FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

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TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT
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SECRETARY

September 9, 2013

Richard Bouchard, P.E.
St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida 34982

and

U.S Army Corps of Engineers
Attn: Eric Summa, Chief Environmental Branch
Jacksonville District
P.O. Box 4970
Jacksonville, FL 32232

Permit Modification No. 0269646-011-JN
Permit No. 0269646-001-JC, St. Lucie County
Fort Pierce Nourishment Project

Dear Mr. Summa:

Your request, on behalf of St. Lucie County, to be added as co-Permittee to Permit No. 0269646-001-JC and to modify the permit was received on July 29, 2013, and has been reviewed by Department staff. The proposed permit modification is to authorize a one-time only sand bypassing event using beach compatible material from the Ft. Pierce Harbor Inlet, including the entrance channel and the channel through the southern portion of the turning basin. The requested permit modification is also to include the U.S. Army Corps of Engineers (Corps) as a one-time co-Permittee for the 2014 sand bypassing event.

Current Permit

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 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) 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 up to 1,000 meters downcurrent and up to 150 meters offshore from the point where runoff from the discharge pipe re-enters the ocean.

For additional background, please see the *Consolidated Notice of Intent to Issue* for Joint Coastal Permit No. 0269646-001-JC and Variance No. 0269646-002-EV, 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/001-JC_&_002-EV/Intent/

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, construction of the project was not completed 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. Previous intermediate turbidity monitoring within the mixing zone demonstrated that the expanded mixing zone authorized by Variance No. 0269646-002-EV was not necessary. The modification also allowed another extension of construction into the early portion of the sea-turtle nesting period for the 2009 nourishment only.

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 required 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.

On March 1, 2012, the Department issued Permit Modification No. **0269646-008-BN** to revise the turtle and shorebird conditions, as well as the construction window.

On April 2, 2013, the Department issued Permit Modification No. **0269646-009-JN** to expand the authorized borrow area. The borrow area was expanded into an adjacent borrow area that had been previously authorized under Permit No. 0126215-001-JC.

On June 17, 2013, the Department issued Permit Modification No. **0269646-010-JN** to update the previous lighting survey requirements in Specific Condition 14.h of Permit No. 0269646-001-JC and to discontinue monitoring of the mitigation site. The permit originally required lighting surveys each year following a nourishment event. The modification reduced the frequency to two surveys following each nourishment event. The first survey would be conducted between May 1 and June 7, and the second conducted between July 15 and August 1. Additionally, the permit modification eliminated the monitoring of the artificial reef mitigation to ensure that it functions, as required, to offset the incurred hardbottom impacts. The artificial reef monitoring was conducted and it confirmed that the mitigation was successfully functioning as required.

Current Modification Request

This modification will authorize the dredging of the Fort Pierce Inlet navigation channel and the section of channel that crosses through the southern portion of the turning basin. This event will be divided into two phases: Phase 1 will dredge beach compatible material to be placed south of the Inlet between R-34 and R-41; while Phase 2 will dredge non-compatible beach material to be placed offshore in an approved Ocean Dredged Material Disposal Site (ODMDS). Because the 2014 scheduled event is expected to include the federal navigation channel and a portion of the turning basin, the Corps will be included as a co-Permittee for that event only.

Littoral Shoreline

Ft. Pierce Inlet acts as littoral barrier to sediment transport that creates a deficit of sand supply to the beaches south of the inlet. Beach nourishment of the Ft. Pierce Shore Protection Project occurs frequently due to the effects of the inlet navigation improvements. The beach nourishment fill material is quickly lost offshore and is spread south by littoral transport. Consequently, the loss of fill material leaves unfilled volume within the permitted construction template.

Physical monitoring consisting of beach and offshore profile surveys are conducted at FDEP reference monuments within the project area. Within the first year after construction of the 2007 beach nourishment event, approximately -385,000 cubic yards or 70 percent of the 500,000 cubic yards of fill was lost from the project area (above -10 feet NGVD contour). During the second year post-construction (June 2008-March 2009) an additional -161,500 cubic yards of beach fill material was lost the project area. Essentially, the entire fill volume placed within the project area was lost within two years.

