



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
9900 SOUTHWEST 107<sup>TH</sup> AVENUE, SUITE 203  
MIAMI, FL 33176

July 25, 2012

REPLY TO  
ATTENTION OF

Miami Regulatory Office  
SAJ-2006-06547(IP-MLC)  
Modification #1

Becky Hope  
Port of Miami  
1015 North America Way, 2<sup>nd</sup> Floor  
Miami, FL 33132-2081

Dear Ms. Hope:

The U.S. Army Corps of Engineers has completed the review and evaluation of the modification request received May 3, 2012, in to revise the plans authorized by Department of the Army permit number SAJ-2006-06547, for the dredging of 94.7 acres on an as-needed basis, date stamped by the Corps on June 13, 2012. The project is located in Biscayne Bay, along the berthing areas of the Port of Miami, in Sections 4, 5, and 6, Township 54 South, Range 42 East in/over waters of the United States.

The proposed modification is to increase the dredge depth within a berthing area along Fisherman's Channel from the permitted -42 ft maintenance depth to -50 feet with an allowable -1 foot overdepth dredge. The volume of material that will be removed along the Fisherman's Channel Berths which is considered new dredging is approximately 198,000 cubic yards. The volume of material that will be maintenance dredged along the Dodge Island Cut/Turning Basin Berths Main Cut/TB Berths Total is approximately 31,000 cubic yards. The modification request includes disposal of the dredged material at an Ocean Dredged Material Disposal Site (ODMDS) approved by the Environmental Protection Agency (EPA), and at the delineated Julia Tuttle Mitigation Area. The maximum amount of dredged material that would be discharged into both sites is 229,000 cubic yards (total volume).

The modification must be completed in accordance with the 20 enclosed construction drawings, which replaces drawings 1 through 17 of 17 of the originally permitted plans and the special conditions, which are incorporated in, and made a part of the permit.

Updated Special Condition:

9. **Manatee Conditions:** The Permittee shall comply with the "Standard Manatee Conditions for In-Water Work - 2011" provided in Attachment 5 of this permit.

New Special Conditions:

11. Preliminary Blasting Plan: As part of best management practices and endangered species coordination, the permittee will implement the Preliminary Blasting Plan affixed to the DA permit SAJ-2006-06547 as attachment 7. Should the Corps or any other entity require a change to the Preliminary Blasting Plan, the permittee shall submit a modification request to the Corps' Regulatory Office for review.

12. Ingress/Egress - Due to the presence of hardbottom reefs adjacent to the channel, work vessels and any towed equipment (e.g., cables) shall stay within the designated entrance channel during transit between the dredging area, the ODMDS (transit shall be through the channel), and/or reef mitigation sites (transit shall be through the corridor). During transit to and from the Miami ODMDS, the hopper dredge or disposal barge or scow shall remain within the navigational channel until east of the buoy G'1". The hopper dredge or disposal barge or scow shall not transit the Particularly Sensitive Sea Area during transit to or from the ODMDS. If an impact occurs as a result of the vessel leaving the channel or approved corridor, the Corps shall be notified as soon as possible and no later than the next business day, and thereafter a survey team shall be deployed to assess the impact and conduct remediation as necessary. Remediation work (including re-attachment of scleractinian corals) shall be conducted immediately after the survey by the survey crew. Any damage that is not remediated shall be subject to mitigation. Remediation activities shall follow the FLDEP-SEFCRI "Rapid Response and Restoration for Coral Reef Injuries in Southeast Florida, Guidelines and Recommendations" dated June 2007. This report is available at

[http://www.dep.state.fl.us/coastal/programs/coral/reports/MICCI/MICCI\\_Project2\\_Guidelines.pdf](http://www.dep.state.fl.us/coastal/programs/coral/reports/MICCI/MICCI_Project2_Guidelines.pdf).

13. This permit does not authorize excessive leakage, overflow, or spill out of barges, dump scows, or hopper dredges

of water and excavated material while en route to the ODMDS Release Zone. Failure to repair leaks or change the method of operation which is resulting in the leakage, overflow, or spillage will result in suspension of dredging operations and require prompt repair or change of operation to prevent overflow, leakage, or spillage as prerequisite to the resumption of dredging. Excessive leakage is defined by average loss of draft during transit from the dredging area to the disposal area (forward draft loss plus aft draft loss divided by 2) in excess of 1 foot. Any exceedance of the 1 foot requirement will be referred to the Corps' Regulatory Division, Special Projects and Enforcement Section at (305-779-6050).

