



Florida Department of Environmental Protection

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Tallahassee, Florida 32399-3000

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Secretary

CERTIFIED - RETURN RECEIPT REQUESTED

December 20, 2012

Eric Summa
Chief, Environmental Branch
U.S. Army Corps of Engineers
701 San Marco Blvd.
Jacksonville, Florida 32207

Permit Modification No. 0221569-010-JN
Permit No. 0221569-008-JM, Pinellas County
Treasure Island/Long Key, Egmont Shoal East Borrow Area Modification

Dear Mr. Summa:

Your request to modify Permit No. 0221569-008-JM was received on October 5, 2012, and has been reviewed by Department staff. The proposed permit modification is to add Egmont Shoal East Borrow Area as a sand source for the Treasure Island/Long Key Nourishment project.

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 A JOINT COASTAL PERMIT, VARIANCE AND AUTHORIZATION TO USE SOVEREIGN SUBMERGED LANDS*, for Permit No. 0221569-008-JM, dated January 8, 2010, available at the Division website:

ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/pinellas/issued/0221569_Treasure_Island_Long_Key_Nourishment_Project/008-JM/Intent%20to%20Issue/

On May 17, 2004, Permit Number **0221569-001-JC** was issued to authorize approximately 294,000 to 374,000 cubic yards of material dredged from the federal navigation channel at Pass-a-Grille to be placed on three sections of beach: North Treasure Island (from R-127 to 200 feet south of R-128); central Treasure Island (from 200 feet south of R-137 to R-139.5); and Long Key (from R-144 to R-148). In addition, the permit authorized the alteration of the south jetty at Blind Pass (near R-144), and authorized construction and maintenance of five temporary Geotextile T-head groins in the Upham Beach area, between R-144.5 and R-146.

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On May 23, 2004, a variance from Rule 62-4.244(5)(c), F.A.C., was granted, to temporarily establish expanded mixing zones, which measure 300 meters offshore and 1,500 meters downdrift from the beach discharge point and 1,500 meters downcurrent from the dredge (File No **0221569-002-EV**).

On August 5, 2004, Permit Modification **0221569-003-JC** was issued to place an additional 43,000 cubic yards of beach compatible material along the central Treasure Island segment. This extended the northern fill limit to R-136 and the southern fill limit to 750 feet south of R-140. The berm elevation and construction slopes for both the Treasure Island segments and Long Key segment were revised to achieve a more “turtle-friendly” constructed beach. The modified onshore and offshore slopes were 1:30 and 1:20 (Vertical:Horizontal), respectively; and the modified construction berm elevation was set at +5.0 ft. (NGVD).

On August 16, 2004, Permit Modification No. **0221569-004-JC** was issued to allow for T-head groin construction on Long Key during the sea turtle nesting season (May 1 to October 31), pursuant to the Terms and Conditions of the U.S. Fish and Wildlife Service Biological Opinion. The Specific Conditions did not allow for nest relocation during groin construction.

On October 22, 2004, Permit Modification No **0221569-005-JC** was issued to change the slope of the design berm template along the Sunset Beach area (R-137 to R-142) from a 1:30 slope to a 1:20 slope, so that the berm width at the original six-foot berm elevation was increased from 50 to 100 feet. The modification was requested because the previously authorized fill volume along the Sunset Beach area (R-137 to R-142) was insufficient to meet the design life. The additional 51,000 cubic yards of material would correct the oversight and maintain the four year nourishment interval.

On August 8, 2006, Permit Modification No. **0221569-006-EM** added the Egmont Channel Borrow Area, which was previously utilized in the Sand Key Project (52-292320-9). That modification also increased the fill template at North Treasure Island from R-127 to R-126C, approximately 800 feet to the north.

On August 10, 2006, the Department issued Permit Modification No. **0221569-007-EM** to correct an error in the specified turbidity standard. Originally, the permit condition required an anti-degradation standard for turbidity of 0 NTUs above background. Since the Egmont borrow area was not within Outstanding Florida Waters (OFW), as was the original borrow area, the compliance level should have been set at the turbidity standard of 29 NTUs.

On March 29, 2010, the Department issued a major modification to Permit Number 0221569-001-JC. The modification superseded the original permit and became Permit No. **0221569-008-JM**. This major modification transferred the permit to the U.S. Army Corps of Engineers, allowed dredging to occur one time only from a borrow area located adjacent to the federal navigation channel, seaward of Pass-a-Grille Pass, altered the south jetty at Blind Pass by placing

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additional armor stone to close a 40-foot gap between it and the breakwater and authorized the construction and maintenance of five temporary, sand-filled, geotextile, T-head groins.