After interim beach nourishment events were conducted in 2009 and 2011, the last major beach nourishment was completed between February and April 2012. Monitoring data indicate the approximately 250,000 cubic yards of fill material placed in 2009-2011 had been lost from the project area prior to the 2012 beach nourishment. Approximately 500,000 cubic yards of fill material was placed in 2012 to restore the design template and add advance nourishment. The

persistent beach erosion trend indicated by the monitoring data and analysis verifies a need for frequent beach nourishment to maintain the project's design beach width.

A current survey of beach conditions is not available at this time. However, based upon the erosion trend after previous beach nourishment projects, there will be adequate unfilled volume with the permitted construction template to receive the material from the channel maintenance dredge. The timing and amount of dredge material placement within the project area is similar to historical beach nourishment activities. Consequently, the fill material to be placed in 2013-2014 is expected to be lost offshore and spread to the downdrift beaches similar to previous projects. Hardbottom impacts have not be observed from previous project activities, and given the same rate of beach nourishment, none are expected from the proposed 2013-2014 beach placement of dredged material.

Section 161.142, Florida Statutes (F.S.), recognizes that inlets interrupt or alter the natural drift of beach-quality sand resources, which often results in these sand resources being deposited in nearshore areas or in the inlet channel or in the inland waterway adjacent to the channel, instead of providing natural nourishment to the adjacent eroding shoreline. Accordingly, the Legislature finds it is in the public interest to replicate the natural drift of sand and to undertake all reasonable efforts to maximize inlet sand bypassing to ensure that beach-quality sand is placed on adjacent eroding beaches. Pursuant to Rule 62B-41.007 (15) Florida Administrative Code (F.A.C.), any permit application for maintenance of a coastal inlet or related shoals shall be consistent with the statewide strategic beach management plan in accordance with Section 161.142, F.S.

The north end of Hutchinson Island, from R-34 to R-37, is a 3,000-foot segment of critically eroded beach within the area of influence of Ft. Pierce Inlet. The management strategy adopted in the Department's Strategic Beach Management Plan (2008) is placement of beach-quality dredged material from the maintenance of Ft. Pierce Inlet onto Hutchinson Island. Hence, the proposed maintenance dredging of beach compatible sand, and the placement at Hutchinson Island south of the inlet, is consistent with the adopted strategic beach management plan and Florida statutes.

This maintenance dredge project will place any available beach compatible material on the north end of Hutchinson Island, from R-34 to R-37 during Phase I of the 2013 construction event. Sediments dredged during Phase II will be placed in an approved offshore disposal site.

Adequacy of Geologic and Geotechnical Data and Analysis

Four (4) vibracores and eight (8) grab samples were collected from the turning basin and cuts 1 and 2 by the Corps in June 2013. The vibracores and grab samples provide adequate coverage (number and spacing) to characterize the sediment to be used as beach fill. Each vibracore was logged and sampled. Each sample was sieved, a gradation analysis was completed, and grain size distribution curves were created. Composite grain size curves were then created for the

borrow area. This information was sufficient for the Department to conduct a geotechnical review and determine this portion of the permit application to be complete.

As required by Rule 62B-41.008(1)(k) 4., F.A.C., the procedures employed by the Applicant's geologists in the data collection and processing, and in the analysis of the geotechnical data, is consistent with generally accepted professional standards and practices.

Sediment Compatibility

Pursuant to Rule 62B-41.007(2)(j), F.A.C., to protect the environmental functions of Florida's beaches, only beach compatible fill shall be placed on the beach or in any associated dune system. Beach compatible fill is material that maintains the general character and functionality of the material occurring on the beach and in the adjacent dune and coastal system. Such fill material shall be predominately of carbonate and quartz sediment similar in color and grain size distribution to the material in the existing coastal system at the disposal site. The data and analysis indicates the material within the coastal system has the following sediment characteristics:

Location and Volume (million cubic yards)	Composite Mean grain size (mm)	Sorting (Φ)	% Silt (passing #230 sieve)	% Fine Gravel (retained #4 sieve)	Carbonate (% by wt.)	Munsell Color Value
2013 Beach	0.49	1.03	0.19%	1.59%	70.5%	10YR 6/1
Ft. Pierce Inet	0.59	1.05	1.34%	2.91%	38.36%	2.5Y 6/3

The fill material to be obtained from Ft. Pierce Inlet is sand that is similar to the existing beach sediment in terms of color, grain size, sorting and shell content. The silt content meets Department standard. Based upon the information and analysis provided by the applicant, the material is expected to maintain the general character and functionality of the material occurring on the beach and in the adjacent dune and coastal system.

Sediment Quality Assurance /Quality Control

In accordance with Rule 62B-41.008(1)(k)4, F.A.C., the Applicant submitted a sediment quality control/quality assurance plan (QA/QC Plan) as part of the application for this modification. The Plan provided assurance that the sediment from much of the channel dredging will meet the standards in Rule 62B-41.007(2)(j), F.A.C.

Sediment compliance values are included in the Sediment Quality Assurance / Quality Control Plan dated July 25, 2013 (received on August 8, 2013), and incorporated into the final permit by reference.

The proposed QA/QC plan called for a maximum silt content of 10%, maximum fine gravel content of 5%, and a maximum large shell content of 3%. As this is a modification to a nourishment project using beach compatible material, it is required that a maximum allowable silt content of 5% be used. The native beach has a silt content of 0.19%, and the material sampled from the inlet has a silt content of 1.34%. Therefore, it is feasible and practicable to comply with a silt content of less than 5%.

The maximum large shell content will not be included in the compliance specifications as rule 62B-41.007(2)(j)3., F.A.C., states that material placed on the beach shall not retain any material on the ¾ inch sieve in a percentage or size greater than the native beach. The native beach samples had a composite value of 0% retained on the ¾ sieve. The vibracores from the inlet also had a composite value of 0% retained on the ¾ sieve. The grab samples from the inlet had a composite value of 0.56% retained on the ¾ sieve, resulting in a large shell content of 0.21% for the material to be obtained from the inlet. Hence, since the native beach retained 0% on the ¾ sieve and the material from the inlet retained 0.21%, there is a natural limiting parameter and the fill material should not exceed the naturally occurring value of large shell content.

The Munsell color should also be of value 5 or lighter.

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

5. The Permittee shall comply with and implement the attached Department-approved Borrow Area Sediment Quality Assurance/Quality Control Plan. Any occurrences of placement of material not in compliance with the Plan shall be handled according to the protocols set forth in the Sediment QA/QC plan. The sediment testing results shall be submitted to JCP Compliance Officer within 90 days following the completion of beach construction.

   In addition, the Permittee shall revise the QA/QC Plan for the 2014 event. The revised Plan shall be submitted to the Department prior to construction with the following revisions:

Sediment Parameter	**Parameter Definition**	**Compliance Value**
Max. Silt Content	passing #230 sieve	**5%**
Max. Shell Content*	retained on #4 sieve	**5%**
Munsell Color Value	moist Value (chroma = 1)	**5 or lighter**
The beach fill material shall not contain construction debris, toxic material, other foreign matter, coarse gravel or rocks.		

*Shell Content is used as the indicator of fine gravel content for the implementation of quality control/quality assurance procedures.

The native beach has a natural limiting parameter for large shell content. As such, the fill material placed on the beach should not exceed the naturally occurring value of large shell content.

7. No work shall be conducted under this permit until the permittee has received a written notice to proceed (NTP) from the Department. At least 21 days prior to construction of the initial dredging event, immediately prior to construction for the 2014 event only, and at least 30 days prior to all other ~~each subsequent~~ dredging events authorized under this permit, the Permittee shall submit, for review and approval by the Department~~;~~ the following information:

   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 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 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.

TURBIDITY

17. Water Quality - Turbidity shall be monitored as follows:

Units: Nephelometric Turbidity Units (NTUs).

