



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

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TALLAHASSEE, FLORIDA 32399-2400

RICK SCOTT
GOVERNOR

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LT. GOVERNOR

JONATHAN P. STEVERSON
SECRETARY

FINAL ORDER OF VARIANCE

GRANTEE:

U.S. Army Corps of Engineers
c/o Eric P. Summa, Chief
P.O. Box 4970
Jacksonville, FL 32232-0018

PROJECT INFORMATION:

Variance No. 0264288-005-BV
Date of Issue: May 29, 2015
Expiration Date: Same as expiration date of Permit
No. 0264288-004-JC
County: Nassau
Project: Nassau County Beach Nourishment

FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants, to the U.S. Army Corps of Engineers (Corps), a variance from the requirements of from Rule 62-4.242(2)(a)2.b., Florida Administrative Code (F.A.C.), to provide relief from the antidegradation requirement for turbidity in Outstanding Florida Waters (OFW).

This variance will temporarily establish a maximum allowable turbidity level of 29 NTUs above background at the edge of the mixing zone for the borrow area. This temporary variance shall only be valid during the dredging activities authorized in Permit No. 0264288-004-JC, and shall expire when the permit expires on May 29, 2030, unless the permit is modified to grant a time extension.

The associated joint coastal permit (No. 0264288-004-JC) is for the periodic nourishment of 4.0 miles of previously restored beach along the Nassau County shoreline. The design template for the federally authorized project has a flat back-berm at an elevation of +9.6 feet North Atlantic Vertical Datum (NAVD), which ties into the existing topography at the landward end of the berm, and extends up to 76 feet seaward from the established Construction Base Line (CBL), as shown in the permit drawings. The berm will then have a gradual slope of 1:20 (vertical: horizontal) until it ties into the existing sea floor. A construction staging area and a construction access point have been established. The offshore borrow area is 943.56 acres in size, with a variable maximum dredge depth, as shown in the permit drawings. The maximum allowable dredge depth does not include the indicated 2-foot buffer, dredging into which should be avoided.

There are no natural resources expected to be significantly impacted by the turbidity generated from the dredging.

After reviewing the Petition for Variance, the Department concluded that it satisfied the requirements and criteria set forth in Section 403.201, Florida Statutes (F.S.), and Rule 62-110, F.A.C.

The *Consolidated Notice of Intent to Issue Joint Coastal Permit, Variance and Authorization to Use Sovereign Submerged Lands* notified the Corps of the Department's proposed agency action and advised them of their right to a hearing pursuant to Sections 120.569 and 120.57, F.S. On March 18, 2015, notice was given in the Fernandina Beach News, and on March 18, 2015, notice was given in the Florida Administrative Register informing the public of the Department's intended action and offering an opportunity for hearing pursuant to Sections 120.569 and 120.57, F.S. A copy of the notice is attached as Exhibit A.

The Grantee and interested parties having been advised of their rights under Chapter 120, F.S., and having failed or declined to file a Petition pursuant to Sections 120.569 and 120.57, F.S., are hereby deemed to have waived those rights. Acceptance of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof. It is therefore:

ORDERED by the State of Florida, Department of Environmental Protection, that the Petition of the Corps requesting a variance be and is hereby granted, subject to the conditions specified by the Department in Permit No. 0264288-004-JC.

The variance shall also be subject to the following conditions:

1. Given good cause by either party, the Director of the Division of Water Resource Management may alter the terms and conditions of the variance.
2. The variance is temporary and shall only be valid for up to 150 days during each event that is conducted under Permit No. 0264288-004-JC.
3. This variance shall be subject to all monitoring conditions required by Permit No. 0264288-004-JC.
4. Following each event, the Grantee shall compile the turbidity monitoring data to determine if 29 NTUs above background was actually needed, or if a lower level could be achieved. Within 90 days following each event, the Grantee shall submit a summary report of this analysis to the JCP Compliance Officer. If a lower turbidity level can be achieved without significantly increasing time and costs of construction, the Department will modify the permit to reflect the lower antidegradation standard for this project.

Any Party to this Order has the right to seek judicial review of the Order Pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of

the 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 this Order is filed with the clerk of the Department.

DONE AND ORDERED this 29th day of May, 2015, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



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

Attachment: Exhibit A (Variance Notice)

cc: JCP Compliance Officer	Ann Lazar, FCO
Marty Seeling, DWRM	Matt Kershner, DEP NE District
Tom Jacobs, DWRM	Marshall Flake, DEP, DRP
Jennifer Coor, DWRM	BIPP Permit File
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Wendy Dauberman-Zerby, Corps	Kellie Youmans, FWC

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.



05/29/15

Deputy Clerk

Date

Prepared by Tom Jacobs