

APPENDIX C - PERTINENT CORRESPONDENCE



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019



REPLY TO
ATTENTION OF
Construction-Operations Division
Public Notice NO. PN-CO-FEH-238

August 4, 1999

PUBLIC NOTICE

TO WHOM IT MAY CONCERN: The District Engineer, Jacksonville District, U.S. Army Corps of Engineers, has proposed maintenance dredging of Fernandina Harbor. This Federal project is being evaluated and coordinated pursuant to 33 CFR 335 through 338.

Comments regarding the project should be submitted in writing to the District Engineer at the above address within 30 days from the date of this notice. Any person who has an interest, which may be affected by the construction of this project may request a public hearing. The request must be submitted in writing to the District Engineer within 30 days of the date of this notice and must clearly set forth the interest, which may be affected and the manner in which the interest may be affected by this activity.

If you have any questions concerning this application, you may contact Mr. Brian Brodehl of this office, telephone 904-232-3600.

WATERWAY & LOCATION: Fernandina Harbor, Nassau County, Florida

WORK & PURPOSE: The proposed work consists of maintenance dredging of the Fernandina Harbor Inner Channel and Turning Basin. Maintenance dredging will be conducted periodically to restore the Federal project to its authorized project depths. It is anticipated that approximately 350,000 cubic yards of silts and clays will be removed each dredging event. The material will be placed into the Fernandina Harbor Ocean Dredged Material Disposal Site (ODMDS). In the event that pockets of sand are found in the channel, the State of Florida will be consulted about other material placement options. The purpose of the work is to maintain safe navigation conditions for vessels using Fernandina Harbor.

PROJECT AUTHORIZATION: House Document 284, 77th Congress, 1st Session, River and Harbor Act of 1960, Public Law 86-645, 33 U.S.C. 577, 2 March 1907.

EVALUATION: A new Environmental Assessment is being prepared for this project. Evaluation of the available information indicates that the proposed project will have no significant impact on the quality of the human environment and an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA) will not be required.

ENDANGERED SPECIES: Consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act is being conducted. Consultation to date has revealed that the following species could be located in the project area:

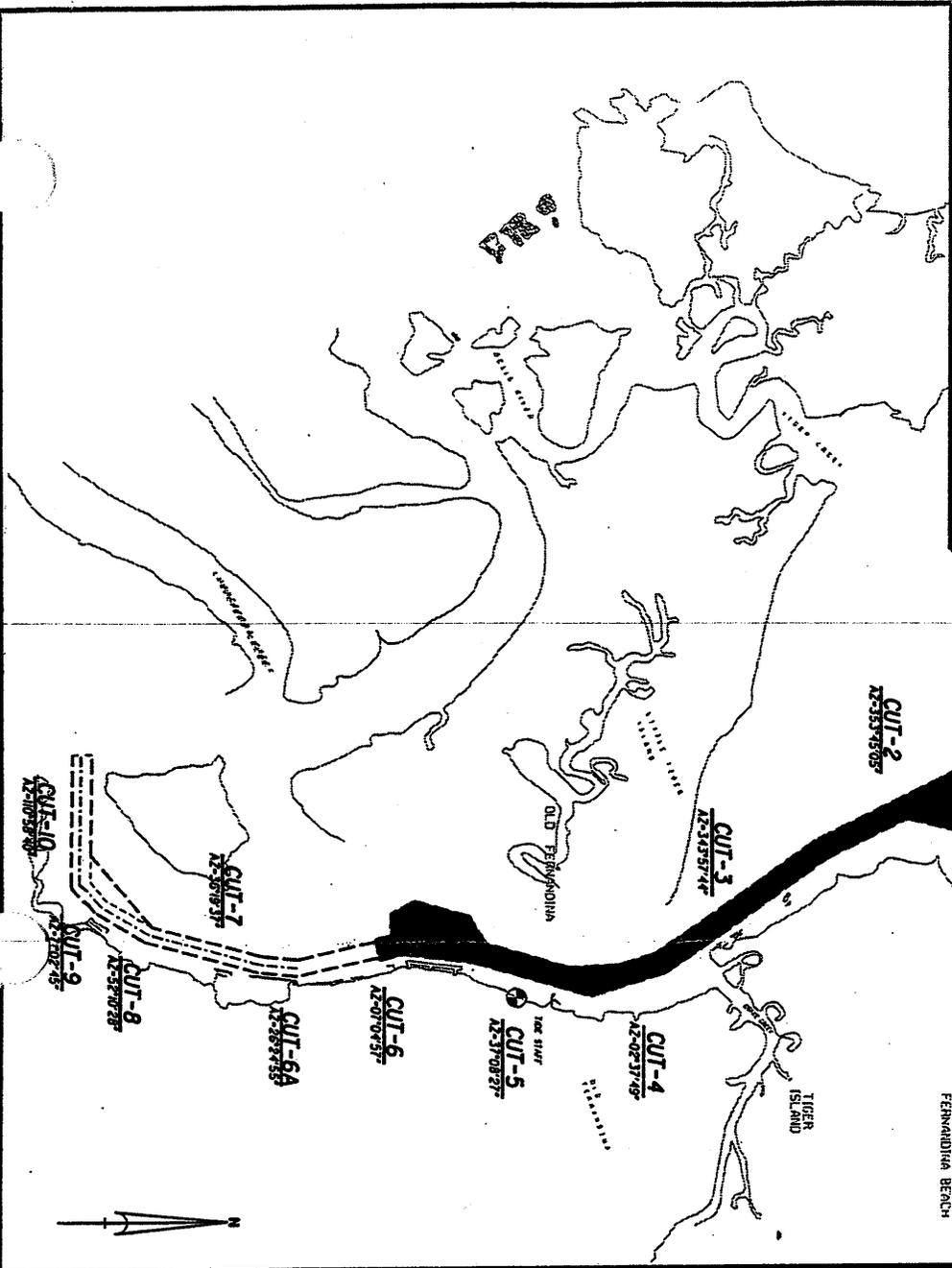
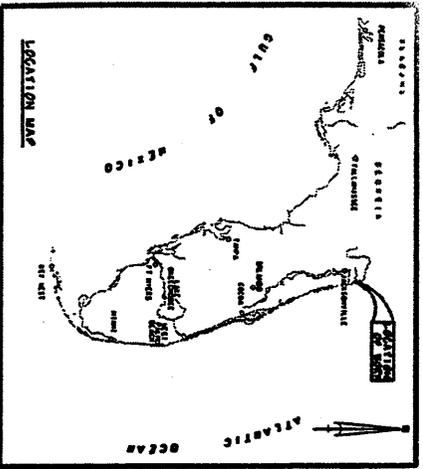
green sea turtle	Chelonia mydas
Kemp's Ridley sea turtle	Lepidochelys kempii
Loggerhead sea turtle	Caretta caretta
West Indian manatee	Trichechus manatus
Northern Right Whale	Eubalaena glacialis
wood stork	Mycteria americana

All standard conditions and protection practices for the whales, sea turtles, and all other local threatened or endangered species will be adhered to during the dredging and disposal operations.

EVALUATION FACTORS: All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic resources, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, seagrasses, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare are of the people.

HISTORICAL RESOURCES: Prior coordination with The National Register of Historic Resources revealed that no recorded historic resources exist in the project area. However, if such resources are found within the project area during maintenance, all precautions will be taken to preserve those resources in their pre-discovery condition. Any unusual items as observed by Corps personnel or by the Contractor to have historical or archeological value shall be reported as soon as practicable.

FERNANDINA HARBOR



U.S. ARMY CORPS OF ENGINEERS
JACKSONVILLE DISTRICT

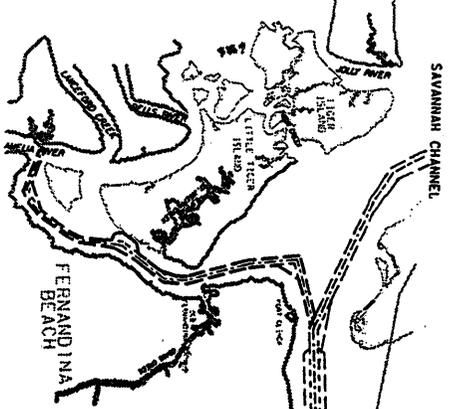
PUBLIC NOTICE

MAINTENANCE DREDGING
FERNANDINA HARBOR
INNER CHANNEL AND
TURNING BASIN

DATE: JULY 99

DRAWN:

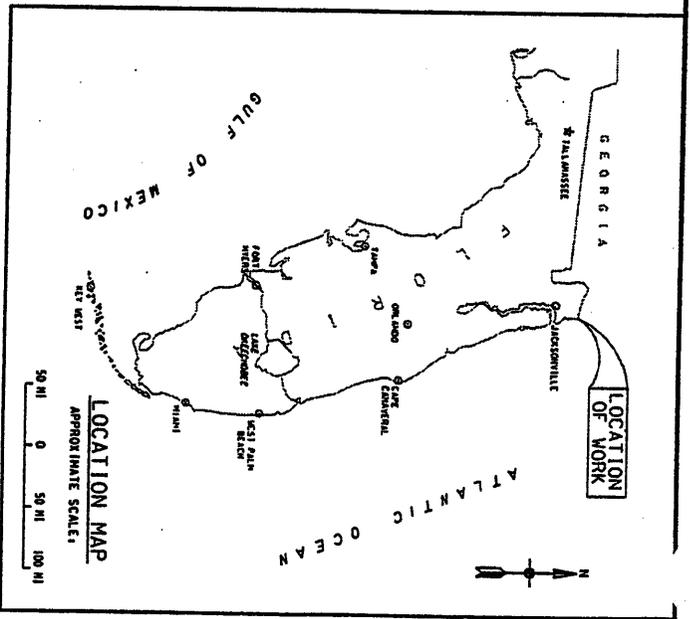
NUMBER 1



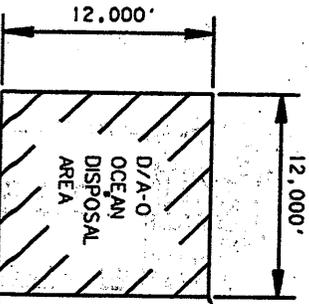
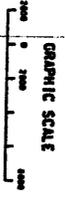
D/A-B
POSSIBLE
BEACH PLACEMENT
AREA
3.2 MILES

ATLANTIC
OCEAN

KINGS BAY ENTRANCE CHANNEL



VICINITY MAP



X 411,492
Y 2,259,947

X 411,463
Y 2,247,851

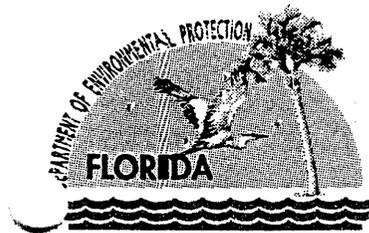
U.S. ARMY CORPS OF ENGINEERS
JACKSONVILLE DISTRICT

PUBLIC NOTICE

MAINTENANCE DREDGING
FERNANDINA HARBOR
INNER CHANNEL AND
TURNING BASIN

DATE: JULY 99

DRAWING NUMBER 2



Jeb Bush
Governor

Department of Environmental Protection

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

David B. Struhs
Secretary

CONSOLIDATED JOINT COASTAL PERMIT AND SOVEREIGN SUBMERGED LANDS AUTHORIZATION

Permitee:

Mr. Richard Bonner, P.E.
U. S. Army Corps of Engineers
Jacksonville District
Post Office Box 4970
Jacksonville, Florida 32232-0019

Permit Number: 0129228-001-JC

Date of Issuance: March 13, 2000

Expiration Date: March 13, 2010

County: Nassau

Project: Fernandina Harbor Inner Channel
and Turning Basin Maintenance Dredging

This permit is issued under the authority of Chapter 161 and Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.). This permit constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Management Act. This permit also constitutes certification of compliance with water quality standards under Section 404 of the Clean Water Act, 33 U.S.C. 1344.

This activity also requires a proprietary authorization, as the activity is located on sovereign submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 and 253.77, F.S. In addition to the above, this proprietary authorization has been reviewed in accordance with Chapter 253, F.S., Chapter 18-21, and Section 62-343.075, F.A.C., and the policies of the Board of Trustees. As staff to the Board of Trustees, the Department has reviewed the activity described below, and has determined that the activity qualifies for a consent to use sovereign, submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein. Therefore, consent is hereby granted, pursuant to Chapter 253.77, Florida Statutes to perform the activity on the specified sovereign submerged lands.