Frequency: The first sampling event shall occur within one hour of dredging commencement and continue approximately every four hours thereafter during dredging. Sampling shall be conducted while the highest project-related turbidity levels are crossing the edge of the mixing zone. Since turbidity levels can be related to pumping rates, the dredge pumping rates shall be recorded, and provided to the Department upon request. The compliance samples and the corresponding background samples shall be collected at approximately the same time, i.e., one shall immediately follow the other.

Location: Background: At surface, mid-depth, and (for sites with depths greater than 25 feet) 2 meters above bottom, clearly outside the influence of any artificially generated turbidity plume.

Nourishment Site: approximately 500 meters upcurrent from any portion of the beach that has been, or is being, filled during the current construction event, at the same distance offshore as the associated compliance or intermediate sample.

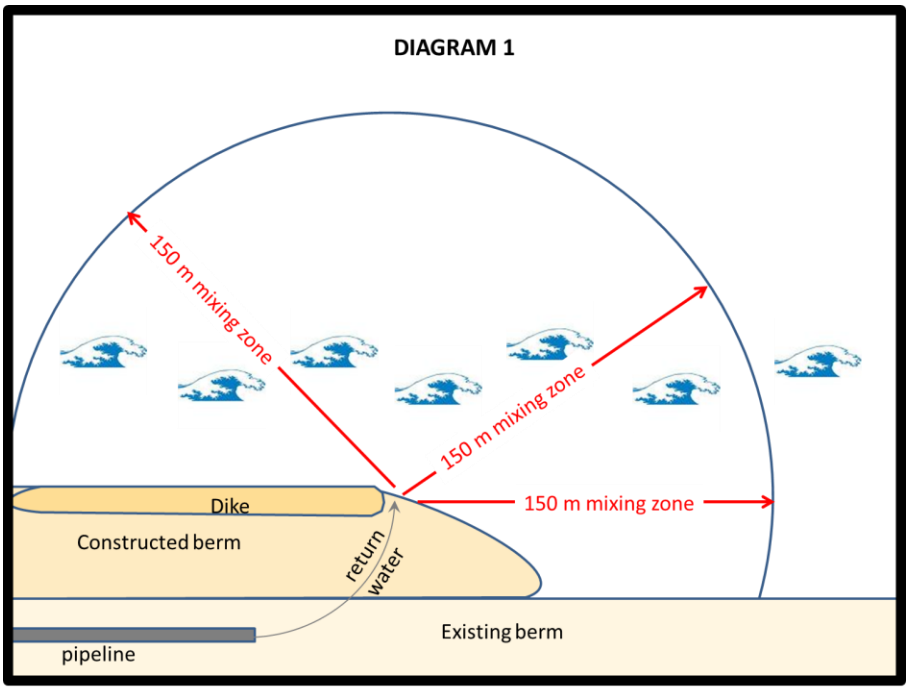
Dredge Site: At least 300 meters upcurrent from the source of turbidity at the dredge site.

Compliance: At surface, mid-depth, and (for sites with depths greater than 25 feet) 2 meters above bottom, within the densest portion of any turbidity plume generated by this project.

Nourishment Site: Samples shall be collected where the densest portion of the turbidity plume crosses the edge of the mixing zone, which measures 150 meters downcurrent from the point where the return water from the dredged discharge reenters the Atlantic Ocean. *Note: If the plume flows parallel to the shoreline, the densest portion of the plume may cross the mixing zone at a distance less than 150 meters offshore. In that case, it may be necessary to access the sampling location from the shore, in water that is too shallow for a boat. If the plume flows offshore, it may cross the mixing zone at a distance less than the 150 meters alongshore, and the sample would be collected at that point.* ***See Diagram 1***.

Dredge Site: Samples shall be collected up to150 meters downcurrent from the turbidity source at the dredge, or where the plume reaches the nearest resource edge (seagrass bed or hardbottom), whichever is

closest to the turbidity source at the dredge. The samples shall be collected within the densest portion of the plume.



