whichever is less).

Compliance Sites at Fort DeSoto Park Disposal Areas – At mid-depth, within the densest portion of any visible turbidity plume, no more than 150 meters offshore and 1,000 meters down-current from the point where runoff from the discharged slurry reenters the Gulf. This expanded mixing zone is authorized by Variance No. 0157891-013-EV, and shall only be in effect as long as the variance is in effect.

Existing ambient water quality within the Boca Ciega Bay Aquatic Preserve (OFW) shall not be lowered as a result of the proposed disposal of dredged material, except on a temporary basis during construction within the restricted mixing zone approved by the Department, for a period of no more than sixty days. Existing ambient water quality within the Pinellas County Aquatic Preserves (OFW) shall not be lowered as a result of the proposed disposal of dredged material, except on a temporary basis during construction within the 150-meter mixing zone approved by the Department, for a period of no more than thirty days, for each event. However, if the Permittee requests an extension of this 30-day period for a given event, and provides written justification that work cannot be completed within 30 days, the Department may grant written permission for continued elevation of turbidity within the 150-meter mixing zone for a specified period.

If at any time turbidity in the Pinellas County Aquatic Preserve, Boca Ciega Bay Aquatic Preserve or other OFW exceeds 0 NTU's above background levels at the edge of the designated mixing zone, construction activities shall **cease immediately** and not resume until corrective measures have been taken, turbidity has returned to acceptable levels and the Department's JCP Compliance Officer has been notified. For construction activities at the Ft. DeSoto Park Secondary Beach Placement Site (on the southern shoreline of Mullet Key), if turbidity exceedances within the Boca Ciega Bay Aquatic Preserve cause cessation of construction three times for a given placement event, then additional measures shall be taken to protect the seagrass beds located approximately 1 mile east of the fill template. In that case, for the remainder of the ongoing placement event, construction on the southern shoreline shall be restricted to slack and outgoing tides only. Outside of OFWs, if at any time turbidity at the compliance location exceeds 29 NTU's above background at the edge of the 150-meter mixing zone, construction activities shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any occurrence of water quality violation shall be immediately reported to DEP's JCP Compliance officer BBCS in Tallahassee at JCPCCompliance@dep.state.fl.us, (850) 414-7716 (att: JCP Compliance Officer) and to the DEP Southwest District Office at (813) 744-6100 within 24 hours of the time the

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 8 of 32

violation is first detected. Turbidity monitoring reports shall be submitted to the JCP Compliance Officer ~~BBCS~~ and DEP Southwest District, with reporting requirements as stipulated below.

Water Quality monitoring reports shall be submitted to JCP Compliance officer via email at JCPCompliance@dep.state.fl.us ~~BBCS~~ and DEP Southwest District Office on a weekly basis within seven days of collection. Reports shall be submitted under a cover letter containing the following statement: "**This information is provided in partial fulfillment of the monitoring requirements in Permit 0157891-011-EM Tampa Harbor Comprehensive Maintenance Dredging Project.**" The cover letter shall summarize any significant compliance issues. Also, please clearly reference permit number 0157891-011-EM on each page of the report. In addition to analytical results for samples and quality control, the report should also include:

- a. time of day samples were 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
- g. a statement describing the methods used in collection, handling, storage and analysis of the samples
- h. turbidity meter calibration
- i. a map indicating the location of the current construction activity, the sampling locations (background and compliance), and the visible plume pattern of the 150 meter mixing zone
- j. a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data.

Failure to submit monitoring reports in a timely manner constitutes grounds for revocation of the permit.

Manatee, Marine Turtle, and Shorebird Protection Conditions

15. During all construction authorized by this permit and subsequent to authorization of incidental take by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) in accordance with Sections 161.041(5) and 379.2431(1), F.S., the Permittee shall comply with the following conditions intended to protect manatees, marine turtles and shorebirds from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of marine turtles, manatees and manatee speed zones, and the need to avoid

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 9 of 32

collisions with (and injury to) these protected marine species. 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 and for killing marine turtles, which are protected under the Endangered Species Act and the Florida Marine Turtle Protection 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 shall follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers, if used, shall be made of material in which manatees and marine turtles cannot become entangled, shall be properly secured and shall be regularly monitored to avoid entanglement or entrapment. Barriers must not impede manatee or marine turtle movement.
- d. All on-site project personnel shall be responsible for observing water-related activities for the presence of marine turtles and manatees. **All in-water operations, including vessels, shall be shut down if a marine turtle or manatee comes within 50 feet of the operation.** Activities shall not resume until the animal(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the animal(s) has not reappeared within 50 feet of the operation. Animals shall not be herded away or harassed into leaving.
- e. Any collision with, or injury to, a marine turtle or manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922, and to FWC at ImperiledSpecies@myFWC.com.
- 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. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads "Caution Boaters, Watch for Manatees", must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. One of these signs is attached, and signs already approved by the FWC can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.