#### 14. Electronic Tracking System (ETS) for Ocean Disposal Vessels

The Corps shall use Dredge Quality Management (DQM) to monitor dredging and dredge material disposal. The contractor shall use an Electronic Tracking System (ETS) to navigate to and from the harbor to the ODMDS. This ETS shall be established, operated and maintained by the contractor to continuously track in real-time the horizontal location and draft condition of the disposal vessel (hopper dredge or disposal barge or scow) for the entire dredging cycle, including dredging area and disposal area. The ETS shall be capable of displaying and recording in real-time the disposal vessel's draft and location per the DQM specifications. If the electronic positioning system fails or navigation problems are detected, all disposal operations shall cease until the failure or navigation problems are corrected. The contractor shall certify the accuracy of the electronic positioning system proposed for use during disposal operations. The certification shall be accomplished by providing current certification documentation from the National DQM Program for scow and hopper dredge instrumentation systems. The National DQM certification is valid for one year from the date of certification.

15. The Permittee shall comply with the special conditions of Appendix B in the EPA's and Corps' September 2008 Miami ODMDS Site Management and Monitoring Plan (SMMP), or any subsequent revision to the SMMP by EPA and the Corps, including the September 2011 revision (both attached to this modification).

16. GENERIC SPECIAL CONDITIONS FOR MPRSA SECTION 103 PERMITS

JACKSONVILLE DISTRICT

I. DISPOSAL OPERATIONS

A. For this permit, the term disposal operations shall mean: navigation of any vessel used in disposal of operations, transportation of dredged material from the dredging site to the Miami ODMDS, proper disposal of dredged material at the disposal area within the Miami ODMDS, and transportation of the hopper dredge or disposal barge or scow back to the dredging site.

B. The Miami ODMDS is defined as the rectangle with center coordinates of 25°45.00'N latitude and 80°03.37'W longitude (NAD 27) or state plane coordinates 516,078 N and 966,926 E (NAD83). The site coordinates are as follows:

	Geographic (NAD27)		Geographic (NAD83)		State Plane (FL East 0901 Ft NAD83)	
Center	25°45.00'N	80°03.37'W	25°45.02'N	80°03.35'W	516,078 N	966,926 E
NW Corner	25°45.50'N	80°03.90'W	25°45.52'N	80°03.89'W	519,086 N	963,978 E
NE Corner	25°45.50'N	80°02.83'W	25°45.52'N	80°02.82'W	519,128 N	969,829 E
SW Corner	25°45.50'N	80°03.90'W	25°45.52'N	80°03.89'W	513,028 N	964,021 E
SE Corner	25°45.50'N	80°02.83'W	25°45.52'N	80°02.82'W	513,070 N	969,874 E

C. No more than 229,000 cubic yards of dredged material excavated at the location defined in Section 2 of this modification and as depicted on pages 19 and 20 of the Corps approved plans, date stamped June 13, 2012, are authorized for disposal at the Miami ODMDS.

D. The permittee shall use an electronic positioning system to navigate to and from the Miami ODMDS. For this section of the permit, the electronic positioning system is defined as: a differential global positioning system or a microwave line of site system. Use of LORAN-C alone is not an acceptable electronic positioning system for disposal operations at the Miami ODMDS. If the electronic positioning system fails or navigation problems are detected, all disposal operations shall cease until the failure or navigation problems are corrected.

E. The permittee shall certify the accuracy of the electronic positioning system proposed for use during disposal operations at the Miami ODMDS. The certification shall be accomplished by direct comparison of the electronic positioning system's accuracy with a known fixed point.

F. The permittee shall not allow any water or dredged material placed in a hopper dredge or disposal barge or scow to flow over the sides or leak from such vessels during transportation to the Miami ODMDS.

G. A disposal operations inspector and/or captain of any tug boat, hopper dredge or other vessel used to transport dredged material to the Miami ODMDS shall insure compliance with disposal operation conditions defined in this permit.