Analysis of turbidity samples shall be performed in compliance with DEP-SOP-001/01 FT 1600 Field Measurement of Turbidity:

http://publicfiles.dep.state.fl.us/dear/sas/sopdoc/2008sops/ft1600.pdf

Calibration: The instruments used to measure turbidity shall be fully calibrated with primary standards within one month of the commencement of the project, and at least once a month throughout the project. Calibration with secondary standards shall be verified each morning prior to use, and after each time the instrument is turned on, and after field sampling using two secondary turbidity "standards" that bracket the anticipated turbidity samples. If the post-sampling calibration value deviates more than 8% from the previous calibration value, results shall be reported as estimated and a description of the problem shall be included in the field notes.

18. If the turbidity monitoring protocol specified above prevents the collection of accurate data, the person in charge of the turbidity monitoring shall contact the JCP Compliance Officer to establish a more appropriate protocol. Once approved in writing by the

Department, the new protocol shall be attached to the permit and shall be implemented without the need for a permit modification.

Any project-associated discharge other than dredging or fill placement (e.g., scow or pipeline leakage) shall be monitored as close to the source as possible. If the turbidity level exceeds 29 NTUs above background, the construction activities related to the exceedance shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. This turbidity monitoring shall continue every hour until background turbidity levels are achieved or until otherwise directed by the Department. The Permittee shall notify the Department, by separate email to the JCP Compliance Officer, of such an event within 24 hours of the time the Permittee first becomes aware of the discharge. The subject line of the email shall state "PROJECT-ASSOCIATED DISCHARGE-OTHER".

When reporting a turbidity exceedance, the following information shall also be included:

a. the Project Name;

b. the Permit Number;

c. location and level (NTUs above background) of the turbidity exceedance;

d. the time and date that the exceedance occurred; and

e. the time and date that construction ceased.

Prior to re-commencing the construction, a report shall be emailed to the Department with the same information that was included in the "Exceedance Report", plus the following information:

a. turbidity monitoring data collected during the shutdown documenting the decline in turbidity levels and achievement of acceptable levels;

b. corrective measures that were taken; and

c. cause of the exceedance.

19. **Turbidity Reports**. All turbidity monitoring data shall be submitted within one week of analysis. The data shall be presented in tabular format, indicating the measured turbidity levels at the compliance sites for each depth, the corresponding background levels at each depth and the number of NTUs over background at each depth. Any exceedances of the turbidity standard (29 NTUs above background) shall be highlighted in the table. In

addition to the raw and processed data, the reports shall also contain the following information:

a. time of day samples were taken;

b. dates of sampling and analysis;

c. GPS location of sample

d. depth of water body;

e. depth of each sample;

f. antecedent weather conditions, including wind direction and velocity;

g. tidal stage and direction of flow;

h. water temperature;

i. a map (overlaid on an aerial photograph) indicating the sampling locations, dredging and discharge locations, and direction of flow;

j. a statement describing the methods used in collection, handling, storage and analysis of the samples;

k. a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection, calibration of the meter and accuracy of the turbidity and GPS data;

l. When samples cannot be collected, include an explanation in the report. If unable to collect samples due to severe weather conditions, include a copy of a current report from a reliable, independent source, such as an online weather service.

Monitoring reports shall be submitted by email to the JCP Compliance Officer. In the subject line of the reports, on the cover page to the submittal and at the top of each page, include the Project Name, Permit Number and the dates of the monitoring interval. Failure to submit reports in a timely manner constitutes grounds for revocation of the permit.

~~WATER QUALITY MONITORING:~~

17. ~~Turbidity monitoring in the vicinity of the dredging area and disposal sites shall be conducted during construction. Turbidity shall be measured in NTUs at background and compliance stations as follows:~~

    a. ~~Borrow Site:~~

        ~~Frequency: Every six hours during dredging.~~

        ~~Location: **Background**: One meter below the surface and one meter above the bottom, at least 300 meters upcurrent from the dredge site, clearly outside of any turbidity generated by the project.~~