- g. All personnel associated with the project shall be instructed about the potential presence of nesting shorebirds and the need to avoid Take of (including disturbance to) these protected species.
- h. All vehicles shall be operated in accordance with the FWC's Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you- conserve/wildlife/beach-driving/>). Specifically, the vehicle must be operated at a speed <6 mph and run at or below the high-tide line.

Fish and Wildlife Protection Conditions for Dredging Activities:

- 16. **Hopper Dredging.** In the event a hopper dredge is utilized, the following requirements shall be met in addition to the Terms and Conditions of the applicable NMFS Regional Biological Opinion for Hopper Dredging (Gulf of Mexico):
 - a. Handling of captured marine turtles or marine turtle eggs shall be conducted only by persons with prior experience and training in these activities, and who are duly authorized to conduct such activities through a valid Marine Turtle Permit issued by FWC, pursuant to Chapter 68E-1, F.A.C., or by an individual who is designated an official marine turtle observer under NMFS requirements and training.
 - b. Dredging pumps shall be disengaged by the operator, or the draghead bypass valve shall be open and in use when the dragheads are not firmly on the bottom, in order to minimize impingement or entrainment of sea turtles within the water column. This precaution is especially important during the cleanup phase of dredging operations.

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 11 of 32

- c. A state-of-the-art rigid deflector draghead shall be used on all hopper dredges, in all channels, at all times of the year.
- d. The Sea Turtle Stranding and Salvage Network (STSSN) Coordinator shall be notified at Allen.Foley@myfwc.com at the start-up and completion of hopper dredging operations. In the event of capturing or recovering marine turtles or marine turtle parts, the STSSN shall be contacted at SeaTurtleStranding@myfwc.com.
- e. Relocation trawling or non-capture trawling shall be implemented in accordance with the applicable NMFS Biological Opinion and Incidental Take authorization. Any activity involving the use of nets to harass and/or to capture and handle marine turtles in Florida waters requires a Marine Turtle Permit from FWC.
 - i. The Permittee or their contractor shall e-mail (MTP@MyFWC.com) weekly reports to the Imperiled Species Management section on Friday each week that trawling is conducted in Florida waters. These weekly reports shall include the species and number of turtles captured in Florida waters, general health, and release information. The Permittee shall provide a summary (on FWC provided Excel spreadsheet) of the following: all trawling activity (including non-capture trawling), all turtles captured in Florida waters, 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). These reports shall be submitted to MTP@myfwc.com by January 15 of the following year or at the end of the project.

Fish and Wildlife Protection Conditions for Nearshore and Beach Placement of Dredge Material:

- 17. **Beach Maintenance.** All derelict concrete, metal, coastal armoring material, and other debris shall be removed from the beach prior to any material placement to the maximum extent practicable. If debris removal activities will take place during shorebird breeding or marine turtle nesting seasons, the work shall be conducted during daylight hours only and shall not commence until completion of daily seabird, shorebird or marine turtle surveys each day. All excavations and temporary alterations of the beach topography shall be filled or leveled to the natural beach profile prior to 9 p.m. each day unless otherwise authorized.
- 18. **Pre-Construction Meeting.** A meeting between representatives of the contractor, the FWC, the permitted marine turtle surveyor, and Bird Monitors as appropriate, shall be held prior to commencement of work on projects. At least ten (10) business days

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 12 of 32

advance notice shall be provided prior to conducting this meeting. The meeting will provide an opportunity for explanation and/or clarification of the protection measures as well as additional guidelines when construction occurs during nesting season, such as staging equipment and reporting within the work area, as well as follow up meetings during construction.

19. ***Nesting Seabird and Shorebird Protection Conditions.*** Nesting seabird and shorebird (i.e. shorebird) surveys shall be conducted by trained, dedicated individuals (Bird Monitor) with proven shorebird identification skills and avian survey experience. A list of candidate Bird Monitors with their contact information, summary of qualifications, including bird identification skills, and avian survey experience, shall be provided to FWC. This information shall be submitted to the FWC regional biologist (863) 648-3205 prior to any construction or hiring for shorebird surveys for revision and consultation. Bird Monitors shall use the following survey protocols:

- a. Bird Monitors shall review and become familiar with the general information, employ the data collection protocol, and implement data entry procedures outlined on the FWC's Florida Shorebird Database (FSD) website (www.FLShorebirdDatabase.org). An outline of data to be collected, including downloadable field data sheets, is available on the website.
- b. Breeding season in all Gulf Coast counties occurs February 15 – September 1. Breeding season surveys shall begin on the first day of the breeding season or 10 days prior to project commencement (including surveying activities and other pre-construction presence on the beach), whichever is later. Surveys shall be conducted through August 31st or until all breeding activity has concluded, whichever is later.
- c. Breeding season surveys shall be conducted in all potential beach-nesting bird habitats within the project boundaries that may be impacted by construction or pre-construction activities. Portions of the project, in which there is no potential for project-related activity during the nesting season, may be excluded. One or more shorebird survey routes shall be established in the FSD website to cover these areas.
- d. During the pre-construction and construction phases of the project, surveys for detecting breeding activity and the presence of flightless chicks shall be completed on a daily basis prior to movement of equipment, operation of vehicles or other activities that could potentially disrupt breeding behavior or cause harm to the birds or their eggs or young.
- e. Surveys shall be conducted by walking the length of the project area and visually surveying for the presence of shorebirds exhibiting breeding behavior,

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 14 of 32

then the width of the buffer zone shall be increased immediately to a sufficient size to protect breeding birds.

- b. Reasonable and traditional pedestrian access shall not be blocked where breeding 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 breeding was initiated within 300 feet of an established beach access pathway. The Permittee shall work with the FWC Regional Species Biologist to determine if pedestrian access can be accommodated without compromising nesting success.
- c. Designated buffer zones shall be marked with posts, twine and signs stating “Do Not Enter, Important Nesting Area” or similar language around the perimeter of the buffer zones. The signs shall include the name and a phone number of the entity responsible for posting. Posts shall not exceed 3 feet in height once installed. Symbolic fencing (twine, string or rope) shall be placed between all posts at least 2.5 feet above the ground and rendered clearly visible to pedestrians. If pedestrian pathways are approved by the FWC Regional Species Conservation Biologist within the 300-foot buffer zone, these shall be clearly marked. The posting shall be maintained in good repair until breeding is completed or terminated. Although solitary nesters may leave the buffer zone with their chicks, the posted area continues to provide a potential refuge for the family until breeding is complete. Breeding is not considered to be completed until all chicks have fledged.
- d. No construction activities, pedestrians, movement of vehicles or stockpiling of equipment shall be allowed within the buffer area.
- e. Travel corridors shall be designated and marked outside the buffer areas so as not to cause disturbance to breeding birds. Heavy equipment, other vehicles or pedestrians may transit past breeding areas in these corridors. However, other activities such as stopping or turning shall be prohibited within the designated travel corridors adjacent to the breeding site. When flightless chicks are present within or adjacent to travel corridors, movement of vehicles shall be accompanied by the Bird Monitor who will ensure that no chicks are in the path of the moving vehicle and that no tracks are capable of trapping flightless chicks result.
- f. To discourage nesting within the travel corridor, FWC recommends that the Permittee maintain some activity within these corridors on a daily basis, without disturbing any nesting shorebirds documented on site or interfering with sea turtle nesting, especially when those corridors are established prior to commencement of construction.

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 15 of 32

22. **Notification.** If shorebird breeding occurs within the project area, a bulletin board shall be placed and maintained in the construction staging area with the location map of the construction site showing the bird breeding areas and a warning, clearly visible, stating that “NESTING BIRDS ARE PROTECTED BY LAW INCLUDING THE FLORIDA ENDANGERED AND THREATENED SPECIES ACT AND THE STATE and FEDERAL MIGRATORY BIRD ACTS”.
23. **Marine Turtle Nest Surveys and Relocation.** Except where such work is prohibited by the managing agency or under applicable local land use codes, sand placement may occur during the marine turtle nesting season, May 1 through October 31, provided the marine turtle protection conditions in Specific Conditions 23 through 26 are met.
24. Beach nourishment and dune restoration may occur during the marine turtle nesting season (May 1 through October 31) if not prohibited by state or federal park land management plans or local land use codes. For sand placement projects that occur during the period from April 15 through October 31, daily early morning (before 9 a.m.) surveys shall be conducted as follows:

Marine turtle nesting surveys shall be initiated by April 15 and shall continue through September 30 in accordance with the following requirements:

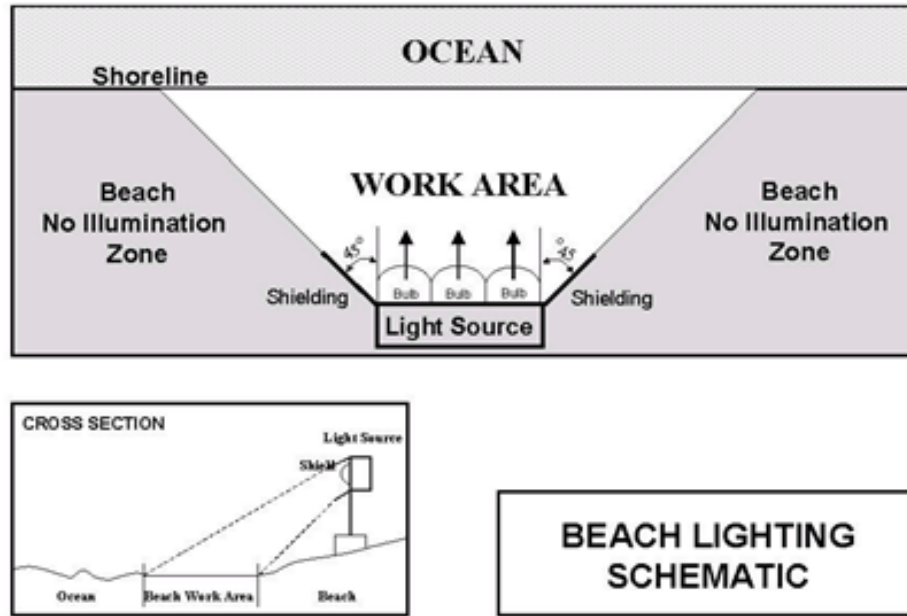
- a. Nesting surveys and nest marking shall only be conducted by persons with prior experience and training in these activities and who are authorized to conduct such activities through a valid permit issued by FWC, pursuant to Chapter 68E-1, F.A.C. Nesting surveys shall be conducted daily, between sunrise and 9 a.m. (this is for all time zones). The contractor shall not initiate work until daily notice has been received from the marine 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 marine turtle protection measures.
- b. Nests may be relocated to facilitate construction activity except during 2014, when all nests shall remain in place and be marked for avoidance as described below.
- c. Only those nests in the area where sand placement occurs shall be relocated. Nest relocation shall not occur upon completion of sand placement. 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. 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, that are not known to routinely experience severe erosion and egg loss or that are subject to artificial lighting. Nest relocations in

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 16 of 32

association with construction activities shall cease when sand placement activities no longer threaten nests.

- d. Nests deposited within areas where construction activities have ceased or will not occur for 65 days, or nests laid in the nourished berm prior to tilling, shall be marked and left in place 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 as far landward as possible to assure that future location of the nest will be possible should the on-beach marker be lost. No activity shall occur within this area, nor shall any activities occur that could result in impacts to the nest. Nest sites shall be inspected daily to assure that nest markers remain in place and that the nest has not been disturbed by the project activity.
25. ***Marine Turtle or Nest Encounters.*** Upon locating a dead or injured marine turtle adult, hatchling or egg that may have been harmed or destroyed as a direct or indirect result of the project, the Permittee shall be responsible for notifying STSSN at SeaTurtleStranding@myfwc.com. Care shall be taken in handling injured marine turtles or eggs to ensure effective treatment or disposition, and in handling dead specimens to preserve biological materials in the best possible state for later analysis. In the event a marine turtle nest is excavated during construction activities, the permitted person responsible for egg relocation for the project shall be notified immediately so the eggs can be moved to a suitable relocation site.
26. ***Equipment Storage and Placement.*** 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. Pipes placed parallel to the dune shall be no farther seaward than 5 to 10 feet away from the toe of the dune. Temporary storage of pipes shall be off the beach to the maximum extent possible. 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 shorebird nesting site during the shorebird nesting season.
27. ***Project Lighting.*** Direct lighting of the beach and nearshore waters shall be limited to the immediate construction area during the sea turtle nesting season and shall comply with safety requirements. Lighting on offshore or onshore equipment shall be minimized through reduction, shielding, lowering and appropriate placement to avoid excessive illumination of the water's surface and nesting beach, while meeting all Coast Guard, EM 385-1-1 and OSHA requirements. Light intensity of lighting equipment shall be reduced to the minimum standard required by OSHA for General Construction areas, in order not to misdirect sea turtles. Shields shall be affixed to the light housing and be large enough

to block light from all lamps from being transmitted outside the construction area (Figure below).



28. **Compaction Sampling.** Sand compaction shall be monitored in the area of sand placement immediately after completion of the project and prior to April 15th for three (3) subsequent years. Compaction shall be monitored in accordance with a protocol agreed to by the FWC and the Permittee. The requirement for compaction monitoring can be eliminated if the decision is made to till regardless of post-construction compaction levels. Out-year compaction monitoring and remediation are not required if placed material no longer remains on the beach.

At a minimum, the protocol provided below shall be followed. If the average value for any depth exceeds 500 pounds per square inch (psi) for any two or more adjacent stations, then that area shall be tilled immediately prior to the following date (listed

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 18 of 32

above). 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 the Permittee shall consult with the FWC 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.

- a. 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).
 - b. At each station, the cone penetrometer shall be pushed to a depth of 6, 12 and 18 inches, three (3) times at each depth (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. The three (3) replicate compaction values for each depth shall be averaged to produce final values for each depth at each station. Reports shall include all eighteen (18) values for each transect line, and the final six (6) averaged compaction values.
 - c. No compaction sampling shall occur within 300 feet of any shorebird nest.
 - d. Any vehicles operated on the beach in association with compaction surveys shall operate in accordance with the FWC's Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you-protect/conservation/wildlife/beach-driving/>).
29. **Escarpment Surveys.** Visual surveys for escarpments along the project area shall be made immediately after completion of the sand placement project, weekly during marine turtle nesting season, and during March 15 to April 15 for three (3) subsequent years if sand from the project still remains on the beach. Weekly reports shall be submitted by Friday each week to marineturtle@myfwc.com.

Escarpments that interfere with marine turtle nesting or that exceed 18 inches in height for a distance of at least 100 feet shall be leveled and the beach profile shall be reconfigured by April 15 to minimize scarp formation. Any escarpment removal shall be reported by location to FWC. If the project is completed during the marine turtle nesting and hatching season, escarpments may be required to be leveled immediately, while protecting nests that have been relocated or left in place. If during the nesting and hatching season, there is any subsequent reformation of escarpments that interfere with marine turtle nesting or that exceed 18 inches in height for a distance of 100 feet, the Permittee shall immediately contact FWC to determine the appropriate action to be

taken. If it is determined that escarpment leveling is required during the nesting or hatching season, the FWC will provide a brief written authorization that describes methods to be used to reduce the likelihood of impacting existing nests. An annual summary of escarpment surveys and actions taken shall be submitted electronically to marineturtle@myfwc.com along with the annual summary, as described below. If escarpment removal occurs during shorebird breeding season, shorebirds surveys shall be required prior to escarpment removal, per the *Shorebird Conditions* included within this document. (NOTE: Out-year escarpment monitoring and remediation are not required if placed material no longer remains on the dry beach).

- a. No heavy equipment shall operate within 300 feet of any shorebird nest.
- b. If flightless shorebird young are observed within the work zone or equipment travel corridor, a Shorebird Monitor shall be present during the operation to ensure that equipment does not operate within 300 feet of the flightless young.
- c. Any vehicles operated on the beach in association with escarpment surveys or removal shall operate in accordance with the FWC's Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you-serve/wildlife/beach-driving/>).

Post-Construction Monitoring and Reporting Marine Turtle Protection Conditions:

30. Reports on all marine turtle nesting activity shall be provided for the initial marine turtle nesting (*May 1 through September 15*) and hatching (*through October 31*) season and during the marine turtle nesting seasons of 2015, 2016 and 2017. The following data shall be collected:
 - a. Number and type of emergences (nests/false crawls) by species.
 - b. GPS locations of each nest and false crawl.
 - c. Presence of dredged material from the project at nest and false crawl locations.
 - d. Distance of the nest/false crawl to the mean high water line and to the landward edge of the berm.
 - e. For each nest, the number of hatchlings to completely escape the egg and the number to emerge from the nest onto the beach.
 - f. Notation of any nesting turtles or hatchlings that misorient or disorient.

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 20 of 32

Data shall be reported for the nourished areas in accordance with the **Table below** and shall include number of nests lost to erosion or were washed out. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets) to the FWC Imperiled Species Management section at MTP@myfwc.com. All summaries shall be submitted by January 15 of the following year. The FWC Excel spreadsheet is available upon request from MTP@myfwc.com.

Table. Marine Turtle Monitoring:

<u>Metric</u>	<u>Duration</u>	<u>Variable</u>	<u>Criterion</u>
<u>Nesting Success</u>	<u>Year of construction, one year to two or three years post construction if placed sand remains on beach and variable does not meet criterion based on previous year</u>	<u>Number of nests and non-nesting emergences by day by species; presence of fill material</u>	<u>40% or greater</u>
<u>Hatching Success</u>	<u>Year of construction and one to three years post construction if placed sand remains on beach and variable does not meet criterion based on previous year</u>	<u>Number of hatchlings by species to completely escape egg</u>	<u>Average of 60% or greater (data must include washed out nests)</u>
<u>Emergence Success</u>	<u>Year of construction and one to three years post construction if placed sand remains on beach and variable does not meet success criterion based on previous year</u>	<u>Number of hatchlings by species to emerge from nest onto beach</u>	<u>Average must not be significantly different than the average hatching success</u>
<u>Disorientation</u>	<u>Year of construction and one to three years post construction if placed sand remains on beach</u>	<u>Number of nests and individuals that misorient or disorient</u>	
<u>Compaction</u>	<u>Not required if the beach is tilled prior to nesting season each year placed sand remains on beach</u>	<u>Shear resistance</u>	<u>Less than 500 psi</u>
<u>Escarpment Surveys</u>	<u>Weekly during nesting season for up to three years each year placed sand remains on the</u>	<u>Number of scarps 18 inches or greater extending for more than 100</u>	<u>Successful remediation of all persistent scarps as</u>

