



**FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

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HERSCHEL T. VINYARD JR.  
SECRETARY

November 4, 2014

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

Permit Modification No. 0233882-006-JN  
Permit No. 0233882-005-JM, Miami Dade County  
Project Name: Miami Beach Truck Haul Nourishment and Sand Redistribution

Dear Mr. Flynn:

Your request to modify Permit No. 0233882-005-JM was received on February 6, 2014, and has been reviewed by Florida Department of Environmental Protection (Department) staff. The proposed permit modification is to update the existing Sediment Quality Assurance / Quality Control (QA/QC) Plan.

**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On October 17, 2007, the Department issued Permit No. **0233882-002-JC**, a major modification that superseded Permit No. 0233882-001-JC.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 inland (Ortona) source. Mobilization for the hydraulic nourishment began on November 1, 2007. This permit had an expiration date of

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September 22, 2011, but was later superseded by Major Modification No. 0233882-004-JM (discussed below).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 new permit authorized additional nourishment segments, totaling six (6) segments in all. These segments were to be nourished using an upland sand mine (Ortona) 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 new permit expanded three (3) of the nourishment segments. The Sunny Isles segment now encompass R-7 to R-15, the Bal Harbour segment now includes R-27 to R-32, and the 65<sup>th</sup> Street segment now includes R-43 to R-48+700. The expiration date of the permit is 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/](ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/dade/issued/0233882_Miami_Beach_Truck_Haul/005_JM/Intent/)

On February 6, 2014, the Department received a request to modify Permit No. 0233882-005-JM, in order to update the sediment QA/QC plan, which is the subject of this letter.

### **Justification**

The Department determined that the original QA/QC plan for this project had become outdated. Due to the complex nature of identifying the sand sources to be used for nourishment of the project's six (6) segments of beach, the Department proposed updating the QA/QC plan in order to make sure that both local upland construction stockpile sources and upland sand mine material would be consistent with the QA/QC plan. Although both sand sources are approved by the permit, the characteristics of the material differ.

### **Staff Assessment**

The decision to update the QA/QC plan was based on a concern that the project may be out of compliance if material from an upland construction stockpile were to be placed within one of the projects segments. Staff determined that material at the stockpile was indeed native sand material and was suitable for beach placement, but was slightly inconsistent with the QA/QC

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plan. This current modification was initially filed as a minor modification requested by the Applicant on February 6, 2014. However, it was later determined that it may be processed as an administrative modification, relieving the Permittee of the modification fee and of drafting a plan for Department approval. As a result, the attached QA/QC plan was developed by Department staff and has been accepted by the Permittee.

The updated QA/QC plan will now address the project and associated sand sources more specifically. Furthermore, it will also help ensure that the project remains in compliance with the Department approved QA/QC plan as well as providing reasonable assurance that material placed on the beach will meet project performance expectations.

The Permit shall be modified as follows:

The attached QA/QC plan (dated **November 4, 2014**), shall replace the previously approved plan (dated August 26, 2009).

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 QA/QC plan, 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 QA/QC plan must be attached to Permit No. 0233882-005-JM.

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.

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Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in further modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit modification automatically becomes only proposed agency action on the application subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit modification until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time has expired.

Under Rule 62-110.106(4), Florida Administrative Code (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.

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

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

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

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

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

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

If you have any questions regarding this matter, please contact Gregory Garis by email at [gregory.garis@dep.state.fl.us](mailto: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: Approved QA/QC Plan (November 4, 2014)

cc: Marty Seeling, DWRM  
Bob Brantly, DWRM  
Jennifer Coor, DWRM  
JCP Compliance Officer, DWRM  
BIPP Permit File  
Katy Collins, 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.



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Deputy Clerk

November 4, 2014  
Date