        ~~**Compliance**: One meter below the surface and one meter above the bottom, no more than 150 meters down current from the dredge site, within the densest portion of any visible turbidity plume.~~

    b. ~~Beach disposal Area:~~

        ~~Frequency: Every six hours during pumping operations.~~

        ~~Location: **Background**: Mid-depth, at a point approximately 150 meters offshore and at least 150 meters upcurrent from the discharge point, clearly outside of any turbidity generated by the project or coming from the inlet.~~

        ~~**Compliance**: Mid-depth, at a point no more than 150 meters offshore and 1,000 meters down current from the point where runoff from the discharge pipe re-entering waters of the state, within the densest portion of any visible turbidity plume.~~

        ~~**Intermediate Monitoring**: Mid-depth, at a point approximately 100 meters offshore and 150, 300, and 600 meters downcurrent from the point where runoff from the discharge pipe re-entering waters of the state, within the densest portion of any visible turbidity plume.~~

    c. ~~All monitoring data shall be submitted within one week of analysis with documents containing the following information: (1) "Permit Number 0269646-001-JC"; (2) "Ft. Pierce Nourishment Project"; (3) dates of sampling and analysis; (4) a statement describing the methods used in data collection, handling, storage and analysis of the samples; (5) a map indicating the sampling locations; (6) a~~

~~statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data and calibration of the meter.~~ ~~**Each exceedance of 29 NTUs above background shall be highlighted in the table and discussed in the report.**~~ ~~Monitoring reports shall also include the following information for each sample that is taken:~~

~~i. time of day samples taken;~~
~~ii. depth of water body;~~
~~iii. depth of sample;~~
~~iv. antecedent weather conditions;~~
~~v. tidal stage and direction of flow; and~~
~~vi. wind direction and velocity.~~

~~The compliance locations given above shall be considered the limits of the mixing zone for turbidity allowed during construction. If monitoring reveals turbidity levels at the compliance site greater than or equal to 29 NTUs above background turbidity levels, construction activities shall~~ ~~**cease immediately**~~ ~~and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence shall also be immediately reported to the BBCS's JCP Compliance Officer and DEP Southeast District Office, Submerged Lands and Environmental Resources, in West Palm Beach, Florida.~~

~~The regular monitoring reports shall be submitted to the BBCS's JCP Compliance Officer in Tallahassee and to the DEP Southeast District Office, Submerged Lands and Environmental Resources, in West Palm Beach, Florida. Failure to submit reports in a timely manner constitutes ground for revocation of the permit. When submitting this information to the DEP, please clearly include, at the top of each page or as a cover page to the submittal: "This information is provided in partial fulfillment of the monitoring requirements in Permit No. 0269646-001-JC for the Ft. Pierce Nourishment Project."~~

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

Sheets 1, 2 and 3 of 3 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. Fill to be placed on the permitted beach template should be in accordance with the attached Sediment Quality Control/Quality Assurance Plan for Maintenance Dredging with Beach Placement as well as, the parameters previously established for this permit. The Department has determined that the proposed alteration does not increase the potential for adverse impact on the coastal system, public beach access seaward of the mean high water line or nesting sea turtles and hatchlings and

their habitat, and that the proposed alteration does not reduce the design adequacy of the project. Since the proposed modification is not expected to result in any adverse environmental impact or water quality degradation the **permit is hereby modified** as stated above. By copy of this letter, we are notifying all necessary parties of the modification.

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

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:

(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 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 Bobby Halbert by email at Robert.Halbert@dep.state.fl.us or by telephone at (850) 921-7752.

Sincerely,

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

MKS/gg

Attachment: Permit Drawings (3 pages)

cc: Richard Bouchard, St. Lucie County
Ken Craig, Taylor Engineering
Tammy Kinsey, USACE
Jason Andreotta, DEP, SE District
Vladimir Kosmynin, DWRM
FDEP-SP@usace.army.mil
FWCConservationPlanningServices@myfwc.com
David Courson, DWRM
Bobby Halbert, DWRM
JCP Compliance Officer
Greg Garis, DWRM
FCMPmail@myfwc.com
MarineTurtle@MyFWC.com
Permit 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.

Lauren Wild 9/9/13

Deputy Clerk Date