On March 29, 2010, the Department granted Variance No. **0221569-009-BV** from Rule 62-4.244(5)(c), F.A.C., to temporarily establish an expanded mixing zone for the Blind Pass borrow area that extended 1000 meters downcurrent from the dredge site.

Modification Justification / Staff Assessment:

Adequacy of Geologic and Geotechnical Data and Analysis

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.

Vibracores were collected for this project in 2000. The vibracores were taken within the proposed borrow area with 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 completed, and grain size distribution curves created. Composite grain size curves were then created for the borrow area and for each core. This information was submitted in the application. The procedures employed by the Applicant’s coastal engineer in the data collection, processing and analysis for the geotechnical investigation are consistent with generally accepted professional standards and practices of coastal engineering. This information was sufficient for the Department to determine the geotechnical portion of the permit application to be complete.

In accordance with Rule 62B-41.008(1)(k)4, F.A.C., a sediment quality control/quality assurance plan for this project was submitted in October 2009. That plan will ensure that the sediment from the borrow area to be used, including the new Egmont Shoal East Borrow Area, will meet the standards in Rule 62B-41.007(2)(j), F.A.C. The Department requires compliance with these plans.

Material Characterization

Composites	Mean grain size	Sorting	Silt (passing #230 sieve)	Fine Gravel (retained on #4 sieve)
Egmont Shoal East Borrow Area	0.24 mm	0.87	1.83%	1.61%
Beach	0.28 mm	1.16	1.04%	2.53%

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Beach and Borrow Area Compatibility

The fill material to be obtained from Egmont Shoal East Borrow Area is sand that is similar to the beach sediment in terms of grain size, fine gravel content, and silt content. Based upon the information and analysis provided by the applicant, the material to be excavated from the proposed borrow area, for placement in the beach project area, is expected to maintain the general character and functionality of the material occurring on the beach and in the adjacent dune and coastal system with Rule 62B41.007(2)(j), F.A.C.

The proposed modification was requested to provide sufficient beach-quality sand to sustain the approved beach nourishment project. The Applicant has provided adequate engineering data that demonstrates the proposed project has been designed to achieve these goals, while minimizing potential adverse impacts to the coastal system.

Department staff and the FWC had previously reviewed a modification request for the Sand Key, Egmont Shoal East Borrow Area Modification No. 0238664-007-JN and had determined that dredging the Egmont Shoal East Borrow Area is not expected to have any substantial impact to the coast system in the surrounding area. The same analysis was completed for dredging the Egmont Shoal East Borrow Area for the Treasure Island/Long Key Nourishment project. Again, the Department determined that the proposed activity is not expected to have any substantial impact to the coast system.

The project description shall be revised as follows (~~strike throughs~~ are deletions, underlines are additions):

PROJECT DESCRIPTION:

The project is for the following activities:

1) to place between 337,000 and 417,000 cubic yards of dredged material along three beach fill segments on Treasure Island and Long Key (Upham Beach) located between FDEP reference monuments R-126C and 200 feet south of R-128; R-136 to 700 feet south of R-140, and between R-144 and R-148. For the August 2004 beach nourishment event, most of the proposed fill material will be dredged from the federal navigation channel at Pass-a-Grille, located south of Long Key. Some additional material may be dredged one time only from a borrow area located adjacent to the federal navigation channel, seaward of Pass-a-Grille Pass. The 2006 nourishment event will utilize the Egmont Channel Borrow area, which was utilized in the Sand Key Project (Permit No. 52-292320-9), and the approved pipeline corridors depicted in the permit drawings. The 2010 nourishment event will utilize material dredged from Blind Pass to fill the Long Key (Upham Beach) segment between R-144 and R-148. If the Blind Pass dredging

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produces less than 200,000 cubic yards of material for the 2010 nourishment event, the beach will not be completely filled to the full planned template volume. The Egmont Shoal East Borrow Area may be used as an additional sand source (up to 550,000 cubic yards) for the 2013 nourishment event.

(2) to modify the south jetty at Blind Pass located at FDEP reference monument R-144, by placing additional armor stone to close the existing 40-foot gap between it and the currently detached breakwater; and

(3) to construct and maintain five temporary sand-filled geotextile T-head groins to be located in the Upham Beach area between FDEP reference monuments R-144.5 and R-146.

The Specific Conditions shall be revised as follows (~~strike throughs~~ are deletions, underlines are additions):

MONITORING REQUIRED:

1. Water Quality

Dredge sites:

Parameter: Turbidity - Nephelometric Turbidity Units (NTUs)

Frequency: Every four hours during dredging for use of the Pass-a-Grille Pass and Channel or Blind Pass within the Aquatic Preserve. While dredging the Egmont Channel Borrow area or the Egmont Shoal East Borrow Area, samples shall be collected twice daily, at least four hours apart, beginning at least two hours after dredging begins and continuing during dredging activities.

Pass-a-Grille Pass and Channel Background station: At least 500 meters in the opposite direction of the prevailing flow, clearly outside of any visible turbidity plume. Samples shall be collected from the surface and mid-depth.

Egmont Channel or Egmont Shoal East Borrow Area Background stations: At least 200 meters in the opposite direction of the prevailing flow, clearly outside of any visible turbidity plume. Samples shall be collected at mid-depth.

Blind Pass Channel Background Station: At least 300 meters in the opposite direction of the prevailing flow, clearly outside of any visible turbidity plume. Samples shall be collected from the surface and mid-depth.

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Pass-a -Grille Pass and Channel Compliance Station: No more than 1,500 meters downcurrent from the dredge, in the densest portion of any visible turbidity plume. Samples shall be collected from the surface and mid-depth.

Egmont Channel or Egmont Shoal East Borrow Area Compliance Stations: Not more than 150 meters downcurrent from the dredge, in the densest portion of any visible turbidity plume. Samples shall be collected at mid-depth.

Blind Pass Channel Compliance Station: No more than 1,000 meters downcurrent from the dredge, in the densest portion of any visible turbidity plume. Samples shall be collected from the surface and mid-depth.

Beach Disposal Area:

Parameter: Turbidity - Nephelometric Turbidity Units (NTUs)

Frequency: Every six hours during pumping operations.

Background: At least 1,000 meters updrift from the discharge point, clearly outside of any visible turbidity plume. Samples shall be collected from the surface and middepth, at the same distance offshore as the compliance station.

Compliance: No more than 300 meters offshore and no more than 1,500 meters downdrift from the discharge point within the densest portion of any visible turbidity plume. Samples shall be collected from the surface and mid-depth.

Weekly summaries of all monitoring data shall be submitted to the Compliance Officer of the ~~Bureau of Beaches and Coastal Systems~~ Division of Water Resource Management and to the Southwest District Office within one week of analysis with documents containing the following information: (1) "Treasure Island/Long Key Nourishment Project, Permit Number 0221569-008-BM"; (2) dates and times of sampling and analysis; (3) a statement describing the methods used in collection, handling, storage and analysis of the samples; (4) a map indicating the sampling locations; and (5) a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data.

Monitoring reports shall also include the following information for each sample that is taken: a) time of day samples taken; b) depth of water body; c) depth of sample; d) antecedent weather conditions; e) tidal stage and direction of flow; and f) wind direction and velocity.

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The compliance locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. If monitoring reveals turbidity levels at the compliance sites are greater than 0 NTUs above the associated background turbidity levels, at the nourishment site, Pass-a-Grille Pass and Channel, or Blind Pass, or greater than 29 NTUs above the associated background turbidity levels at the Egmont Channel Borrow Area or the Egmont Shoal East Borrow Area, 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 JCP-Compliance Officer in Tallahassee at (850) 414-7716 or JCPCompliance@dep.state.fl.us.

Monitoring reports shall be submitted to the Compliance Officer of the ~~Bureau of Beaches and Coastal Systems~~Division of Water Resource Management in Tallahassee. Failure to submit reports in a timely manner constitutes grounds 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 being provided in partial fulfillment of the monitoring requirements in Permit No. 0221569-008-BM, Treasure Island/Long Key Nourishment Project."**

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

Plate 1 and Plate 2 (dated December 3, 2012) 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 change the determination that the project is clearly in 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, and the attached drawings, we are notifying all necessary parties of the modification.

This letter of approval does not alter the **May 17, 2014**, expiration date, 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.

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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.

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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.

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 Liz Yongue by email at Elizabeth.Yongue@dep.state.fl.us or by telephone at (850) 414-7798.

Sincerely,

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

MKS/edy

Enclosures: Approved Project Drawings (2 pages)

cc: Jim McAdams, USACE	Vladimir Kosmynin, DWRM
James Lagrone, USACE	Robert Brantly, DWRM
Paul Karch, USACE	Subarna Malakar, DWRM
Aubree Hershorin, USACE	El Kromhout, DWRM
Bruce Laurion, Tampa Port Authority	Lainie Edwards, DWRM
Larry Shipp, Tampa Port Authority	Mary Yeargan, DEP, Southwest District
Gene Chalecki, DWRM	Mark Sramek, NMFS
Catherine Florcko, DWRM	Andy Squires, Pinellas County
Roxane Dow, DWRM	JCP Compliance Officer
Alex Reed, DWRM	BBCS 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.

Laven Wild

Deputy Clerk

12-20-12

Date