The U. S. Army Corps of Engineers (Corps) is hereby authorized to construct the work in accordance with the permit project description and conditions, including the water quality monitoring requirements, and other documents attached hereto or on file with the Department and specifically made a part hereof.

The Department will enter into a contractual agreement with the City of Fernandina Beach, under which the City will be responsible for conducting monitoring and beach maintenance activities for the protection of nesting marine turtles, their hatchlings and their habitat. The agreement is enforceable against the City independent of this permit.

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

PROJECT DESCRIPTION:

The project is to maintenance dredge the Fernandina Harbor Inner Channel and Turning Basin in accordance with final plans and specifications and the Specific Conditions of this permit. Up to 350,000 cubic yards are expected to be removed during each dredge event to restore the channel and basin depths. Channel Cut 1 through Cut 5 will be maintained to a depth of -37 ft. (MLLW), the Turning Basin to a depth of -36 ft., and Channel Cut 6 through Cut 10 to a depth of -29 ft. The dredged material consists of fine grained sand with percent fines ranging from less than 1% to less than 50% passing through the #200 sieve.

Beach quality material may be placed between 0.7 and 12.0 miles south of the St. Mary's Entrance Channel south jetty on Amelia Island within the North Beach Disposal Area, the Nearshore Disposal Area, the South Beach Disposal Area, or at the groin field on the Inlet shoreline of Ft. Clinch, in accordance with Specific Condition 2 of this permit. Non-beach quality material will be placed offshore in the Nearshore Disposal Area or in the Fernandina Ocean Dredged Material Disposal Site (ODMDS) located approximately 12.5 miles south-southeast from the south jetty.

The dredged material will be handled such that only material containing less than 20 percent fines will be placed in the Nearshore Disposal Area. Material containing greater than 20% fines will be placed in the Fernandina ODMDS. During construction an on-site inspector with training in the determination of sediment characteristics will evaluate the suitability of dredged material with less than 20% fines for nearshore disposal vs. ocean disposal.

The applicant has also requested a variance (File Number VE-45-728) from Rule 62-4.242(2)(a)2.b. F.A.C. to allow a temporary elevation of turbidity, not exceeding 29 nephelometric turbidity units (NTUs) above background conditions, within the Fort Clinch Aquatic Preserve, at the edge of a 150 meter mixing zone.

LOCATION:

Located in the Amelia River, from the St. Mary's River to the Port of Fernandina, Nassau County, Section 7, Township 3 North, Range 28 East, partially within the Ft. Clinch State Park Aquatic Preserve (Outstanding Florida Waters), Class III Waters.

GENERAL CONDITIONS:

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.

SPECIFIC CONDITIONS:

1. Prior to each dredging event, the Corps will provide two copies of final construction plans and specifications for all authorized activities, which include the project specifications listed in the Department's Consolidated Notice of Intent to Issue a Joint Coastal Permit and Authorization to Use Sovereign Submerged Lands.

2. The permittee and the Department, within their respective authorities and funding, shall ensure that beach compatible dredged material is disposed on Florida's beaches to the extent economically feasible consistent with Florida's beach management plan adopted pursuant to Chapter 161, F.S. and other beneficial uses criteria as may be specified by the Department and applicable federal standards. To further the parties goals for sediment management, prior to each dredging event the Corps shall provide the Department with existing geotechnical information characterizing the sediments to be dredged and alternative disposal options with projected costs to allow the Department to participate in funding alternative disposal options over the least costly method.

3. 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. 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 not contain, on average, greater than 5 percent coarse gravel or cobbles, 20% whole shell (retained by the #4 sieve). All such material shall be removed and disposed by the Contractor as approved by the Contracting

Officer (U.S. Army Corps of Engineers) (Plans and Specifications, Section 2391 paragraph 13.1).

4. In the event a hopper dredge is utilized for sand excavation, all conditions in the NMFS Biological Opinion for hopper dredging along the S.E. U.S. Atlantic Coast (dated August 25, 1995) and Interim Biological Opinion dated April 9, 1997, as amended in the Regional biological Opinion dated September 25, 1997, must be forward. The Corps will forward to the Bureau of Protected Species Management in Tallahassee copies of the reports specified in Condition 6 of this opinion.