1. If the disposal operations inspector or the captain detects a violation, he shall report the violation to the permittee immediately.

2. The permittee shall contact the U.S. Army Corps of Engineers, Jacksonville District's Regulatory Branch 305-779-6050 and EPA Region 4 at (404) 562-9391 to report the violation within twenty-four (24) hours after the violation occurs. A complete written explanation of any permit violation shall be included in the disposal summary report.

H. When dredged material is disposed, no portion of the hopper dredge or disposal barge or scow shall be outside of the boundaries of the Miami ODMDS as defined in Section 2 of this permit modification. Additionally, disposal shall be initiated within the disposal zoned defined as:

	Geographic (NAD83)		State Plane (FL East 0901 Ft NAD83)	
Center	25°44.943'N	81°03.354'W	515,593 N	966,921 E
NW Corner	25°45.023'N	81°03.709'W	516,064 N	964,969 E
NE Corner	25°45.023'N	81°02.999'W	516,092 N	968,865 E
SW Corner	25°44.863'N	81°03.709'W	515,095 N	964,976 E
SE Corner	25°44.863'N	81°02.999'W	515,123 N	968,872 E

I. The permittee shall use an electronic tracking system (ETS) that will continuously track the horizontal location and draft condition of the disposal vessel (hopper dredge or disposal barge or scow) to and from the Miami ODMDS. Data shall be

collected at least every 500 feet during travel to and from the ODMDS and every minute or every 200 feet of travel, whichever is smaller, while approaching within 1,000 feet and within the ODMDS. The permittee shall use Florida State Plane or latitude and longitude coordinates (North American Datum 1983). State Plane coordinates shall be reported to the nearest foot and latitude and longitude coordinates shall be reported as decimal degrees out to 6 decimals. Westerly longitudes are to be reported as negative. Draft readings shall be recorded in feet out to 2 decimals.

J. The permittee shall record electronically for each load the following information:

- a. Load Number
- b. Disposal Vessel or Scow Name
- c. Tow Vessel Name (if scow used)
- d. Captain of Disposal or Tow Vessel
- e. Estimated volume of Load
- f. Description of Material Disposed
- g. Source of Dredged Material
- h. Date, Time and Location at Start at Initiation and Completion of Disposal Event
- i. The ETS data required by Special Condition I.

K. The permittee shall conduct a bathymetric survey of the Miami ODMDS within 3 months prior to project disposal and within 60 days following project completion.

1. The number and length of the survey transects shall be sufficient to encompass the Miami ODMDS and a 500 foot wide area around the site. The transects shall be spaced at 500-foot intervals or less.

2. Vertical accuracy of the survey shall be .05 feet. Horizontal location of the survey lines and depth sounding points will be determined by an automated positioning system utilizing either microwave line of site system or differential global positioning system. The vertical datum shall be mean lower low water (m.l.l.w) and the horizontal datum shall use Florida State Plane or latitude and longitude coordinates (North American Datum 1983). State Plane coordinates shall be reported to the nearest 0.10 foot and latitude and longitude coordinates shall be reported as decimal degrees to 6 decimal points.

L. Between December 1 and March 31, NMFS requires monitoring by endangered species observers with at-sea large whale identification experience to conduct daytime observations for whales. During daylight hours, the vessel must take precautions to avoid whales. During evening hours or when there is limited visibility due to fog or sea states of greater than Beaufort, 3, the vessel must slow down to 5 knots or less when traversing between areas if whales have been spotted within 15nm of the vessel's path within the previous 24 hours. In addition, vessel shall maintain a 500 yard buffer zone between the vessel and any sighted whale.

## II. REPORTING REQUIREMENTS

A. The permittee shall send the U.S. Army Corps of Engineers, Jacksonville District's Regulatory Branch (9900 SW 107<sup>th</sup> Avenue, Suite 203, Miami, FL 33176) and EPA Region 4's Wetlands, Coastal and NonPoint Source Branch (61 Forsyth Street, Atlanta, GA 30303) a notification of commencement of work at least fifteen (15) days before initiation of any dredging operations authorized by this permit.

