



Florida Department of Environmental Protection

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Tallahassee, Florida 32399-3000

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Herschel T. Vinyard Jr.
Secretary

CERTIFIED - RETURN RECEIPT REQUESTED

March 1, 2012

St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida 34982

c/o

Michael Trudnak, P.E.
Taylor Engineering, Inc.
10151 Deerwood Park Blvd, Bldg 300, Suite 300
Jacksonville, FL 32256

Permit Modification No. 0269646-008-BN
Permit No. 0269646-001-JC, St. Lucie County
Ft. Pierce Nourishment Project

Dear Mr. Trudnak:

Your request to modify Permit No. 0269646-001-JC on behalf of St. Lucie County was received on December 9, 2011, and has been reviewed by Department staff. The proposed permit modification is to modify the turtle and shorebird conditions, as well as to modify the construction window.

The following information describes the project history from the time of original permit issuance, and the subjects directly related to the proposed modification. For additional background, please see the *Consolidated Notice of Intent to Issue* for Joint Coastal Permit No. 0269646-001-JC, dated January 19, 2007, available at the Bureau's website:
http://bcs.dep.state.fl.us/env-prmt/st_lucie/issued/0269646_Ft.%20Pierce_Nourishment/

PROJECT BACKGROUND

On February 23, 2007, the Department issued Joint Coastal Permit No. **0269646-001-JC** to St. Lucie County (Permittee). The federally-authorized project was to nourish the beach between DEP reference monuments R-34 and R-41 using approximately 500,000 cubic yards of material from Capron Shoal, which was the same borrow area that was used in the previous four (4)

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nourishment events (i.e., since 1999). Variance No. **0269646-002-EV** was issued in conjunction with this permit and authorized a temporary expanded mixing zone of 1,000 meters downcurrent and 150 meters offshore from the point of sand discharge on the beach.

On May 30, 2007, the Department issued Permit Modification No. **0269646-003-EM** to extend the construction window further into the marine turtle nesting season for the 2007 nourishment event. The original permit required construction to be completed by May 1, except for the initial event (in 2007), when construction of the northern portion of the project was authorized through May 30. However, the project was not complete by that date due to rough sea conditions; therefore, Permit Modification No. 0269646-003-EM extended the construction window through June 9, for the 2007 nourishment event only.

On November 19, 2008, the Department issued Permit Modification No. **0269646-004-JN**, which reduced the mixing zone to 150 meters downcurrent at the beach placement site and allowed another extension of construction into the early portion of the sea-turtle nesting period for the 2009 nourishment only. Previous intermediate turbidity monitoring within the mixing zone demonstrated that the expanded mixing zone authorized by Variance No. 0269646-002-EV was not necessary.

On February 4, 2009, the Department issued Permit Modification No. **0269646-005-JN** to eliminate night time turbidity monitoring, after determining it was not likely to result in water quality violations. The Permittee requested this modification because of a safety concern associated with monitoring during rough conditions in the dark.

On April 9, 2009, the Department issued Permit Modification No. **0269646-006-JN** to revise Specific Condition 13, which originally requiring submittal of the Fort Pierce Inlet Sediment Bypassing Plan prior to the second nourishment event. This modification established a mandatory timetable for submittal of the bypassing plan.

On April 4, 2011, the Department issued Permit Modification No. **0269646-007-JN** to authorize, for one-time only in 2011, the use of upland borrow areas (Stewart Mining and Ranch Road Lake Mine) to nourish approximately 1,700 feet of shoreline immediately south of Fort Pierce Inlet.

Current Modification Request

The Permittee applied to the Department on December 2, 2011, to modify the turtle, shorebird and hardbottom monitoring conditions in attempt to eliminate what they felt was unnecessary monitoring and to alter the construction window to match the biological opinion. The request to discontinue monitoring included the required in-water nearshore turtle monitoring, the non-nesting shorebird surveys and the shorebird monitoring “through August if no shorebird nesting activity is observed.” In the latter request, the shorebird monitoring would cease following

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construction, or when fledglings (if nesting occurs) leave the area, rather than to continue monitoring through August.

The Permittee also requested to discontinue the quantitative video analysis, quadrat data collection and analysis, and sediment depth measurements of the nearshore hardbottom monitoring, and to discontinue the mitigation reef monitoring. Department staff reviewed the project information, and previously submitted monitoring data, and noted increased sand cover, and reduced algal cover in the project area, indicative of project related impacts. Staff felt that the continuation of this monitoring was crucial to record any benthic community degradation. Therefore, staff could not approve the request to discontinue using listed above methods of the hardbottom monitoring, and the Permittee withdrew this portion of the modification request on February 24, 2012.

Justification / Staff Assessment

The County proposed to eliminate “unnecessary” turtle and shorebird monitoring in order to produce a more economical project. The Florida Fish and Wildlife Conservation Commission (FWC) has reviewed the modification and agreed that amending the turtle and shorebird conditions as suggested will not adversely impact turtles or shorebirds with respect to project construction.

The specific conditions shall be revised as follows:

7. No work shall be conducted under this permit until the permittee has received a written notice to proceed from the Department. At least 30 days prior to the requested date of issuance of the notice to proceed, the permittee shall submit the following for review and approval by the Department (for the 2011 truck haul nourishment event only Item 7.c is required):
 - a. A detailed, Department-approved *Contingency Mitigation Plan* that addresses all potential mitigation that could be used to offset any unexpected hardbottom impacts from the project. Once approved, compliance with and implementation of this plan shall become a condition of this permit;
 - b. A detailed, Department-approved *Biological Monitoring Plan* addressing plans for monitoring environmental changes caused by the project. Once approved, compliance with and implementation of this Plan and all amendments shall become a condition of this permit;
 - c. *Final construction plans and specifications* for all authorized activities, including a vessel operations plan, shall be provided. These documents shall be signed and sealed by the design engineer, who must be registered in the State of

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Florida, and shall bear the certifications specified in Rule 62B-41.007(4), F.A.C. The plans and specifications shall include a description of the beach construction methods to be utilized and drawings and surveys that show all biological resources and work spaces (e.g. anchoring area, pipeline corridors, staging areas, boat access corridors, etc.) to be used for this project. The Department may request additional information that may be necessary to understand and evaluate the proposal;

- d. *Biological monitoring qualifications.* The names and qualifications of those individuals performing the biological monitoring shall be submitted for Department approval. All biological monitoring required by this permit shall be conducted by individuals have a good working knowledge of marine fish, marine turtles, algae, coral, and sponge taxonomy.
14. In order to ensure that marine turtles are not adversely affected by the construction activities authorized by this permit, the permittee shall adhere to the following conditions:
- a. Beach restoration shall be started after October 31 and shall be completed by May 1 except as authorized below.
 - b. ~~During 2007 and 2009 only, s~~Sand placement activities between DEP Reference Monuments R-37 and R-41 shall be completed on or before May 15. Sand placement activities after May 15 shall only occur between R-37 and R-34, and shall be completed on or before May 30. Tilling shall be completed immediately after completion of each fill section, with all tilling of the beach between R-41 and R-37 completed by May 15 and all tilling of the beach between R-37 and R-34 completed by May 30. All equipment shall be removed from the beach between R-41 and R-37 by May 15 and between R-37 and R-34 by May 30, and no additional transport of equipment or vehicle movement associated with this project shall occur in that area after that time.
 - c. Construction-related activities are authorized to occur on the nesting beach (seaward of the existing coastal armoring structures or the dune crest) during the early part of the nesting season (March 1 through May 1 (it shall run through May 15 for R-41 to R-37 and through May 30 for R-37 to R-34 ~~for 2007 and 2009 only~~)) under the following conditions:
 - i. A daily marine turtle nest survey of the nesting beach in the vicinity of the project (including areas of beach access) shall be conducted starting March 1 and continue until October 31 for all years nesting surveys are required.

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- ii. Only those nests that may be affected by construction activities shall be relocated. 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. Nest relocations in association with construction activities shall cease when construction activities no longer threaten nests.
 - iii. Nests deposited within areas where construction activities have ceased or will not occur for 65 days shall be marked and left in place unless other factors threaten the success of the nest. Such nests will be marked and the actual location of the clutch determined. A circle with a radius of ten (10) feet, centered at the clutch, shall be marked by stake and survey tape or string. No construction activities shall enter this circle and no adjacent construction shall be allowed which might directly or indirectly disturb the area within the staked circle.
 - iv. Nighttime surveys for nesting turtles must be conducted from 9:00 p.m. until 6:00 a.m. if work occurs after March 1. Surveys shall begin on March 15 during 2007 only. The project area must be surveyed at 1-hour intervals (since leatherbacks require at least 1 ½ hours to complete nesting, this will ensure that all nesting leatherbacks are encountered).
 - v. If nighttime surveys are not conducted, then no construction activity may commence until completion of the morning marine turtle survey.
 - vi. It is the responsibility of the permittee to ensure that the project area and access sites are surveyed for marine turtle nesting activity. All nesting surveys, nest relocations screening or caging activities etc. shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Fish and Wildlife Conservation Commission (FWC), pursuant to Florida Administrative Code 68E-1.
- d. If the beach nourishment project will be conducted during the period from November 1 through November 30, daily early morning sea turtle nesting surveys must be conducted 65 days prior to project initiation and continue through September 30, and eggs must be relocated per the preceding requirements.
- e. In the event a sea turtle nest is excavated during construction activities, all work shall cease in that area immediately and the permitted person responsible for egg relocation for the project should be notified so the eggs can be moved to a suitable relocation site.

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- f. Reports on all nesting activity shall be provided for the initial nesting season and for a minimum of two additional nesting seasons after fill placement. Monitoring of nesting activity in the seasons following construction shall include daily surveys and any additional measures authorized by the FWC. Reports submitted shall include daily report sheets noting all activity, nesting success rates, hatching success of all relocated nests, hatching success of a representative sampling of nests left in place (if any), dates of construction and names of all personnel involved in nest surveys and relocation activities. Data should be reported separately for the nourished areas and for an equal length of adjacent beach that is not nourished in accordance with the attached Table (Table 1). Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted by January 15 of the following year.

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Table 1
Marine Turtle Monitoring for Beach Restoration Projects

The following monitoring is required for beach restoration projects. Reports summarizing the nesting should be submitted to the Tequesta office with a copy to the Tallahassee office and the BBCS JCP Compliance Officer by January 15 of the subsequent year. Data for nesting activity on the nourished beach and on an equal length of beach that is not nourished shall be reported separately, and should include numbers of nests lost to erosion or washed out. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets).

Characteristic	Parameter	Measurement	Variable
Nesting Success	False crawls - number	Visual assessment of all false crawls	Number and location of false crawls the project area: any interaction of the turtle with obstructions, such as scarps, should be noted.
	False crawl - type	Categorization of the stage at which nesting was abandoned	Number in each of the following categories: emergence-no digging, preliminary body pit, abandoned egg chamber.
	Nests	Number	The number of marine turtle nests should be noted. If possible, the location of all marine turtle nests shall be marked on map of project, and approximate distance to sea walls or scarps measured using a meter tape. Any abnormal cavity morphologies should be reported as well as whether turtle touched groins, seawalls, or scarps during nest excavation
		Lost Nests	The number of nests lost to inundation, erosion or the number with lost markers that could not be found.
	Lighting Impacts	Disoriented sea turtles	The number of disoriented hatchlings and adults shall be documented and reported in accordance with existing FWC protocol for disorientation events.
Reproductive Success	Emergence & hatching success	Standard survey protocol	Numbers of the following: unhatched eggs, depredated nests and eggs, live pipped eggs, dead pipped eggs, live hatchlings in nest, dead hatchlings in nest, hatchlings emerged, disoriented hatchlings, depredated hatchlings

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- g. From March 1 through May 1 (and through May 15 from R-41 to R-37 for 2007 and 2009 only) (and through May 30 from R-37 to R-34 for 2007 and 2009 only) and November 1 through November 30, all project lighting shall be limited to the immediate area of active construction only and shall be 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. 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 (Figure 1).

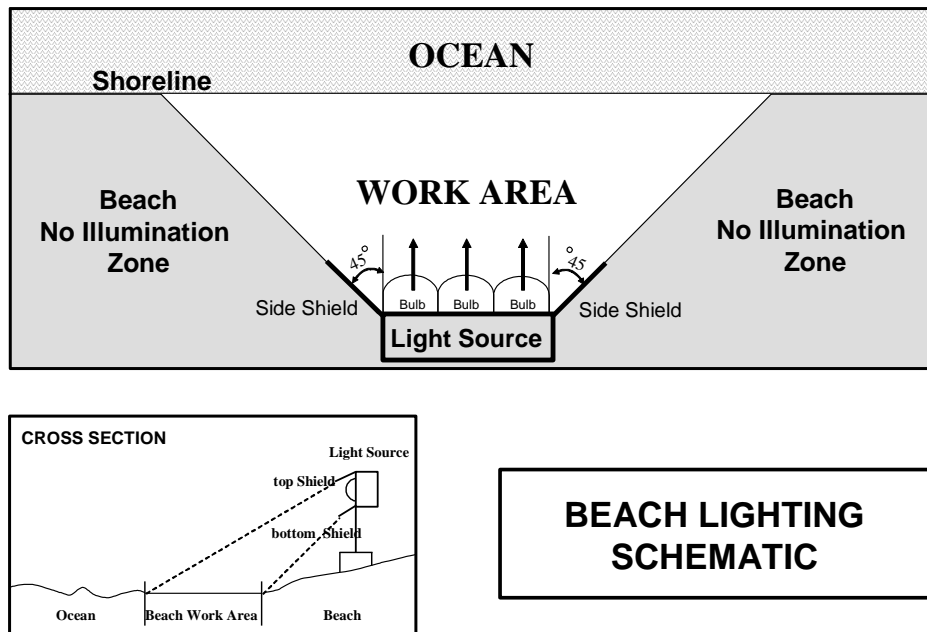


Figure 1. Lighting Operational Plan for beach restoration projects.

- h. A survey shall be conducted of all lighting visible from the beach placement area, using standard techniques for such a survey immediately after construction and no later than June 15, in 2007 and 2009 only, and by March 15 each year following fill placement. For each light source visible, the local sponsor shall provide documentation that the property owner(s) have been notified of the light and specify the action(s) recommended for correcting the light with a reasonable resolution timeline within one month of the survey. At a minimum, all lights that are observed from the nourished berm must be brought into compliance with the St. Lucie Lighting Ordinance (#98-11). A summary report of the survey and documentation of property owner notification shall be submitted by May 30 of each year following fill placement. Additional lighting surveys shall

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be conducted monthly through September and results reported in a final report by December 1 of each year. The Permittee (St. Lucie County) shall arrange for a meeting between FWC, FWS, DEP, and code enforcement staff from all local municipalities within the project area to discuss appropriate actions to be taken to address all lights documented during the lighting surveys; this meeting must occur within two weeks of completion of the first post-construction lighting survey after each nourishment.

- i. From March 1 through May 1 (and through May 15 from R-41 to R-37 ~~for 2007 and 2009 only~~) (and through May 30 from R-37 to R-34 ~~for 2007 and 2009 only~~), staging areas for construction equipment shall be located off the beach. Nighttime storage of construction equipment not in use shall be off the beach to minimize disturbance to sea turtle nesting and hatching activities. 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.
- j. Immediately after completion of the fill placement event and prior to March 1 for two additional years if placed sand still remains on the beach, the beach shall be tilled as described below or the applicant may follow the procedure outlined below to request a waiver of the tilling requirement. During tilling, at a minimum, the protocol provided below shall be followed:
 - i. The area shall be tilled to a depth of 36 inches. All tilling activity must be completed immediately after completion of sand placement and then prior to March 1 for the following years.
 - ii. An annual summary of compaction surveys and the actions taken shall be submitted to the FWC.
 - iii. If the project is completed during the nesting season, tilling shall not occur in areas where nests have been left in place or relocated unless authorized by FWC.
 - iv. This condition shall be evaluated annually and may be modified if necessary to address sand compaction problems identified during the previous year.
- k. To request a waiver of the tilling requirements, the permittee may measure sand compaction in the area of restoration in accordance with a protocol agreed to by the FWC, the Department, the U.S. Fish and Wildlife Service, and the applicant to determine if tilling is necessary. The protocols provided below shall be followed:

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- i. Compaction sampling stations shall be located at 500-foot intervals along the project area. One station shall be at the seaward edge of the dune/bulkhead line (when material is placed in this area) and one station shall be midway between the dune line and the high water line (normal wrack line).
 - ii. At each station, the cone penetrometer shall be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes, especially if sediment layering exists. Layers of highly compact material may reside over less compact layers. Replicates shall be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments.
 - iii. The three replicate compaction values for each depth shall be averaged to produce final values for each depth at each station. Reports shall include 18 values for each transect line, and the final 6 compaction values.
 - iv. If the average value for any depth exceeds 500 psi for any two or more adjacent stations, then that area shall be tilled prior to March 1. If values exceeding 500 psi are distributed throughout the project area but in no case do those values exist at two adjacent stations at the same depth, then consultation with the FWC shall be required to determine if tilling is required. If a few values exceeding 500 psi are present randomly within the project area, tilling shall not be required.
1. Visual surveys for escarpments along the beach fill area shall be made immediately after completion of the beach nourishment project and prior to March 1 and for two additional years if placed sand still remains on the beach. All scarps shall be leveled or the beach profile shall be reconfigured to minimize scarp formation. In addition, weekly surveys of the project area shall be conducted during the two nesting seasons following completion of fill placement as follows:
 - i. The number of escarpments and their location relative to DNR-DEP reference monuments shall be recorded during each weekly survey and reported relative to the length of the beach surveyed (e.g., 50% scarps). Notations on the height of these escarpments shall be included (0 to 2 feet, 2 to 4 feet, and 4 feet or higher) as well as the maximum height of all escarpments.

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- ii. Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet shall be leveled to the natural beach contour by April 15. Any escarpment removal shall be reported relative to R-monument.
- iii. If weekly surveys during the marine turtle nesting season document subsequent reformation of escarpments that exceed 18 inches in height for a distance of 100 feet, the FWC shall be contacted immediately to determine the appropriate action to be taken. Upon written notification, the permittee shall level escarpments in accordance with mechanical methods prescribed by the FWC.
- m. The applicant shall arrange a meeting between representatives of the contractor, the Department, the FWC, and the permitted person responsible for marine turtle (and shorebird) monitoring at least 30 days prior to the commencement of work on this project. At least 15 days advance notice shall be provided prior to conducting this meeting. This will provide an opportunity for explanation and/or clarification of the sea turtle protection measures.
- n. Upon locating a dead, injured, or sick endangered or threatened sea turtle specimen, initial notification must be made to the FWC at 1-888-404-FWCC. Care should be taken in handling sick or injured specimens to ensure effective treatment and care and in handling dead specimens to preserve biological materials in the best possible state for later analysis of cause of death. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.
- o. In the event a hopper dredge is utilized, the following requirements shall be met in addition to the Terms and Conditions of the NMFS Regional Biological Opinion for Hopper Dredging of Channels and Beach Nourishment Activities in the Southeastern United States from North Carolina through Florida East Coast:
 - i. Handling of sea turtles captured during hopper dredging projects shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Florida Fish and Wildlife Conservation Commission (FWC), pursuant to Florida Administrative Code 68E-1.
 - ii. *Dredging Pumps*: Standard operating procedure shall be that dredging pumps shall be disengaged by the operator when the dragheads are not firmly on the bottom to prevent impingement or entrainment of sea turtles

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within the water column. This precaution is especially important during the cleanup phase of dredging operations.

- iii. *Sea Turtle Deflecting Draghead*: A state-of-the-art rigid deflector draghead must be used on all hopper dredges in all Gulf of Mexico channels at all times of the year.
- iv. The Sea Turtle Stranding and Salvage Network (STSSN) Coordinator, Dr. Allen Foley, shall be notified at (904) 573-3930 of the start-up and completion of hopper dredging operations.
- v. Relocation trawling shall be undertaken at all projects where any of the following conditions are met:
 - a. Two or more turtles are taken in a 24-hour period in the project.
 - b. Four or more turtles are taken in the project.
- vi. The permittee shall fax (850-921-6988) or email (Megan.Conti@MyFWC.com) weekly reports to the Imperiled Species Management section on Friday each week that relocation trawling is conducted in Florida water. These faxes 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 ISM by January 15 of the following year.
- ~~p. Reports of the distribution and abundance of marine turtles in the vicinity of the nearshore hard bottom in the project area, on mitigation sites, and on adjacent undisturbed "control" sites shall also be provided prior to any beach filling activity, during all restoration work, and then for a minimum of two additional years. Monitoring of in-water sea turtle distributions shall include quarterly surveys and any additional measures authorized by FWC.~~
- pa. Within 30 days of sand placement, the Applicant shall provide to FWC (with a copy to the JCP Compliance Officer) an analysis of working into the early portion of the sea turtle nesting season and the impacts on loggerheads and leatherbacks. This analysis will be used to make future decisions about allowing work into the nesting season in this area.

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15. In order to ensure that shorebirds are not adversely affected by construction activities, the following conditions shall be followed. Shorebird surveys should be conducted by trained, dedicated individuals (Shorebird Monitor) with proven shorebird identification skills and avian survey experience. Credentials of the Shorebird Monitor will be submitted to the FWC Regional Biologists for review and approval. Shorebird Monitors will use the following survey protocols:
- a. **Nesting Season Surveys.** Shorebird Monitors should review and become familiar with the general information and data collection protocols outlined on the FWC's Beach-Nesting Bird Website (<http://myfwc.com/shorebirds/>). An outline of what data should be collected, including downloadable field data sheets, is available on the website.
 - i. The nesting season is generally April 1 through September 1, but some nesting may occur through September. In addition, the imperiled snowy plover (*Charadrius alexandrinus*) may nest as early as February along the west coast and panhandle of Florida. Nesting season surveys shall begin on April 1 (or February 15 in snowy plover habitat) or 10 days prior to project commencement (including surveying activities and other preconstruction presence on the beach), whichever is later, and be conducted daily throughout the construction period or when all fledglings (if nesting occurs) leave the area. ~~through August if no shorebird nesting activity is observed.~~
 - ii. Nesting 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 during the nesting season. Portions of the project in which there is no potential for project-related activity during the nesting season may be excluded.
 - iii. Surveys for detecting new nesting activity will be completed on a daily basis prior to movement of equipment, operation of vehicles, or other activities that could potentially disrupt nesting behavior or cause harm to the birds or their eggs or young.
 - iv. Surveys should be conducted by walking the length of the project area and visually inspecting, using binoculars or spotting scope, for the presence of shorebirds exhibiting breeding behavior.
 - a. In an ATV or other vehicle is needed to cover large project areas, the vehicle must be operated at a speed <6 mph, shall be run at or below the high-tide line, and the Shorebird Monitor will stop at no greater than 200 meter intervals to visually inspect for nesting activity.

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- v. Once breeding is confirmed by the presence of a scrape, eggs, or young, the Bird Monitor will notify the Regional Nongame Biologist of the FWC (1239 S.W. 10th Street, Ocala, FL 34474-2797; Phone (352) 732-1225/Fax (352) 620-7627) within 24 hours. All breeding activity will be reported to the Beach-Nesting Bird website within one week of data collection.
- vi. Observations of non-breeding shorebirds should be reported to the Shorebird-Seabird Occurrence Database, as described below.

~~b. **Non-Breeding Shorebird Surveys.** Data collected on non-breeding shorebirds should be compatible with, and reported to, the Shorebird-Seabird Occurrence Database (<http://myfwc.com/shorebirds>).~~

- ~~i. Surveys for non-breeding shorebirds should begin 14 days prior to construction commencement and be conducted once every 2 weeks for at least one year post construction. Data collected during these surveys will provide valuable information on the use of nourished beaches to shorebirds.~~
- ~~ii. Surveys for non-breeding shorebirds will include all potential shorebird habitats within the project boundary.~~
- ~~iii. Data should be entered into the database within one month of collection.~~

be. Buffer Zones and Travel Corridors. Within the project area, the permittee shall establish a 300-foot wide buffer zone around any location where shorebirds have been engaged in nesting behavior, including territory defense. Any and all construction activities, including movement of vehicles, should be prohibited in the buffer zone.

- i. The width of the buffer zone shall be increased if birds appear agitated or disturbed by construction or other activities in adjacent areas.
- ii. Site-specific buffers may be implemented upon approval by FWC as needed. Reasonable and traditional pedestrian access should not be blocked where nesting birds will tolerate pedestrian traffic. This is generally the case with lateral movement of beach-goers walking parallel to the beach at or below the highest tide line. Pedestrian traffic may also be tolerated when nesting was initiated within 300 feet of an established beach access pathway. The permittee shall work with FWC staff to determine if pedestrian access can be accommodated without compromising nesting success.

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- iii. Designated buffer zones must be posted with clearly marked signs around the perimeter. If pedestrian pathways are approved within the 300-foot buffer zone, these should be clearly marked. These markings shall be maintained until nesting is completed or terminated. In the case of solitary nesters, nesting is not considered to be completed until all chicks have fledged.
 - iv. No construction activities, movement of vehicles, or stockpiling of equipment shall be allowed within the buffer area.
 - v. FWC-approved travel corridors should be designated and marked outside the buffer areas. Heavy equipment, other vehicles, or pedestrians may transit past nesting areas in these corridors. However, other activities such as stopping or turning shall be prohibited within the designated travel corridors adjacent to the nesting site.
 - vi. Where such a travel corridor must be established within the project area, it should avoid critical areas for shorebirds (known nesting sites, wintering grounds, FWC-designated Critical Wildlife Areas, and USFWS-designated critical piping plover habitat) as much as possible, and be marked with signs clearly delineating the travel corridor from the shorebird buffer areas described above.
 - vii. To the degree possible, the permittee should maintain some activity within these corridors on a daily basis, without directly disturbing any shorebirds documented on site or interfering with sea turtle nesting, especially when those corridors are established prior to commencement of construction. Passive methods to modify nesting site suitability must be approved by FWC Regional Nongame Biologist for that region.
- cd. **Notification.** If shorebird nesting occurs within the project area, a bulletin board will be placed and maintained in the construction area with the location map of the construction site showing the bird nesting areas and a warning, clearly visible, stating that “BIRD NESTING AREAS ARE PROTECTED BY THE FLORIDA THREATENED AND ENDANGERED SPECIES ACT AND THE STATE and FEDERAL MIGRATORY BIRD ACTS.”
- de. **Beach Contours.** All tilling and scarp removal should be done outside the shorebird nesting season. It is the responsibility of the contractors to avoid tilling or scarp removal in areas where nesting birds are present.

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- i. A relatively even surface, with no deep ruts or furrows, shall be created during tilling. To do this chain-linked fencing or other material shall be dragged over those areas as necessary after tilling.
 - ii. The slope between the mean high water line and the mean low water line must be maintained in such a manner as to approximate natural slopes.
- ef. **Placement of Equipment and Sand.** If it will be necessary to extend construction pipes past a known shorebird nesting site or over-wintering area for piping plovers, then whenever possible those pipes should be placed landward of the site before birds are active in that area. No pipe or sand shall be placed seaward of a known shorebird nesting site during the shorebird nesting season.

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(s).

This letter of approval does not alter the **February 22, 2017** expiration date, other Specific or General Conditions, or monitoring requirements of the permit. This letter and the accompanying amendment to the biological monitoring plan 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

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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.

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:

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- (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.

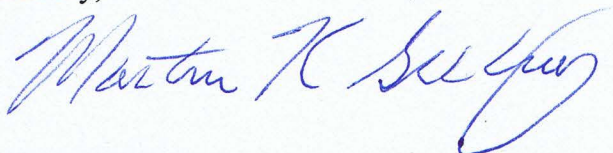
When there has been no publication of notice of agency action or notice of proposed agency action as prescribed in Rule 62-110.106, F.A.C., a person may request a copy of the agency action. The Department shall upon receipt of such a request, if agency action has occurred, promptly provide the person with notice. The Department does not require notice of this agency

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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 Lainie Edwards at the letterhead address (**add Mail Station 300**) or by telephone at (850) 414-7796.

Sincerely,



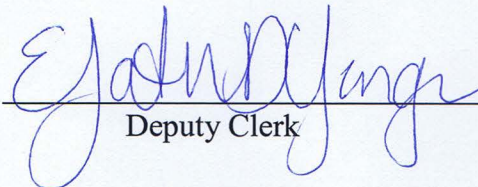
Martin K. Seeling
Environmental Administrator
Bureau of Beaches & Coastal Systems

MKS/mte

cc: Richard Bouchard, St. Lucie County	Alex Reed, BBCS
Steve Schropp, Taylor Engineering	Jackie Larson, BBCS
Danielle Fondren, BBCS	Vladimir Kosmynin, BBCS
Gene Chalecki, BBCS	Robbin Trindell, FWC
Lainie Edwards, BBCS	Charlotte Keeney, FWC
Robert Brantly, BBCS	Mary Duncan, FWC
Paden Woodruff, BBCS	JCP Compliance
Guy Weeks, BBCS	BBCS Permit File
Roxane Dow, BBCS	

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.

 3/1/12
Deputy Clerk Date