5. In the event that the City of Fernandina Beach does not conduct all necessary marine turtle protection and monitoring requirements, the Corps is still responsible for these marine turtle protection conditions, those specified in the applicable U.S. Fish and Wildlife Service Biological Opinion, and the plans and specifications for this project.

6. 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 submit to the DEP Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000 and to the DEP Northeast District Office, Submerged Lands and Environmental Resources Program, 7825 Baymeadows Way, Suite 200B, Jacksonville, Florida 32256-7577, a proposed schedule of dredging for the maintenance dredging event.

Water Quality Monitoring Required:

Parameter: Turbidity - Nephelometric Turbidity Units (NTUs)

Dredging Location:

Frequency: Every 4 four hours during all daylight dredging operations.

Background: 500 meters from the suction head in the opposite direction of the prevailing current flow, clearly outside the influence of any turbid plume. Samples shall be collected from the surface, mid-depth, and 1 meter above the bottom.

Compliance: No more than 150 meters downcurrent from the dredge site, in the densest portion of any visible turbidity plume. Samples shall be collected from the surface, mid-depth, and 1 meter above the bottom.

Beach and Nearshore Disposal Sites:

Frequency: Every 4 four hours during all daylight dredging operations.

Background: At a point approximately 150 meters offshore and 1,000 meters up-current from the point where discharge water is re-entering waters of the State (discharge point), clearly outside of the influence of any turbid plume. Samples shall be

collected at the surface and one meter above the bottom.

Compliance: At a point approximately 150 meters offshore and no more than 150 meters downcurrent from the discharge point within the densest portion of any visible turbidity plume. Samples shall be collected from the surface and 1 meter above the bottom.

The compliance locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. During all maintenance dredging and disposal operations, turbidity levels shall not exceed these standards and mixing zone limits. If monitoring reveals turbidity levels at the compliance sites greater than 29 NTUs above the associated background turbidity levels, construction activities shall cease immediately and not resume until corrective measures have been taken and turbidity has returned to acceptable levels.

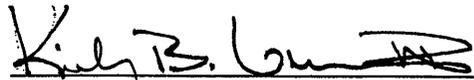
The following measures shall be taken by the permittee whenever turbidity levels at the limit of the mixing zone exceed the standards described in the Monitoring Required section, pursuant to Rule 62-302, F.A.C.:

- a. Immediately cease all work contributing to the water quality violation.
- b. Modify the work procedures that were responsible for the violation.
- c. Notify the Bureau of Beaches and Coastal Systems at (850) 487-4471 and the DEP Northeast District Office at (904) 448-4340 within 24 hrs. of the time the violation is first detected.

Copies of all reports (Turbidity Monitoring Test Report, Section 01131, Appendix No. A, Plans and Specifications) shall be submitted to the Bureau of Beaches and Coastal Systems in Tallahassee on a weekly basis within seven days of collection. The data shall be submitted under a cover letter containing the following information: (1) permit number; (2) a statement describing the methods used in collection, handling, storage and analysis of the samples; (3) a map indicating the sampling locations; and (4) a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data.

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

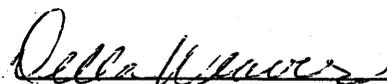

Kirby B. Green, III, Deputy Secretary

Copies furnished to:

Don Fore, USACOE, Jacksonville
Pricilla Arnold, USACOE, Jacksonville
City of Fernandina Beach
Eric Olsen, Olsen and Associates
Don Gerteisen, DEP, Division of Recreation and Parks, M.S. 585
Mark Latch, DEP, Division of Recreation and Parks, M.S. 530
Jeremy Tyler, DEP, Northeast District
Clifton Maxwell, DEP, Fort Clinch State Park
District Biologist, DEP, Division of Recreation and Parks, District 2 Office, Gainesville
Leslie McFetridge, DEP, Fort Clinch Aquatic Preserve
Robbin Trindell, FWC, BPSM
Office of General Counsel, DEP
Russell Snyder, OBCS
Permit Information Center, OBCS
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.

 3/13/00
Deputy Clerk Date



Jeb Bush
Governor

Department of Environmental Protection

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

David B. Struhs
Secretary

State of Florida Department of Environmental Protection
and
City of Fernandina Beach

In re: File No. 0129228-001-JC
Fernandina Harbor Inner Channel and Turning Basin Maintenance Dredging

AGREEMENT

I. WHEREAS, the U.S. Army Corps of Engineers has submitted an application for, and the Department has issued, Joint Coastal Permit No. 0129228-001-JC authorizing maintenance dredging of the Fernandina Harbor Inner Channel and Turning Basin.

II. WHEREAS, the dredging activity includes beach and nearshore disposal of beach quality sand along approximately 11.3 miles of shoreline on Amelia Island south of the St. Mary's Entrance Channel.

III. WHEREAS, issuance of a joint coastal permit under chapter 161 and part IV of chapter 373 of the Florida Statutes constitutes certification of compliance with state water quality standards pursuant to section 401 of the Clean Water Act, 33 U.S.C. 1341; and where applicable constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by section 307 of the Coastal Zone Management Act, 16 U.S.C. Section 1456, 15 C.F.R. Part 930, and section 380.23 of the Florida Statutes;

IV. WHEREAS, the U.S. Army Corps of Engineers and the Department have agreed to exclude non-water quality specific conditions from the final permit\water quality certificate and include them in the U.S. Army Corps of Engineers final construction plans and specifications for the contract.

V. WHEREAS, the City of Fernandina Beach, has agreed to conduct a marine turtle protection program as the local government which will benefit from the placement of beach compatible dredge material on the beaches within the limits of Fernandina Beach and to contract the local marine turtle permit holder to ensure this marine turtle protection plan is implemented.

VI. WHEREAS, this agreement is entered into in consideration of the issuance by the Department of Permit No. 0129228-001-JC.

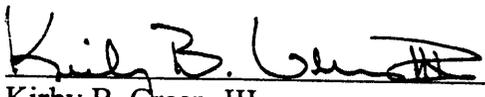
"Protect, Conserve and Manage Florida's Environment and Natural Resources"

City of Fernandina Beach and the State of Florida, Department of Environmental Protection ("Department") agree as follows:

1. The City hereby agrees to perform the activities set forth in the Marine Turtle Protection Plan attached hereto as Exhibit 1 and incorporated herein by reference.
2. The aforementioned Plan will incorporate the Department's standard marine turtle monitoring conditions and will be in accordance with the Bureau of Protected Species Management Guidelines for such activities.
3. This agreement constitutes Final Agency Action under Chapter 120, Florida Statutes. The City of Fernandina Beach hereby recognizes and agrees that compliance with the terms herein will be enforceable by the Department against the City utilizing all appropriate remedies available, including, but not limited to, the provisions of Chapters 161.054; 373; 403.121, 403.141, 403.161; and 120, Florida Statutes.
4. Within thirty (30) days from the execution of this agreement, City of Fernandina Beach shall cause this agreement to be recorded in the public records of Nassau County, Florida. A copy of the recorded agreement shall be sent to the Department within 5 days of recording.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

CITY OF FERNANDINA BEACH



Kirby B. Green, III
Deputy Secretary

13 March 2000

DATE

DATE



United States Department of the Interior

FISH AND WILDLIFE SERVICE
6620 Southpoint Drive South
Suite 310
Jacksonville, Florida 32216-0958

IN REPLY REFER TO:
FWS/R4/ES-JAFL

May 3, 2000

Mr. James C. Duck, Chief
Planning Division
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019
(Attn: Paul Stodola)

Re: Biological Opinion on the Proposed Maintenance Dredging of Fernandina Harbor, and a Portion of Cut-1N of the Entrance Channel to Fernandina Harbor and Kings Bay, Georgia, Nassau County, Florida (FWS Log. No. 00-392)

Dear Mr. Duck:

Enclosed is our biological opinion based on our review of the above proposed work and its effects on nesting sea turtles. In your December 17, 1999, letter requesting initiation of formal consultation for the project, which we received December 20, you indicated that the proposed dredging and potential beach disposal may affect two species under our jurisdiction: the Florida manatee (*Trichechus manatus latirostris*) and the loggerhead sea turtle (*Caretta caretta*).

Regarding the manatee, your letter stated that the Corps intends to include the standard construction conditions in the project plans and specifications. We concur with these special conditions. Although originally scheduled for October and November, the proposed project may begin as early as August (P. Stodola, pers. comm.) and require three months to complete. In either instance, some part of the scheduled work apparently will coincide with the annual fall migration of manatees from the Carolinas, Georgia, and North Florida to warmer waters in central and south Florida. Their migration route includes the Amelia River, a portion of which is within the proposed project footprint. Since this migration will bring more manatees than at other times into potential contact with the dredging operations, we believe additional special conditions are necessary in order to make it unlikely for the proposed project to have any adverse effects on the manatee. We therefore recommend that the Corps add the following special conditions to the plans and specifications.

- The Corps shall provide a dedicated, experienced manatee observer during daylight hours when dredging during the months of September and October. The observer shall be equipped with polarized sunglasses and be in a position to observe all waters within 300 feet of the dredge barge. The manatee observer will advise the appropriate operations personnel when a manatee is within 300 feet of the operations. Appropriate personnel shall then follow the standard construction conditions. The manatee observer will give an all clear signal when the manatee(s) has departed the project area of its own volition.

- The Corps shall provide mooring bumpers on all barges, tugs, and similar large vessels wherever and whenever there is a potential for manatees to be crushed between two moored vessels. The bumpers shall provide a minimum stand-off distance of four feet.

Based on our review of this project and the precautions that will be taken to protect manatees, including the two additional precautions referenced above, the Service believes this project is not likely to adversely affect the manatee. Therefore, formal consultation is not required for this species.

However, we concur with your "may effect" determination concerning the loggerhead sea turtle. Besides this species, other listed sea turtles which may nest within the proposed beach spoil disposal site are the green (*Chelonia mydas*) and leatherback (*Dermochelys coriacea*) sea turtles. All three species are addressed in the biological opinion in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

The enclosed biological opinion is based on information provided in your December 17 letter, the Public Notice date August 4, 1999, plans and specifications dated December, 1999, and other sources of information. A complete administrative record of this consultation is on file in the Service's Jacksonville Field Office. Should you have any questions regarding this matter, please contact John Milio of my staff at (904) 232-2580, extension 112.

Sincerely,


for David L. Hankla
Field Supervisor

Enclosure

S:nassfhbo\JM\acm

**Biological Opinion on the Proposed Maintenance Dredging of Fernandina Harbor,
and a Portion of Cut-1N of the Entrance Channel to Fernandina Harbor and Kings Bay,
Georgia, Nassau County, Florida**

CONSULTATION HISTORY

On August 4, 1999, the Corps released a Public Notice (No. PN-CO-FEH-238) concerning the proposed maintenance dredging of Fernandina Harbor. The public notice included a list of federally listed species that could occur within the project area. The list includes three sea turtles, the manatee, the wood stork (*Mycteria americana*) and Northern right whale (*Eubalaena glacialis*). The whale and all sea turtle species within open waters are under the jurisdiction of the National Marine Fisheries Service. On December 20, 1999, we received the Corps' December 17, 1999, letter requesting initiation of formal consultation with our agency for the Florida manatee and loggerhead sea turtle. Prior to our letter of acknowledgment dated January 12, 2000, the Corps verbally informed us of its desire to initiate formal consultation for the same species on the maintenance dredging of Cut-1N of the entrance channel to Fernandina Harbor and Kings Bay Georgia. Because of their similar actions and impacts, we agreed in our January letter to combine our response for both projects in one opinion.

BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTIONS

The proposed actions involve the following sites: the 2.3-mile long entrance channel settling basin located east and west of the waterward end of the jettys at the mouth of the St. Marys River; a 2.3-square mile Offshore Dredged Material Disposal Site (ODMDS) located about 12.5 miles south-southeast of the south jetty in the Atlantic Ocean; cuts 1 through 5 of the Fernandina Harbor inner channel, which extend south of its confluence with the entrance channel for about 2.8 miles within the Amelia River; a pipeline easement extending 0.7 mile south from the toe end of the south jetty between mean high water and the dune vegetation line; two separate beach disposal areas: a 3.6-mile long north area beginning about 0.7 mile from the south jetty, and a 5.2-mile south area beginning approximately 2.5 south of the north area; and a 2.5-mile long nearshore spoil disposal area between the two beach disposal areas. The boundaries of the action area for the two projects extends from the southern end of Cut 5 in the Amelia River north to the confluence of the shipping channel with the entrance channel, then east to the eastern end of Cut 1N in the Atlantic Ocean, south to southern edge of the ODMDS, then west to the southern end of the south beach disposal site.

For the entrance channel project, the Corps proposes to restore the authorized 49-foot depth, plus a 2-foot allowable overdepth, using a hydraulic cutterhead suction dredge to remove about 300,000 cubic yards of beach quality material between stations 100+00 and 220+00. The dredge site is within the Fort Clinch State Park Aquatic Preserve. An 18-inch, metal or plastic pipe will convey the spoil material from the dredge site to the north beach disposal area. The pipe will emerge from the water at the toe end of the south jetty and be positioned between mean high water and the dune vegetation line. The pipeline easement is within Ft. Clinch State Park. The north beach disposal area is contiguous with the aquatic preserve. Front-end loaders and bulldozers are expected to move and grade, respectively, the deposited spoil.

For the inner channel project, the Corp proposes to restore the 36-foot authorized depth, plus a 1-foot allowable overdepth, using a clamshell dredge to remove between 300,000 and 350,000 cubic yards of primarily silts and clays between cuts 1 and 5 and the ship turning basin. Tugs will transport the material, loaded onto special spoil barges, to the ODMDS for disposal. In the event that pockets of sand are encountered, the Corps will consult with the Florida Department of Environmental Protection regarding other disposal options. The south beach and nearshore disposal areas represent two of those options.

In addition to the dredge barge, spoil barges, service tugs, loaders, and tracked vehicles, the projects are expected to use, at a minimum, the following additional watercraft, vehicles, and equipment: an equipment barge, a fuel barge, a crew boat, 4-wheel drive vehicles, a pipe transportation vehicle, a land-based booster pump, and wide-area lighting for nighttime work.

STATUS OF THE SPECIES

The reproductive strategy of sea turtles involves producing large numbers of offspring to compensate for the high natural mortality through their first several years of life. However, for at least two decades, several human-caused mortality factors have contributed to the decline of sea turtle populations along the Atlantic coast and in the Gulf of Mexico (National Research Council 1990a). These factors include commercial overutilization of eggs and turtles, incidental catches in commercial fishing operations, degradation of nesting habitat by coastal development, and marine pollution and debris. Therefore, human activities that affect the behavior and/or survivability of turtles on their remaining nesting beaches, particularly the few remaining high density nesting beaches, could seriously reduce our ability to conserve sea turtles.

Loggerhead Sea Turtle

The loggerhead sea turtle (*Caretta caretta*), listed as a threatened species on July 28, 1978 (43 FR 32800), inhabits the continental shelves and estuarine environments along the margins of the Atlantic, Pacific, and Indian Oceans. Loggerhead sea turtles nest within the continental U.S. from Louisiana to Virginia. Major nesting concentrations in the U.S. are found on the coastal islands of North Carolina, South Carolina, and Georgia, and on the Atlantic and Gulf coasts of Florida (Hopkins and Richardson 1984). Total estimated nesting in the Southeast is approximately 50,000 to 70,000 nests per year (National Marine Fisheries Service and U.S. Fish and Wildlife Service 1991b).

From a global perspective, the southeastern U.S. nesting aggregation is of paramount importance to the survival of the species and is second in size only to that which nests on islands in the Arabian Sea off Oman (Ross 1982, Ehrhart 1989, National Marine Fisheries Service and U.S. Fish and Wildlife Service 1991b). The status of the Oman colony has not been evaluated recently, but its location in a part of the world that is vulnerable to disruptive events (e.g., political upheavals, wars, catastrophic oil spills) is cause for considerable concern (Meylan *et al.* 1995). The loggerhead nesting aggregations in Oman, the southeastern U.S., and Australia account for about 88 percent of nesting worldwide (National Marine Fisheries Service and U.S. Fish and Wildlife Service 1991b). About 80 percent of loggerhead nesting in the southeastern U.S. occurs in six Florida counties (Brevard, Indian River, St. Lucie, Martin, Palm Beach, and