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 21 of 32

	<u>beach</u>	<u>feet that persist for more than 2 weeks</u>	<u>needed</u>
--	--------------	------------------------------------------------	---------------

15. ~~For all activities, in order to ensure that manatees and marine turtles are not adversely affected by construction activities, the following conditions shall be followed:~~
- a. ~~The permittee shall instruct all personnel associated with the project of the potential presence of manatees and marine turtles and the need to avoid collisions with manatees and marine turtles. All construction personnel are responsible for observing water related activities for the presence of manatee(s) and marine turtles.~~
 - b. ~~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 of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.~~
 - c. ~~Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.~~
 - d. ~~All vessels associated with the construction project shall operate at “no wake/idle” speeds at all times 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.~~
 - e. ~~If manatee(s) or marine turtles are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee or turtle. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee or turtle. Operation of any equipment closer than 50 feet to a manatee or turtle shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) or turtle has departed the project area of its own volition.~~
 - f. ~~Any collision with and/or injury to a manatee or marine turtle 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 Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-772-562-3909 dial 0) in south Florida.~~

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 22 of 32

- ~~g. Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* will be posted in a location prominently visible to water-related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 ½" by 11" which reads *Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. The U.S. Fish and Wildlife Service should also be contacted in Jacksonville (1-904-232-2580) for north Florida or in Vero Beach (1-772-562-3909 dial 0) for south Florida.*~~
16. In order to ensure that migratory birds are not adversely affected by construction activities, the Migratory Bird Protection Plan (MBPP) for disposal sites 2-D and 3-D shall remain in effect and be implemented by the permittee when sites 2-D or 3-D are utilized during bird nesting season (April 1st through August 31st). This plan requires that no activities occur between April 1st through August 31st. If any activity must occur during that window (including mobilization or removal of equipment from the site), specific migratory bird nesting habitat protection measures must be approved by the Migratory Bird Protection Interagency Committee (MBPC) as established by the U.S. Army Corps of Engineers' Migratory Bird Protection Policy or one of the Florida Fish and Wildlife Conservation Commission's Committee members before the activity can proceed. Prior to each use of these sites, the permittee must submit these approved, specific migratory bird nesting habitat protection measures to the Florida Department of Environmental Protection. At a minimum, the following conditions shall be followed:
- a. ~~The Contractor shall keep construction activities under surveillance, management, and control to prevent impacts to migratory birds and their nests. All construction personnel shall be advised that migratory birds are protected by the Florida Endangered and Threatened Species Act of 1977, Title XXVIII, Chapter 372.072, and the U.S. Fish and Wildlife Service pursuant to the Migratory Bird Treaty Act of 1918 and the Endangered and Threatened Species Act of 1982, as amended. The Contractor may be held responsible for harming or harassing the birds, their eggs or their nests as a result of the construction.~~
- b. ~~Monitoring of Construction Area: In order to meet these responsibilities, the Contractor shall conduct monitoring of the construction area beginning April 1 through August 31, if construction activities occur during that period. Prior to any work being initiated within potential nesting habitat, daily monitoring using the Daily Bird Monitoring Report shall be conducted by a bird monitor~~

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 23 of 32

~~approved by the MBPC or the Florida Fish and Wildlife Conservation Commission's Regional Nongame Biologist (caution shall be taken by the monitor to avoid disturbance to the nesting birds.) The Contractor shall maintain a daily log detailing monitoring and nesting activity (not all bird species are listed). Within 30 days after completion of construction, a summary of monitoring shall be submitted to the U.S. Army Corps of Engineers, the BBFS and the Florida Fish and Wildlife Conservation Commission detailing nesting and nesting success/failure including species, number of nests created, location, number of eggs, number of offspring generated during the project and reasons for nesting success or failure, if known.~~

~~e. Nesting Activity Notification: Any nesting activity observed by the Contractor shall be entered into the Florida Fish and Wildlife Conservation Commission's Beach Nesting Bird Website (<http://myfwc.com/shorebirds/>) within 24 hours and reported immediately to the Contracting Officer who shall have sole authority for any work stoppages, creation of the buffer area, or restart of construction activities.~~

~~d. Nesting Within Construction Area:~~

~~(1) Should nesting begin within the construction area, a temporary, 300-foot buffer shall be created around the nests and marked to avoid entry. The area shall be left undisturbed until nesting is completed or terminated, and the chicks fledge. Once the Florida Fish and Wildlife Conservation Commission Regional Nongame Biologist, U.S. Fish and Wildlife Service, and/or MBPC have determined that nesting has concluded, the decision to allow construction in a former nesting site will be determined by the Contracting Officer. Access to the nesting sites by humans (except limited access when accompanied by the bird monitor), equipment or pets under control of the permittee is prohibited.~~

~~(2) If nesting occurs within the construction area, a bulletin board shall be placed and maintained by the Contractor in the contracting shed 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 FEDERAL MIGRATORY BIRD TREATY ACT".~~

~~e. Bird Monitoring Qualifications: The Contractor's Environmental Protection Plan shall contain the qualifications of the bird monitor and the steps to be taken to construct the project in such a manner as not to impact migratory birds or induce their nesting. The qualifications of the bird monitor are a~~

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 24 of 32

~~demonstrated ability to identify bird species, general and nesting behavior characteristics, nests and eggs, and a knowledge of habitat requirements. In addition, references must be provided to verify non educational experience. The qualifications shall be submitted on the Bird Monitoring Qualification Sheet.~~

~~f. — Work Delay: Delays in work due to the fault of negligence of the Contractor or the Contractor's failure to comply with this specification shall not be compensable. Any adjustments to the contract performance period or price that are required as a result of compliance with this section shall be made in accordance with the clause *SUSPENSION OF WORK of Section 00700 CONTRACT CLAUSES.*~~

17. ~~For all activities, in order to ensure that marine turtles are not adversely affected, the following conditions shall be followed:~~
- ~~a. — Placement of sand on a sea turtle nesting beach shall only proceed if the U.S. Fish and Wildlife Service has issued an Incidental Take Authorization for each individual placement. If necessary, this permit shall then be modified to incorporate appropriate conditions for tilling and scarp remediation once incidental take has been authorized for beach placement. Fill placement may also occur under a separate permit, which would include appropriate marine turtle protection conditions.~~
 - ~~b. — All fill material placed shall be sand that is similar to that already existing at the beach site in both coloration and grain size distribution and suitable for marine turtle nesting. All such fill material shall be free of construction debris, rocks, or other foreign matter, and shall not contain, on average, greater than 10 percent fines (i.e., silt and clay) (passing the #200 sieve) and shall be free of gravel or cobbles.~~
 - ~~c. — From May 1 through November 1, all project lighting shall be limited to the immediate area of active construction only and shall be the 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.~~
 - ~~d. — From May 1 through November 1, staging areas for construction equipment shall be located off the beach to the maximum extent possible. Nighttime storage of construction equipment not in use shall be off the beach to minimize disturbance to sea turtle nesting and hatching activities.~~

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 25 of 32

- e. ~~In the event a hopper dredge is utilized for sand excavation, all conditions in the U.S. Fish and Wildlife Service Biological Opinion for hopper dredging and relocation trawling in the Gulf of Mexico must be met, including the following:~~
- i. ~~Prior to initiating hopper, the permittee shall notify Dr. Allen Foley, Florida's Sea Turtle Stranding and Salvage Network (STSSN) state representative, of the start up and completion of hopper dredging operations (allen.foley@myfwc.com).~~
 - ii. ~~The permittee shall fax (850-921-6988) or e-mail (Meghan.Conti@MyFWC.com) weekly reports to the Florida Fish and Wildlife Conservation Commission Imperiled Species Management Section on Friday each week that relocation trawling is conducted in Florida waters. These reports 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 Imperiled Species Management Section by January 15 of each year.~~
 - iii. ~~Turtles collected within Florida waters must be released in Florida waters.~~
 - iv. ~~Copies of all reports submitted to the U.S. Fish and Wildlife Service as required by the Biological Opinion and Incidental Take Statement shall also be submitted to the Florida Fish and Wildlife Conservation Commission. The final report shall include a description of the index of abundance, identify all parameters included in the index, and include a discussion of the accuracy and precision of this index.~~
 - v. ~~Any turtles incidentally taken during dredging activities must be reported to the Sea Turtle Stranding and Salvage Network. Three photographs of each turtle (dorsal, ventral, close up of head) should be submitted with each stranding report.~~
- f. ~~Upon locating a dead, injured, or sick endangered or threatened sea turtle specimen, initial notification must be made to the Florida Fish and Wildlife Conservation Commission 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~~

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 26 of 32

~~dead animal, the finder has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.~~

- ~~g. All fill material placed must be sand that is similar to a native beach in the vicinity of the site that has not been affected by prior nourishment activities. The fill material must be similar in both coloration and grain size distribution to the native beach. All such fill material must be free of construction debris, rocks, or other foreign matter and must not contain a high percentage of silt and clay (passing the #230 sieve) and must not contain, on average, greater than 5 percent coarse gravel or cobbles, exclusive of shell material (retained by the #4 sieve).~~
- ~~h. From April 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 so as to impact the least amount of nesting habitat and must likewise not compromise the integrity of the dune systems (placement of pipes perpendicular to the shoreline is recommended as the method of storage).~~
- ~~i. From April 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 (see Figure 1 below).~~
- ~~j. If the construction will be conducted during the period from March 1 through April 30, construction activities must be conducted during daylight hours only.~~

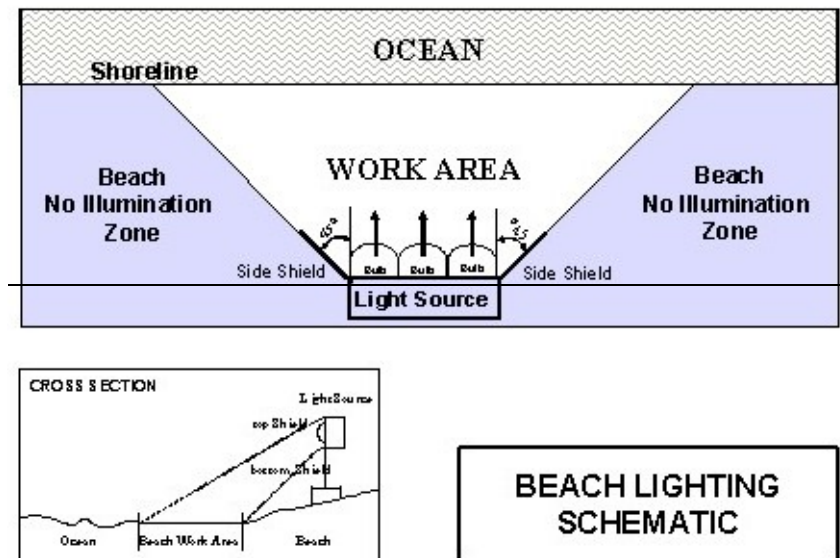


Figure 1

- 18. 31. The existing geotextile tube groins shall be surveyed prior to removal in order to identify the precise locations, elevations and azimuths for construction of the replacement geotextile tube groins in the approved permitted position represented in the attached permit drawing.
- 19. 32. The existing remnant geotextile tube groins shall be emptied of all fill material, completely removed and properly disposed of in an offsite, upland location.
- 20. 33. Fill ports of the replacement geotextile tube groins shall be sealed with a bolted or epoxy-sealed plate or equivalent.
- 21. 34. If rock and/or gravel deposits are encountered during dredging operations, the Corps contracting representative will visually assess the material to ensure it is free from excessive silt or organic materials prior to placement into the deep scour hole north of

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 28 of 32

Egmont Key. If the material is found to be unsuitable for disposal in the scour hole, the Corps will place the material in one of the other approved disposal areas such as the ODMDS.

~~22.~~ 35. During groin rehabilitation work, if performed by boat or barge, any anchoring shall be conducted in areas where there are no seagrass, algal, hardbottom, or coral communities. No direct or secondary impacts are authorized to submerged aquatic vegetation, shellfish beds, or hardbottom communities. If any impacts occur, the Permittee shall immediately report the damage to the JCP Compliance Officer and take corrective action to avoid any further damage. Within 30 days of any such damage, the Permittee shall propose a remediation/mitigation plan, which shall be implemented upon approval by the Department.

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

This letter of approval does not alter the **April 7, 2016**, expiration date 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 (F.S.), 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

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 29 of 32

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), F.A.C., 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 21 days of publication of the notice or within 21 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:

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 30 of 32

- (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

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 31 of 32

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 Charles Grisafi by email at Charles.Grisafi@dep.state.fl.us or by telephone at (850)245-7594.

Sincerely,



Martin K. Seeling, Administrator
Beaches, Inlets and Ports Program

MKS/cg

cc: Thomas Jacobs, DWRM
Ralph Clark, DWRM
Martin Seeling, DWRM
Robert Brantly, DWRM
Roxane Dow, DWRM
Catherine Florko, DWRM
Keith Davie, DWRM
Jennifer Coor, DWRM
MarineTurtle@MyFWC.com
Tom Watson, DRP

Alex Reed, DWRM
Kelley Boatwright, DEP, SW District Office
JCP Compliance Officer, DWRM
Robbin Trindell, FWC
FWCConservationPlanningServices@myfwc.com
Lucas Davis, FWC
Paul Karch, Corps
James McAdams, Corps
AnnMarie Lauriston, FWS
Pete Krulder, DRP

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.

Notice of Permit Modification
Permit Modification No. 0157891-016-EM
Egmont Key Beach Placement
Page 32 of 32



05/15/14

Deputy Clerk

Date