B. Electronic data required by Special Conditions I and J shall be provided to EPA Region 4 on a daily basis. Data shall be submitted as an eXtensible Markup Language (XML) document via Internet e-mail to [DisposalData.R4@epa.gov](mailto:DisposalData.R4@epa.gov). XML data file format specifications are available from EPA Region 4. Electronic tracking system disposal data in XML format will be provided to the EPA by the Corps by Close of Business (COB) the day subsequent to the day data is collected. For instance, data collected on a Wednesday will be submitted by COB on Thursday. Data collected on Friday and over the weekend will be compiled on Monday and provided to the EPA by COB on Tuesday. This schedule has been setup to comply with the requirements of the Miami ODMDS SMMP.

C. The permittee shall send one (1) copy of the disposal summary report to the Jacksonville District's Regulatory Branch and one (1) copy of the disposal summary report to EPA Region 4 documenting compliance with all general and special conditions defined in this permit. The disposal summary report shall be sent within 45 days after completion of the disposal operations authorized by this permit. The disposal summary report shall include the following information:

1. The report shall indicate whether all general and special permit conditions were met. Any violations of the permit shall be explained in detail.

2. The disposal summary report shall include the following information: Corps permit number, actual start date and completion date of dredging and disposal operations, total cubic yards disposed at the Miami ODMDS, locations of disposal events, and pre and post disposal bathymetric survey results (in hard and electronic formats).

### III. PERMIT LIABILITY

A. The permittee shall be responsible for ensuring compliance with all conditions of this permit.

B. The permittee and all contractors or other third parties who perform an activity authorized by this permit on behalf of the permittee shall be separately liable for a civil penalty of up to \$50,000 for each violation of any term of this permit they commit alone or in concert with the permittee or other parties. This liability shall be individual, rather than joint and several, and shall not be reduced in any fashion to reflect the liability assigned to and civil penalty assessed against the permittee or any other third party as defined in 33 U.S.C. Section 1415(a).

C. If the permittee or any contractor or other third party knowingly violates any term of this permit (either alone or in concert), the permittee, contractor or other party shall be individually liable for the criminal penalties set forth in 33 U.S.C. Section 1415(b).

In order for an Request for Appeal(RFA) to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the above address by September 25, 2012. It is not necessary to submit an RFA form to the Division office, if you do not object to the determination/decision in this letter.

The impact of your proposal on navigation and the environment has been reviewed and found to be insignificant. The permit is hereby modified in accordance with your request. You should

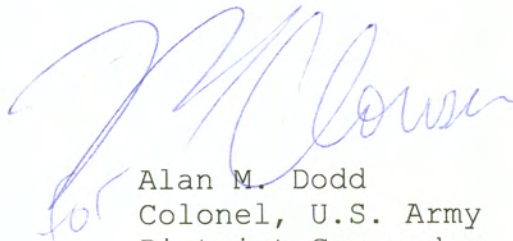


attach this letter to the permit. All other conditions of the permit remain in full force and effect.

If you have any questions concerning permit modification, please contact the project manager Megan Clouser at the letterhead address, by telephone at 305-526-7182 or by electronic mail at Megan.L.Clouser@usace.army.mil.

Thank you for your cooperation with our permit program. The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit <http://per2.nwp.usace.army.mil/survey.html> and complete our automated Customer Service Survey. Your input is appreciated - favorable or otherwise. Please be aware this web address is case sensitive and should be entered as it appears above.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

A handwritten signature in blue ink, appearing to read "Alan M. Dodd".

for Alan M. Dodd  
Colonel, U.S. Army  
District Commander

Enclosure

Copy/ies Furnished:

CESAJ-PD  
CESAJ-RD-PE

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL**

Applicant: Port of Miami	File Number: <b>SAJ-2006-06547</b>	Date: July 25, 2012
Attached is:	See Section below	
INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
PERMIT DENIAL	C	
APPROVED JURISDICTIONAL DETERMINATION	D	
PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at [http://www.usace.army.mil/CECW/Pages/reg\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- *ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.*
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- *ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.*
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- *ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.*
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.



**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

**Project Manager as noted in letter**

If you only have questions regarding the appeal process you may also contact:

**Jason Steele  
404-562-5137**

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number: