



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

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

RICK SCOTT
GOVERNOR

CARLOS LOPEZ-CANTERA
LT. GOVERNOR

JONATHAN P. STEVERSON
SECRETARY

March 25, 2015

Miami-Dade County
Regulatory and Economic Resources
Environmental Resource Management
Attention: Stephan Blair
701 NW 1st Court
Miami, Florida 33136

Permit Modification No. 0233882-007-JN
Permit No. 0233882-005-JM, Miami Dade County
Project Name: Miami Beach Truck Haul Nourishment and Sand Redistribution

Dear Mr. Blair:

Your request to modify Permit No. 0233882-005-JM was received on February 13, 2015, and has been reviewed by Florida Department of Environmental Protection (Department) staff. The proposed permit modification is for a one time northward extension of the 44th Street segment fill template by approximately 700 feet, to R-53.

Background

On September 21, 2006, the Department issued Permit No. **0233882-001-JC** to Miami-Dade County, Department of Environmental Resources Management (DERM). The permit authorized the nourishment of three eroded segments of the shoreline using truck hauled sand from upland sources. The segments included the area south of the 32nd Street Breakwaters project area (where mitigation of the downdrift impacts from the breakwaters was required under the approved monitoring and mitigation plan for Permit No. **0156710-001-JC**), the erosional hotspot adjacent to 44th Street and the eroded section of the beach at 55th Street. The permit authorized multiple nourishment events. The initial placement of approximately 110,000 cubic yards of sand was divided almost equally among the three segments.

On October 17, 2007, the Department issued Permit No. **0233882-002-JC**, a major modification that superseded Permit No. 0233882-001-JC. In addition to truck hauling of upland sources, Permit No. 0233882-002-JC authorized a one-time nourishment of the three (3) eroded segments using sand hydraulically excavated from an accretional portion of the beach at Lummus Park. This major modification was requested due to the low productivity rates and high sand loss that occurred while utilizing truck hauled sand from the mined source. Mobilization for the hydraulic

Notice of Permit Modification
Permit Modification No. 0233882-007-JN
Miami Beach Truck Haul Nourishment and Sand Redistribution
Page 2 of 7

nourishment began on November 1, 2007. This permit had an expiration date of September 22, 2011, but was later superseded by Major Modification No. 0233882-004-JM (discussed below).

On December 26, 2007, the Department issued Minor Permit Modification No. **0233882-003-EM**, authorizing an additional upland source similar to two (2) previously approved upland borrow areas. The new source was a shorefront construction area with approximately 8,000 cubic yards of beach-quality sand available.

On March 24, 2009, the Department issued Major Modification No. **0233882-004-JM**, which superseded Permit No. 0233882-002-JC. This modification authorized additional nourishment segments, totaling six (6) segments in all. These segments were to be nourished using Ortona Sand Mine or approved local upland construction stockpile sand. This permit was later superseded by Major Modification No. 0233882-005-JM (discussed below).

On January 6, 2011, the Department issued Major Modification No. **0233882-005-JM**, which superseded Permit No. 0233882-004-JM. This modification expanded three (3) of the nourishment segments. The Sunny Isles segment was expanded to encompass R-7 to R-15, the Bal Harbour segment was expanded to encompass R-27 to R-32, and the 65th Street segment was expanded to encompass R-43 to R-48+700. The expiration date of the permit was extended to March 24, 2019.

For additional background, please see the *Consolidated Notice Of Intent To Issue Joint Coastal Permit, And Authorization To Use Sovereign Submerged Lands* for Permit No. 0233882-005-JM at the following website:

ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/dade/issued/0233882_Miami_Beach_Truck_Haul/005_JM/Intent/

On November 4, 2014, the Department issued Administrative Modification No. **0233882-006-JN**, in order to update the Sediment QA/QC plan making it consistent with the permit. The update involved inclusion of sand specifications that would be consistent with stockpiled sand from local coastal construction projects as well as material from the Ortona Sand Mine.

On February 13, 2015, the Department received a request to modify Permit No. 0233882-005-JM, for a onetime only extension of the 44th Street segment beach fill template, which is the subject of this letter.

Justification

Significant erosion in the project area has caused severe loss of beach berm and dune, which is blocking access for emergency vehicles. The area of most critical erosion is on the northern portion of currently authorized 44th Street segment beach fill template, and it continues beyond the current template by approximately 700 feet to the north, near R-53.

Notice of Permit Modification
Permit Modification No. 0233882-007-JN
Miami Beach Truck Haul Nourishment and Sand Redistribution
Page 3 of 7

Staff Assessment

The Department has reviewed the request to temporarily lengthen the 44th Street segment beach fill template and has determined that additional impacts to hardbottom resources are not expected as a result of the one-time placement of sand at this site. The County's proposal is to place approximately 20,000 cubic yards of beach compatible sand between R-53 and R-54.7 in 2015 only. Of that amount, approximately 8,000 cubic yards will be placed in the extended portion of the template, between R-53 and R-53.7. Due to the relative small scale of the proposed project, absence of hardbottom resources in the area, and public safety concerns, the Department has determined that issuing the minor modification is justifiable in accordance with Rules 62B-41.013(3) and 62-330.315(2)(g), Florida Administrative Code (F.A.C.), and meets the Environmental Resource Permit criteria in Rule 62-330, F.A.C.

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

The project is to nourish six (6) segments of eroded shoreline with sand obtained from either the Ortona Sand Mine or approved upland construction stockpiles. The sand from upland sources will be delivered to the proposed locations via truck-haul. The design berm template for the 27th Street segment (R-60 to R-61), the 44th Street segment (R-53.7 to R-55.5) (or R-53.0 to R-55.5 in 2015 only) and the 55th Street segment (R-48.7 to R-50.7) has a height of +8.2 feet NGVD, and the design berm template for Sunny Isles (R-7 to R-15), Bal Harbour (R-27 to R-32) and 65th Street (R-43 to R-48+700) has a height of +6.8 to +6.9 feet NGVD. The slope from the top of berm to the mean high water (MHW) line will be 1:10 (vertical:horizontal) and 1:5 (vertical:horizontal) from MHW to the construction toe of fill. Multiple truck-haul nourishment events are authorized for all six (6) segments during the life of this permit.

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

The nourishment sites are located in Miami Beach, Miami-Dade County. The 27th Street segment is located from FDEP reference monuments R-60 to R-61, Section 14, Township 53 South, Range 42 East. The 44th Street segment extends from R-53.7 to R-55.5 (or R-53.0 to R-55.5 in 2015 only), Section 23, Township 53 South, Range 42 East. The 55th Street segment extends from R-48.7 to R-50.7, Section 26, Township 53 South, Range 42 East. The 65th Street segment is located between R-43 and R-48+700, Section 26, Township 52 South and Range 42 East. The Sunny Isles segment is located between R-7 and R-15, Sections 19 and 31, Townships 51 and 52 South, Range 42 East. The Bal Harbour segment is located between R-27 and R-32, Section 11, Township 53 South, and Range 42 East. All beach areas described above front the Atlantic Ocean, Class III Waters, not in Outstanding Florida Waters.

Notice of Permit Modification
Permit Modification No. 0233882-007-JN
Miami Beach Truck Haul Nourishment and Sand Redistribution
Page 4 of 7

The set of approved permit drawings shall be revised as follows:

Sheets 1-5 (the Approved Drawings for the 2015 extension of the 44th Street segment fill template) shall be added to the set of approved permit drawings.

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

This letter of approval does not alter the March 24, 2019 expiration date or the Specific Conditions of the permit. This letter and the attached drawings must be attached to the original permit.

This permit is hereby modified unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, Florida Statutes (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 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.

Notice of Permit Modification
Permit Modification No. 0233882-007-JN
Miami Beach Truck Haul Nourishment and Sand Redistribution
Page 5 of 7

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 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first.

Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

In accordance with Rule 28-106.201, F.A.C., a petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;

Notice of Permit Modification
Permit Modification No. 0233882-007-JN
Miami Beach Truck Haul Nourishment and Sand Redistribution
Page 6 of 7

- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

This permit modification constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

When there has been no publication of notice of agency action or notice of proposed agency action as prescribed in Rule 62-110.106, F.A.C., a person may request a copy of the agency action. The Department shall upon receipt of such a request, if agency action has occurred, promptly provide the person with notice. The Department does not require notice of this agency action to be published. However, the applicant may elect to publish notice as prescribed in Rule 62-110.106, F.A.C., which constitutes notice to the public and establishes a time period for submittal of any petition.

Notice of Permit Modification
Permit Modification No. 0233882-007-JN
Miami Beach Truck Haul Nourishment and Sand Redistribution
Page 7 of 7

If you have any questions regarding this matter, please contact Gregory Garis by email at gregory.garis@dep.state.fl.us or by telephone at (850)245-8280.

Sincerely,



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

MKS/gg

Attachments: 2015 Approved Drawings (Sheets 1-5)

cc: Marty Seeling, DWRM
Bob Brantly, DWRM
Jennifer Coor, DWRM
JCP Compliance Officer, DWRM
Lainie Edwards, DWRM
Vladimir Kosmyrin, DWRM
Alex Reed, DWRM
Christian Lambright, DEP SE District
USACE Miami Regulatory Office
FWC Marine Turtle Program
FWC Conservation Planning

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.



Deputy Clerk

03/25/2015

Date