



# FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING  
3900 COMMONWEALTH BOULEVARD  
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT  
GOVERNOR

HERSCHEL T. VINYARD JR.  
SECRETARY

July 26, 2013

Florida Inland Navigation District  
c/o Mark Crosley, Assistant Executive Director  
1314 Marcinski Road  
Jupiter, FL 33477

Permit Modification No. 0262913-005-JN  
Permit No. 0262913-001-JC, Palm Beach County  
Jupiter AIWW Maintenance Dredging

Dear Mr. Crosley:

Your request to modify Permit No. 0262913-001-JC was received on July 1, 2013, and has been reviewed by Department staff. The proposed permit modification is to revise the Notice to Proceed requirements for the 2013 and subsequent bypassing events.

## **Background**

Jupiter Inlet is an improved natural inlet connecting the Loxahatchee River to the Atlantic Ocean. Efforts to stabilize the inlet began in 1922 with the construction of parallel jetties at the inlet mouth. Structural modifications and repairs to both structures have occurred over the years, primarily, for navigational purposes. A sand trap, located west of the inlet throat, was constructed in 1966. The inlet channel and associated structures are maintained by the Florida Inland Navigation District (FIND). Maintenance dredging of the navigation channel and sand trap generally occurs on an annual basis, with placement of suitable material on the downdrift beaches located south of the inlet.

Maintenance dredging of the Atlantic Intracoastal Waterway (AIWW) was previously authorized under Wetland Resource Permit Number 502233929 (expiration date of 9/18/2005). Maintenance dredging events occurred in 1995, 2002 and 2004. FIND assumed an active role in maintenance dredging of the inlet proper by maintenance dredging Cuts P-2 through P-4 in 1999-2000. Prior to 1995, maintenance dredging projects occurred in 1983, 1987 and 1991.

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The beaches located south of the inlet were initially restored in 1995 during the Jupiter/Carlin Shore Protection Project to mitigate erosion caused by the inlet. A major nourishment of the project area followed during the winter of 2001 (Permit No. 0163093-001-JC). In addition to these beach fills, numerous smaller projects have added beach quality material to the project area during dredging of the sand trap by FIND. The monitoring data for the 2001 nourishment project documents the effects of the combined nourishment projects on the fill placement areas and reference areas north and south of the project.

**Current Permit**

On January 7, 2008, the Department issued Permit No. **0262913-001-JC** to the Corps for the Jupiter AIWW Maintenance Dredging and Beach Fill Placement Project. The project was to maintenance dredge a portion of the Atlantic Intracoastal Waterway (AIWW) in the vicinity of Jupiter Inlet, from Cut P-1 through Cut P-4, to restore full navigation depth of the Federal navigation project. The maximum excavation depth of the channel dredging varied from 12 feet to 16 feet (MLW). These maximum depths included the design depth, advance maintenance and allowable overdepth. Cuts P-1 and P-2 were to be dredged to a maximum depth of -12 feet MLW, and Cuts P-3 and P-4 were to be dredged to a maximum depth of -16 feet MLW. Beach-quality sand that is dredged from the channel was to be placed along 5,500 linear feet of beach, immediately south of Jupiter Inlet, between FDEP monuments R-13 and R-19.

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. 0262913-001-JC at the following website:

[ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/palm\\_bch/issued/0262913\\_Jupiter\\_AIWW\\_Maintenance\\_Dredging/001-JC/Intent/Final%20NOI%20Jupiter%20AIWW%20\(12-3-07\)%20signed.pdf](ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/palm_bch/issued/0262913_Jupiter_AIWW_Maintenance_Dredging/001-JC/Intent/Final%20NOI%20Jupiter%20AIWW%20(12-3-07)%20signed.pdf)

On January 18, 2008, the Department issued Permit Modification No. **0262913-002-EM**, which was primarily to allow nighttime dredging, but prohibited the use of a clamshell dredge. During the initial maintenance event in 2008, approximately 140,000 cubic yards of sand was to be dredged and the material was to be placed within the Jupiter/Carlin Shore Protection Project fill template (Permit No. 0163093-001-JC). Approximately 25,000 cubic yards of the dredged material was to be utilized for dune reconstruction between FDEP monuments R-13 and R-17 during the initial maintenance event of this permit.

On March 27, 2008, the Department issued Permit Modification No. **0262913-003-JN**, which transferred the permit and all responsibility for permit conditions from the U.S. Army Corps of Engineers, Jacksonville District, to the Florida Inland Navigation District.

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On April 29, 2008, the Department issued Permit Modification No. **0261913-004-JN**, which authorized extended construction of the 2008 nourishment by 10 days into the turtle nesting season.

**Current Modification Request**

The Jupiter AIWW has been dredged multiple times, with the most recent event occurring in 2011. Historically, the material to be dredged has been analyzed prior to construction and found suitable for beach placement in accordance with Rule 62B-41.007(2)(j) and (k), F.A.C. The material that accumulates in the navigation channels Cuts P-3 and P-4 is predominantly beach-compatible sand transported from the open coast into the inlet by waves and tides. Finer sediments do accumulate in the AIWW and reside in the interior Cuts P-1 and P-2. Therefore, as a Notice to Proceed submittal, the permit shall require an analysis of geotechnical data from Cuts P-1 and P-2 only.

In accordance with the approved Sediment QA/QC Plan, upon completion of beach construction, the Permittee will collect representative subsurface sand samples from the beach for laboratory analysis. The implementation of the QA/QC provisions during construction, and verification of quality of the dredged material after each construction event, provides adequate engineering data to assure that only beach-compatible material is placed on downdrift beaches.

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

2. 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, and at least 30 days prior to each subsequent dredging event authorized under this permit, (except for the 2013/2014 event only, the 30-day requirement to submit NTP items shall be delayed until prior to construction) the permittee shall submit, for review and approval by the Department; the following information:
  - a. One (1) printed copy and one (1) electronic copy of detailed *final construction plans and specifications* for all authorized activities, including an Environmental Protection Plan and Grade Stake Recovery Plan (for beach placement), to be provided by the contractor. The plans and specifications shall include a description of the beach and nearshore construction methods to be utilized, including details on dredge location and suction head position monitoring and controls. The construction plans shall show the pipeline corridors, anchoring zones, turbidity mixing zone, and results of the pre-dredge seagrass survey.

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The construction drawings for the initial dredging event shall be updated with the results of the 2007 pre-dredge survey of the anchor zones, and the perimeter of all seagrass beds with species denotations/densities shall be delineated on the drawings at a resolution sufficient to avoid impacts to seagrasses within the anchor zones. Any significant changes made to these drawings during construction, as necessitated by field conditions, will be addressed pursuant to General Condition #1.

For subsequent dredging events, the plans and specifications shall include the proposed date of construction and the total quantity of material to be dredged, the location and areal extent of the shoals to be dredged, the designated disposal sites, and bathymetric and topographic surveys, as appropriate, for the areas to be dredged and the disposal site.

- b. *Turbidity monitoring qualifications.* Construction at the project site shall be monitored closely to assure that turbidity levels do not exceed the compliance standards established in this permit. This monitoring shall be conducted by an independent third party (not associated with the dredging contractor). An individual familiar with dredging techniques and turbidity monitoring shall be present at all times. This individual shall have authority to alter construction techniques or shut down the dredging or beach construction operations if turbidity levels exceed the compliance standards established in this permit. The names and qualifications of those individuals performing these functions along with 24-hour contact information shall be submitted for approval.
- c. *Geotechnical Data.* When planning to dredge Cuts P-1 and P-2, the Permittee shall provide geotechnical information in the form of grab samples from those cuts demonstrating the dredged material to be suitable for placement at the beach disposal site.

5. The permittee and the Department, within their respective authorities and funding, shall ensure that beach compatible dredged material is placed on Florida's beaches to the extent economically feasible, consistent with Florida's beach management plan adopted pursuant to Chapter 161, F.S. and other beneficial uses criteria as may be specified by the Department and applicable federal standards. ~~To further the parties' goals for sediment management, prior to each dredging event, FIND shall provide the Department with existing geotechnical information characterizing the sediments to be dredged.~~ If FIND does not plan to place beach-compatible material within the approved beach disposal site, FIND shall provide alternative disposal options with projected costs to allow the Department to consider participating in funding alternative disposal options over the least costly method.

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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.

This letter of approval does not alter the **January 6, 2018**, expiration date or other Specific or General Conditions, or monitoring requirements of the permit. This letter 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

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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;



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- (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](mailto:Robert.Halbert@dep.state.fl.us) or by telephone at (850) 921-7752.

Sincerely,



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

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MKS/bh

cc: Geoff Klug, USACE  
Bobby Halbert, DWRM  
Rob Buda, DWRM  
Permit File

Bob Brantly, DWRM  
Jennifer Coor, DWRM  
Roxane Dow, DWRM

**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*

7/26/13

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Deputy Clerk

Date