



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

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August 16, 2013

Eric Summa
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Jacksonville, Florida 32207

Permit Modification No. 0221569-011-JN
Permit No. 0221569-008-JM, Pinellas County
Treasure Island/Long Key, Pass-a-Grill Extension Modification

Dear Mr. Summa:

Your request to modify Permit No. 0221569-008-JM was received on June 18, 2013, and has been reviewed by Department of Environmental Protection (Department) staff. The proposed permit modification is to expand beach placement areas of the original template for the Treasure Island and Long Key Nourishment project, and to add the Pass-a-Grille segment at the south end of Long Key as a placement site for the 2013-2014 nourishment event.

On August 10, 1995, the Department issued Permit No. **DBS-334**, for fill placement at Long Key. The permit application originally included two rubble mound groins, but the groin structures were withdrawn from the project scope prior to permit issuance. The Department has historically preferred to find a nonstructural solution to the erosion problem in the Upham Beach area of Long Key. The Department's primary concern has been the potential for adverse impacts to downdrift beaches as a result of the placement of proposed hard structures. The Department's concern about hard structures has resulted in the withdrawal of multiple applications for structural solutions to the erosion at Long Key.

On August 2, 1999, the Department issued Joint Coastal Permit (JCP) No. **0155223-001-JC**, for fill placement at Long Key. The original permit application (File No. **0132189-001-JC**) included four sand-filled geotextile T-head groins (later revised to include five such T-head groins). Prior to issuance, the application was split into two applications, one application for the sand placement (Permit No. 0155223-001-JC), and one application for the T-head groins (Application No. 0132189-001-JC). The application for the T-head groins was later withdrawn. Later versions of the structures were eventually approved by the Department (discussed below);

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however, Department staff has determined that the need to add the Pass-a-Grille segment for nourishment is not a result of erosional impact from the permitted structures at Upham Beach.

On February 28, 2003, the Department issued JCP No. **0198739-001-JC** (known as the Upham Beach Stabilization Project), for beach placement at Upham Beach, between DEP Reference Monuments R-144 and R-148; to add supplemental armor stone to the existing Blind Pass jetty at R-144; and to construct five temporary sand-filled geotextile T-head groins at Upham Beach, between R-144.5 and R-146.

On May 17, 2004, Permit Number **0221569-001-JC** was issued to authorize the placement of approximately 294,000 to 374,000 cubic yards of material dredged from the federal navigation channel at Pass-a-Grille on the following 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 placement of additional armor stone on the south jetty at Blind Pass (near R-144), and the construction and maintenance of five temporary Geotextile T-head groins in the Upham Beach area, between R-144.5 and R-146. This permit superseded the previous JCP 0198739-001-JC.

On May 23, 2004, a variance (File Number **0221569-002-EV**) from Rule 62-4.244(5)(c), F.A.C., was granted, to temporarily establish expanded mixing zones measuring 300 meters offshore and 1,500 meters downdrift from the beach discharge point, and 1,500 meters downcurrent from the dredge.

On August 5, 2004, the Department issued Permit Modification Number **0221569-003-JC** 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” sloping berm. 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 feet National Geodetic Survey Datum (NGVD).

On August 16, 2004, the Department issued Permit Modification No. **0221569-004-JC** 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, the Department issued Permit Modification No **0221569-005-JC** 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. The berm width was increased from 50 to 100 feet at the original six-foot berm elevation, resulting in the placement of an additional 51,000 cubic yards of material. The

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modification was requested because the previously authorized fill volume along the Sunset Beach area (R-137 to R-142) was insufficient to meet the project's design life.

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

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 Nephelometric Turbidity Units (NTUs) above background. Since the Egmont Channel borrow area was not within Outstanding Florida Waters (OFW), the compliance level was increased to 29 NTUs above background, which is the water quality standard for turbidity.

On March 29, 2010, the Department issued Major Modification Number **0221569-008-JM**, which superseded the original permit (No. 0221569-001-JC). This major modification included transferring the permit to the U.S. Army Corps of Engineers; allowing dredging to occur one time only from a borrow area located adjacent to the federal navigation channel, seaward of Pass-a-Grille Pass; altering the south jetty at Blind Pass by placing 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. The Department issued that major modification in conjunction with 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. The mixing zone extended 1000 meters downcurrent from the dredge site.

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 and Variance No. 0221569-009-BV, 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 December 20, 2012, the Department issued Modification No. **0221569-010-JN** to add the Egmont Shoal East Borrow Area as a sand source for the Treasure Island/Long Key Nourishment project.

The Pass-a-Grille segment of Long Key, which extends from 200 feet north of R-160 to 500 feet south of R-165, is now being added to the Treasure Island/Long Key Nourishment Project. It was originally restored in 1986, and an erosion control line was established at that time. On November 1, 2004, the Department issued an emergency JCP (No. **0238985-001-JC**) to replace

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only the sand that was lost during Hurricanes Charley, Frances and Jeanne. The nourishment template that is currently proposed for Modification No. 0221569-011-JN was not approved at that time. However, the actual construction filled the entire template without authorization. No enforcement action was taken by the Department for that violation.

MODIFICATION JUSTIFICATION

Department staff and the Florida Fish and Wildlife Conservation Commission (FWC) have reviewed the modification request for the addition of the Pass-a-Grille segment and the expanded placement areas to the Treasure Island/Long Key Nourishment project. The construction fill template has a relatively mild seaward slope of 1:20 (Vertical:Horizontal). A mild seaward slope is necessary for the more erosive winter season construction using sand with a mean grain size of 0.24 millimeters. The Egmont Shoal East Borrow Area was approved under Permit Modification No. 0221569-010-JN. The Department's review of that application included data and analysis indicating the borrow area had a sufficient volume of beach-compatible sediment to conduct multiple beach nourishment events. The application for the current modification indicates that there are no hardbottom communities within or next to the ETOF that would be affected by the proposed addition to the template. Therefore, the Department has determined that the proposed activity is not expected to have any substantial adverse impact to the coast system, endangered wildlife or habitat.

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

ACTIVITY DESCRIPTION:

The project is for the following activities:

- 1) to place between 337,000 and 417,000 cubic yards of dredged material along ~~the~~three beach fill segments on Treasure Island and Long Key (Upham Beach) at the following locations: between FDEP reference monuments R-126 and 2400 feet south of R-128; R-136 to 7400 feet south of R-141;~~0,~~ and between R-144 and 400 feet south of R-1486; and between 200 feet north of R-160 and 500 feet south of R-165. For the August 2004 beach nourishment event, most of the proposed fill material will be dredged 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 produces less than 200,000 cubic yards of material for the 2010 nourishment event, the beach will not be completely filled to the full

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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 activity location has been revised as indicated below (~~strikethroughs~~ are deletions, underlines are additions):

ACTIVITY LOCATION:

The nourishment activity is located along the Upham Beach and Pass-a-Grille Beach shorelines on ~~the north end of~~ Long Key in St. Petersburg, and the north and central segments of Treasure Island (Sunshine Beach and Sunset Beach), Pinellas County, Sections 1, 15, 25, 26, and 36, Townships 32S and 31S, Range 15E, Gulf of Mexico. The borrow area for the 2010 nourishment event is located at Blind Pass, Pinellas County, Section 36, 1 and 6, Township 31 and 32 S, Range 15 and 16E. Both the Blind Pass borrow area and the beach nourishment sites ~~water bodies~~ are designated as Class III Waters, Pinellas County Aquatic Preserve, Outstanding Florida Waters. The borrow area for the 2012 and 2013 nourishment events is located in the Gulf of Mexico, north of Egmont Key, in Hillsborough County, not OFW.

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

7. ~~In order to ensure that marine turtles are not adversely affected by the construction activities authorized by this permit, the Permittee shall adhere to the following conditions:~~
 - a) ~~All fill material placed on the beach must be analogous to that which naturally occurs within the project location or vicinity in quartz to carbonate ratio, color, median grain size, and median sorting. Specifically, such material shall be predominately of carbonate, quartz, or similar material with a grain size distribution ranging between 0.062 mm and 4.76 mm (classified as sand by either the Unified Soil Classification System or the Wentworth Classification). The material shall be similar in color and grain size distribution (sand grain frequency, mean, and median grain size,~~

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and sorting coefficient) to the material in the existing coastal system at the disposal site and shall not contain:

- ~~i) Greater than five percent, by weight, silt, clay or colloids passing the #230 sieve;~~
- ~~ii) Greater than five percent, by weight, fine gravel retained on the #4 sieve;~~
- ~~iii) Coarse gravel, cobbles, or material retained on the ¾ inch sieve in a percentage or size greater than found on the native beach;~~
- ~~iv) Construction debris, toxic material or other foreign matter; and~~
- ~~v) Not result in cementation of the beach.~~
- ~~vi) If rocks or other non-specified materials appear on the surface of the filled beach in excess of 50% of background in any 10,000 square foot area, then surface rock should be removed from those areas. These areas shall also be tested for subsurface rock percentage and remediated as required.~~
- ~~vii) If the natural beach exceeds any of the limiting parameters listed above, than the fill material must not exceed the naturally occurring level for that parameter.~~

~~b) Groin construction may occur during the sea turtles nesting season (April 15 through September 30) pursuant to the restrictions provided under Specific Condition 7(c) below.~~

~~c) Construction related activities are authorized to occur on the nesting beach (seaward of existing coastal armoring structures or the dune crest) during the nesting season (April 15 through September 30) under the following conditions:~~

- ~~i) A daily marine turtle nest survey of the nesting beach in the vicinity of the project (including areas of beach access) shall be conducted 65 days prior to nourishment or dredged channel material placement activities or by April 15, whichever is later, and continue through the end of the project or through September 30, whichever is earlier. Only those nests that may be affected by sand placement shall be relocated. Nests requiring relocation shall be moved no later than 9 a.m. the morning following deposition to a nearby self-release beach site in a secure setting where artificial lighting will not interfere with hatchling orientation. Nest relocations shall cease when sand placement activities no longer threaten nests. Nests deposited within areas where sand placement activities have ceased or will not occur for 65 days, or where groin construction will occur, shall be marked and left in place unless other factors threaten the success of the nest. Such nests will be~~

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~~marked and the actual location of the clutch determined. A circle with a radius of ten (10) feet, centered at the clutch, shall be marked by stake and survey tape or string. No construction activities shall enter this circle and no adjacent construction shall be allowed which might directly or indirectly disturb the area within the staked circle.~~

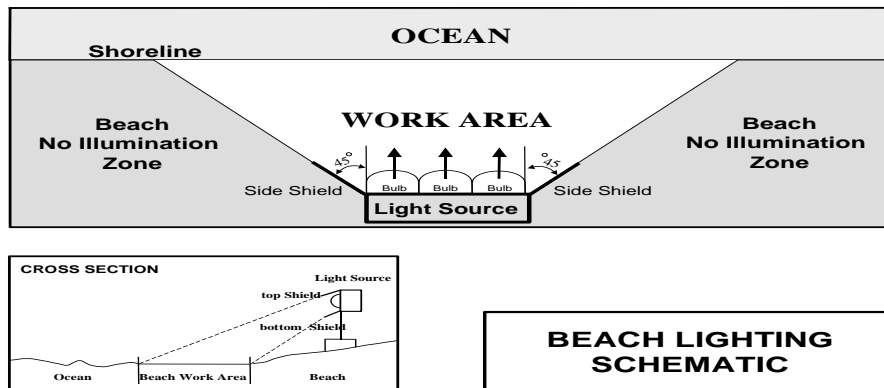
~~ii) Nests shall not be relocated for t groin construction. Any nests left in the t groin construction area must be clearly marked as described in (i) above.~~

~~iii) No construction activity may commence until completion of the marine turtle survey each day. If construction is to occur on a 24 hour basis, the contractor shall not extend the beach fill more than 500 feet (or another distance agreed upon by FWC) along the shoreline between dusk and the following day until the daily nesting survey has been completed and the beach cleared for fill advancement. Once the beach has been cleared and the necessary nest relocations have been completed, the contractor is allowed to proceed with the placement of fill during daylight hours until dusk at which time the 500-foot length limitation shall apply.~~

~~iv) It is the responsibility of the permittee to ensure that the project area and access sites are surveyed for marine turtle nesting activity. All nesting surveys, nest relocations screening or caging activities etc. shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Fish and Wildlife Conservation Commission (FWC), pursuant to Florida Administrative Code 68E-1.~~

~~d) From April 15 through November 30, all project lighting shall be limited to the immediate area of active construction only and shall be the minimal lighting necessary to comply with U.S. Coast Guard and/or OSHA requirements. Stationary lighting on the beach and all lighting on the dredge shall be minimized through reduction, shielding, lowering, and appropriate placement of lights to minimize illumination of the nesting beach and water. Shields must be affixed to the light housing and be large enough to block light from all lamps from being transmitted outside the construction area.~~

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- e) ~~From April 15 through September 30, staging areas for construction equipment shall be located off the beach. Nighttime storage of construction equipment not in use shall be off the beach to minimize disturbance to sea turtle nesting and hatching activities. All construction pipes that are placed on the beach shall be located as far landward as possible without compromising the integrity of the existing or reconstructed dune system.~~
- f) ~~Immediately after completion of the fill placement event and prior to April 15 for 3 subsequent years if placed sand still remains on the beach, the beach shall be tilled by the Local Sponsor as described below. During the 3 years following each fill placement event, the permittee may measure sand compaction in the area of restoration in accordance with a protocol agreed to by the FWC, the Department, the U.S. Fish & Wildlife Service, and the applicant to determine if tilling is necessary. Sand compaction monitoring shall be performed prior to April 15. At a minimum, the protocol provided under i) and ii) below shall be followed. If required, the area shall be tilled to a depth of 24 inches. All tilling activity must be completed prior to May 1April 15. An annual summary of compaction surveys and the actions taken shall be submitted to the FWC. If the project is completed during the nesting season, tilling shall not occur in areas where nests have been left in place or relocated unless authorized by the U.S. Fish and Wildlife Service in an Incidental Take Statement. This condition shall be evaluated annually and may be modified if necessary to address sand compaction problems identified during the previous year.~~

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- ~~i) — Compaction sampling stations shall be located at 500-foot intervals along the project area. One station shall be at the seaward edge of the dune/bulkhead line (when material is placed in this area) and one station shall be midway between the dune line and the high water line (normal wrack line).~~
- ~~ii) — At each station, the cone penetrometer shall be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes, especially if sediment layering exists. Layers of highly compact material may lay over less compact layers. Replicates shall be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments. The three replicate compaction values for each depth shall be averaged to produce final values for each depth at each station. Reports shall include all 18 values for each transect line, and the final 6 averaged compaction values.~~
- ~~iii) — If the average value for any depth exceeds 500 psi for any two or more adjacent stations, then that area shall be tilled prior to ~~May 1~~ April 15. If values exceeding 500 psi are distributed throughout the project area but in no case do those values exist at two adjacent stations at the same depth, then consultation with the FWC shall be required to determine if tilling is required. If a few values exceeding 500 psi are present randomly within the project area, tilling shall not be required.~~
- ~~g) — Visual surveys for escarpments along the beach fill area shall be made immediately after completion of the beach nourishment project and prior to ~~March 15~~ for the following three years by the Local Sponsor if placed sand still remains on the beach. All scarps shall be leveled or the beach profile shall be reconfigured to minimize scarp formation. In addition, weekly surveys of the project area shall be conducted during the two nesting seasons following completion of fill placement as follows:~~
 - ~~i) — The number of escarpments and their location relative to DNR-DEP reference monuments shall be recorded during each weekly survey and reported relative to the length of the beach surveyed (e.g., 50% scarps). Notations on the height of these escarpments shall be included (0 to 2 feet, 2 to 4 feet, and 4 feet or higher) as well as the maximum height of all escarpments.~~

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- ~~ii) — Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet shall be leveled to the natural beach contour by April 15. Any escarpment removal shall be reported relative to R monument.~~
- ~~iii) — If weekly surveys during the marine turtle nesting season document subsequent reformation of escarpments that exceed 18 inches in height for a distance of 100 feet, the FWC shall be contacted immediately to determine the appropriate action to be taken. Upon written notification, the permittee shall level escarpments in accordance with mechanical methods prescribed by the FWC.~~
- ~~h) — Lighting Surveys. A survey shall be conducted of all lighting visible from the beach placement area by the local sponsor, using standard techniques for such a survey, between May 1 and May 15, and between July 15 and August 1, in the year following construction. For each light source visible, the local sponsor shall notify the property owner(s) and/or the municipality/county (in which the property(s) may be located) of the light and to specify the action(s) recommended for correcting the light within a reasonable resolution timeframe. A summary report of the surveys including documentation of property owner notification shall be submitted to the FWC Imperiled Species Management Section in Tallahassee by December 1 of each year in which surveys are conducted. After the annual report is completed, a meeting shall be set up by the local sponsor with the municipality, FWC and the U.S. Fish and Wildlife Service to discuss the survey report, as well as any documented sea turtle disorientations in or adjacent to the project area.~~
- ~~i) — The erosion control structures must be removed or modified if they are determined to not be effective or to be causing a significant adverse impact.~~
- ~~j) — The Applicant shall arrange a meeting between representatives of the contractor, the Department, the FWC, and the permitted person responsible for egg relocation at least 14 days prior to the commencement of work on this project. At least 10 days advance notice shall be provided prior to conducting this meeting. This will provide an opportunity for explanation and/or clarification of the sea turtle protection measures.~~
- ~~k) — Reports on all nesting activity shall be provided for the initial nesting season and for a minimum of two additional nesting seasons (conducted by the Local Sponsor). Monitoring of nesting activity in the three seasons~~

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~~following construction shall include daily surveys and any additional measures authorized by the FWC. Reports submitted shall include daily report sheets noting all activity, nesting success rates, hatching success of all relocated nests, hatching success of a representative sampling of nests left in place (if any), dates of construction and names of all personnel involved in nest surveys and relocation activities. Data should be reported separately for filled areas and nonfilled areas in accordance with the attached Table (Attachment 1). All reports should be submitted by January 15 of the following year.~~

- ~~l) In the event a sea turtle nest is excavated during construction activities, all work shall cease in that area immediately and the permitted person responsible for egg relocation for the project should be notified so the eggs can be moved to a suitable relocation site.~~

- ~~m) Upon locating a dead, injured, or sick endangered or threatened sea turtle specimen, initial notification must be made to the FWC at 1-888-404-FWCC. Care should be taken in handling sick or injured specimens to ensure effective treatment and care and in handling dead specimens to preserve biological materials in the best possible state for later analysis of cause of death. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.~~

- ~~n) The following monitoring is required for beach restoration projects. Reports summarizing the nesting should be submitted to the FWC Tequesta office with a copy to the Tallahassee office by January 15 of the subsequent year. Data for nesting activity on filled and nonfilled areas should be reported separately, and should include numbers of nests lost to erosion or washed out.~~

Table 1 Marine turtle monitoring for beach restoration projects

Characteristic	Parameter	Measurement	Variable
Nesting Success	False crawls—number	Visual assessment of all false crawls	Number and location of false crawls in fill areas and nonfill areas; any interaction of the turtle with obstructions, such as groins, seawalls, or scarps, should be noted.
	False crawl—type	Categorization of the stage at which nesting was abandoned	Number in each of the following categories: emergence no digging, preliminary body pit, abandoned egg chamber

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	Nests	Number	The number of marine turtle nests in filled and nonfilled areas should be noted. If possible, the location of all marine turtle nests shall be marked on map of project, and approximate distance to sea walls or scarps measured using a meter tape (optional). Any abnormal cavity morphologies should be reported as well as whether turtle touched groins, seawalls, or scarps during nest excavation
		Lost Nests	The number of nests lost to inundation, erosion or the number with lost markers that could not be found
Reproductive Success	Emergence & hatching success	Standard survey protocol	Numbers of the following: unhatched eggs, depredated nests and eggs, live pipped eggs, dead pipped eggs, live hatchlings in nest, dead hatchlings in nest, hatchlings emerged, disoriented hatchlings, depredated hatchlings

8. ~~All filling, and repair of geotextile tubes that involves heavy equipment or excavation must be conducted outside the marine turtle nesting season (October 1 through April 15) unless the permittee receives authorization for incidental take from the U.S. Fish & Wildlife Service that specifically addresses geotextile tube repair.~~
9. ~~The Permittee shall comply with the following manatee protection construction conditions:~~
- a) ~~The Permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatee(s).~~
 - b) ~~The Permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.~~
 - c) ~~Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.~~
 - d) ~~All vessels associated with the construction project shall operate at "no~~

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~~wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.~~

- e) ~~If manatee(s) are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own volition.~~
- f) ~~Any collision with and/or injury to a manatee shall be reported immediately to the "FWC Hotline" at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-772-562-3909) in south Florida.~~
- g) ~~Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 1/2" by 11" which reads *Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. The U.S. Fish and Wildlife Service should also be contacted in Jacksonville (1-904-232-2580) for north Florida or in Vero Beach (1-772-562-3909) for south Florida.*~~
10. ~~In order to minimize the potential for elevated turbidity in Outstanding Florida Waters, the Permittee shall construct and maintain a shore parallel sand dike at the beach fill area at all times during hydraulic discharge on the beach and maintain a minimum set back for the discharge pipe from open water.~~
11. ~~Shorebird surveys should be conducted by trained, dedicated individuals using accepted, appropriate ecological survey procedures (for example, see "*Breeding Season Population Census Techniques for Seabirds and Colonial Waterbirds*")~~

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~~Throughout North America” at URL: <http://www.mp2-pwre.usgs.gov/cwb/manual/>). The shorebird nesting season generally is April 1–September 1, but some nesting may occur through September. In addition, the imperiled snowy plover (*Charadrius alexandrinus*) may nest as early as February along the west coast and panhandle of Florida.~~

- a. ~~Nesting season surveys shall begin on April 1 (or February 15 in snowy plover habitat) or 45 10 days prior to construction commencement, whichever is later, and be conducted daily throughout the construction period or through September August if no shorebird nesting activity is observed.~~
 - b. ~~For projects conducted in piping plover habitat, surveys to detect piping plovers or concentrations of other wintering or migratory shorebirds should begin 14 days prior to construction commencement and be conducted once every 2 weeks.~~
 - c. ~~Each shorebird species observed, a rough estimate of numbers of each species, the location of the birds, and their activity (e.g., foraging, resting, nesting, courtship behavior) should be logged and reported to the FWC Regional Wildlife Diversity Conservation Biologist monthly.~~
12. ~~Within the project area, the Permittee shall establish a 300 ft wide buffer zone around any location where shorebirds have been engaged in courtship or nesting behavior, or around areas where piping plovers occur or winter migrants congregate in significant numbers. Any and all construction activities, including movement of vehicles, should be prohibited in the buffer zone.~~
- a. ~~The width of the buffer zone shall be increased if birds appear agitated or disturbed by construction or other activities in adjacent areas.~~
 - b. ~~Site specific buffers may be implemented upon approval by FWC as needed.~~
 - c. ~~Designated buffer zones must be posted with clearly marked signs around the perimeter. These markings shall be maintained until nesting is completed or terminated, the chicks fledge, or piping plovers or winter migrants depart.~~
 - d. ~~No construction activities or stockpiling of equipment shall be allowed within the buffer area.~~

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- e. ~~FWC approved travel corridors should be designated and marked outside the buffer areas. Heavy equipment, other vehicles, or pedestrians may transit past nesting areas in these corridors. However, other activities such as stopping or turning, shall be prohibited within the designated travel corridors adjacent to the nesting site.~~
 - f. ~~Where such a travel corridor must be established within the project area it should avoid critical areas for shorebirds (known nesting sites, wintering grounds, FWC designated Critical Wildlife Areas, and USFWS designated critical piping plover habitat) as much as possible, and be marked with signs clearly delineating the travel corridor from the shorebird buffer areas described above.~~
 - g. ~~To the degree possible, the permittee should maintain some activity within these corridors on a daily basis, without directly disturbing any shorebirds documented on site or interfering with sea turtle nesting, especially when those corridors are established prior to commencement of construction. Passive methods to modify nesting site suitability must be approved by the FWC Wildlife Diversity Conservation Biologist for that region.~~
13. ~~If shorebird nesting occurs within the project area, a bulletin board will be placed and maintained in the construction area with the location map of the construction site showing the bird nesting areas and a warning, clearly visible, stating that “BIRD NESTING AREAS ARE PROTECTED BY THE FLORIDA THREATENED AND ENDANGERED SPECIES ACT AND THE FEDERAL MIGRATORY BIRD ACT.”~~
14. ~~All tilling and scarp removal should be done outside the shorebird nesting season. If necessary, contractors should contact the FWC Regional Wildlife Diversity Conservation Biologist to obtain data on known shorebird nesting areas. It is the responsibility of the contractors to avoid tilling or scarp removal in areas where nesting birds are present.~~
- a. ~~A relatively even surface, with no deep ruts or furrows, shall be created during tilling. To do this, chain-linked fencing or other material shall be dragged over those areas as necessary after tilling.~~
 - b. ~~The slope between the mean high water line and the mean low water line must be maintained in such a manner as to approximate natural slopes.~~
15. ~~If it will be necessary to extend construction pipes past a known shorebird nesting site or over wintering area for piping plovers, then whenever possible those pipes should be placed landward of the site before birds are active in that area. No sand~~

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~~shall be placed seaward of a known shorebird nesting site during the shorebird nesting season.~~

7. **Manatee, Marine Turtle, and Shorebird Protection Conditions:** During all construction authorized by this permit and subsequent to authorization of incidental take by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) in accordance with Florida Statute Chapters 161.041 (5) and 379.2431 (1), F.S., the Permittee shall comply with the following conditions intended to protect manatees, marine turtles and shorebirds from direct project effects:
- a. All personnel associated with the project shall be instructed about the presence of marine turtles, manatees and manatee speed zones, and the need to avoid collisions with (and injury to) these protected marine species. The Permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing or killing manatees, which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act and for killing marine turtles, which are protected under the Endangered Species Act and the Florida Marine Turtle Protection Act.
 - b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow routes of deep water whenever possible.
 - c. Siltation or turbidity barriers, if used, shall be made of material in which manatees and marine turtles cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid entanglement or entrapment. Barriers must not impede manatee or marine turtle movement.
 - d. All on-site project personnel are responsible for observing water-related activities for the presence of marine turtles and manatee(s). **All in-water operations, including vessels, shall be shutdown if a marine turtle or manatee comes within 50 feet of the operation.** Activities shall not resume until the animal(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the animal(s) has not reappeared within 50 feet of the operation. Animals shall not be herded away or harassed into leaving.

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- e. Any collision with or injury to a marine turtle or manatee shall be reported immediately to the FWC Hotline at 1-888-404-3922, and to FWC at ImperiledSpecies@myFWC.com. Collision and/or injury shall also be reported to the FWS in Jacksonville at 1-904-731-3336.
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the Permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution Boaters – Watch for Manatees* must be posted. A second sign measuring at least 8 ½” by 11” explaining the requirements for “Idle Speed/No Wake” and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. Signs already approved by the FWC can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.
- g. All personnel associated with the project shall be instructed about the potential presence of nesting shorebirds and the need to avoid take of (including disturbance to) these protected species.
- h. All vehicles shall be operated in accordance with the FWC’s Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you-protect/wildlife/beach-driving/>). Specifically, the vehicle must be operated at a speed <6 mph and run at or below the high-tide line.

Fish and Wildlife Protection Conditions for Dredging Activities:

- 8. **Hopper Dredging:** In the event a hopper dredge is utilized, the following requirements shall be met in addition to the Terms and Conditions of the applicable NMFS Regional Biological Opinion for Hopper Dredging (Gulf of Mexico):
 - a. Handling of captured sea turtles or sea turtle shall be conducted only by persons with prior experience and training in these activities and who are duly authorized to conduct such activities through a valid Marine Turtle Permit issued by the FWC, pursuant to Chapter 68E-1, F.A.C.
 - b. Dredging pumps shall be disengaged by the operator, or the draghead bypass valve shall be open and in use when the dragheads are not firmly on the bottom, to minimize impingement or entrainment of sea turtles

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within the water column. This precaution is especially important during the cleanup phase of dredging operations.

- c. A state-of-the-art rigid deflector draghead shall be used on all hopper dredges in all channels at all times of the year.
- d. The Sea Turtle Stranding and Salvage Network (STSSN) Coordinator shall be notified at Allen.Foley@myfwc.com at the start-up and completion of hopper dredging operations. In the event of capturing or recovering sea turtles or sea turtle parts, the STSSN should be contacted at SeaTurtleStranding@myfwc.com.
- e. Relocation trawling or non-capture trawling shall be implemented in accordance with the applicable NMFS Biological Opinion and Incidental Take authorization. Any activity involving the use of nets to harass and/or to capture and handle marine turtles in Florida waters requires a Marine Turtle Permit from FWC.
 - i. The Permittee or their contractor shall e-mail (MTP@MyFWC.com) weekly reports to the Imperiled Species Management section on Friday each week that trawling is conducted in Florida waters. These weekly reports shall include: the species and number of turtles captured in Florida waters, general health, and release information. A summary (FWC provided Excel spreadsheet) of all trawling activity, including non-capture trawling, and all turtles captured in Florida waters, including all measurements, the latitude and longitude (in decimal degrees) of captures and tow start-stop points, and times for the start-stop points of the tows, including those tows on which no turtles are captured, shall be submitted to MTP@myfwc.com by January 15 of the following year or at the end of the project.

Fish and Wildlife Protection Conditions for Nearshore and Beach Placement of Dredge Material:

- 9. ***Beach Maintenance:*** All derelict concrete, metal, and coastal armoring material and other debris shall be removed from the beach to the maximum extent practicable prior to any material placement. If debris removal activities will take place during shorebird breeding or sea turtle nesting seasons, the work shall be conducted during daylight hours only and shall not commence until completion of daily seabird, shorebird or sea turtle surveys each day. All excavations and temporary alterations of the beach topography shall be filled or leveled to the natural beach profile prior to 9 p.m. each day unless otherwise authorized.

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10. **Pre-Construction Meeting:** A meeting between representatives of the contractor, the FWS, the FWC, the permitted sea turtle surveyor and Bird Monitors as appropriate shall be held prior to commencement of work on projects. At least 10-business days advance notice must be provided prior to conducting this meeting. The meeting will provide an opportunity for explanation and/or clarification of the protection measures as well as additional guidelines when construction occurs during nesting season, such as staging equipment and reporting within the work area as well as follow up meetings during construction.

11. **Nesting Seabird and Shorebird Protection Conditions:** Nesting seabird and shorebird (i.e. shorebird) surveys shall be conducted by trained, dedicated individuals (Bird Monitor) with proven shorebird identification skills and avian survey experience. A list of candidate Bird Monitors shall be provided to FWC, along with their contact information, summary of qualifications, including bird identification skills, and avian survey experience. This information shall be submitted to the FWC regional biologist (contact information attached) prior to any construction or hiring for shorebird surveys for revision and consultation. Bird Monitors shall use the following survey protocols:

- a. Bird Monitors shall review and become familiar with the general information, employ the data collection protocol, and implement data entry procedures outlined on the FWC's Florida Shorebird Database (FSD) website (www.FLShorebirdDatabase.org). An outline of data to be collected, including downloadable field data sheets, is available on the website.
- b. Breeding season varies by species. Most species have completed the breeding cycle by September 1, but flightless young may be present through September. The following dates are based on the best available information regarding ranges and habitat use by species:

All Gulf Coast counties: February 15 – September 1

Breeding season surveys shall begin on the first day of the breeding season or 10 days prior to project commencement (including surveying activities and other pre-construction presence on the beach), whichever is later. Surveys shall be conducted through August 31st or until all breeding activity has concluded, whichever is later.

- c. Breeding season surveys shall be conducted in all potential beach-nesting bird habitats within the project boundaries that may be impacted by construction or pre-construction activities. Portions of the project in

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which there is no potential for project-related activity during the nesting season may be excluded. One or more shorebird survey routes shall be established in the FSD website to cover these areas.

- d. During the pre-construction and construction phases of the project, surveys for detecting breeding activity and the presence of flightless chicks shall be completed on a daily basis prior to movement of equipment, operation of vehicles, or other activities that could potentially disrupt breeding behavior or cause harm to the birds or their eggs or young.
- e. Surveys shall be conducted by walking the length of the project area and visually surveying for the presence of shorebirds exhibiting breeding behavior, shorebird/seabird chicks, or shorebird/seabird juveniles as outlined in the FSD *Breeding Bird Protocol for Shorebirds and Seabirds*. Use of binoculars is required.
- i. If an ATV or other vehicle is needed to cover large project areas, operators shall adhere to the FWC's Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you-serve/wildlife/beach-driving/>). Specifically, the vehicle must be operated at a speed <6 mph and run at or below the high-tide line. The Bird Monitor shall stop at no greater than 200 meter intervals to visually inspect for breeding activity.
- f. Once breeding is confirmed by the presence of a scrape, eggs or young, the Bird Monitor shall notify the FWC Regional Species Conservation Biologist (**contact information attached**) within 24 hours. All breeding activity shall be reported to the FSD website within one week of data collection.

12. ***Seabird and Shorebird Buffer Zones and Travel Corridors:*** Within the project area, the Permittee shall establish a disturbance-free buffer zone around any location where shorebirds have been engaged in breeding behavior, including territory defense. A 300 foot-wide buffer is considered adequate based on published studies. However, a smaller, site-specific buffer may be implemented upon approval by the FWC Regional Species Conservation Biologist (**contact information attached**) as needed. All sources of human disturbance (including pedestrians, pets and vehicles) shall be prohibited in the buffer zone.

- a. The Bird Monitor shall keep breeding sites under sufficient surveillance to determine if birds appear agitated or disturbed by construction or other

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activities in adjacent areas. If birds do appear to be agitated or disturbed by these activities, then the width of the buffer zone shall be increased immediately to a sufficient size to protect breeding birds.

- b. Reasonable and traditional pedestrian access should not be blocked where breeding birds will tolerate pedestrian traffic. This is generally the case with lateral movement of beach-goers walking parallel to the beach at or below the highest tide line. Pedestrian traffic may also be tolerated when breeding was initiated within 300 feet of an established beach access pathway. The Permittee shall work with the FWC Regional Species Biologist to determine if pedestrian access can be accommodated without compromising nesting success.
- c. Designated buffer zones shall be marked with posts, twine and signs stating “Do Not Enter, Important Nesting Area” or similar language around the perimeter that includes the name and a phone number of the entity responsible for posting. Posts should not exceed 3 feet in height once installed. Symbolic fencing (twine, string or rope) should be placed between all posts at least 2.5 feet above the ground and rendered clearly visible to pedestrians. If pedestrian pathways are approved by the FWC Regional Species Conservation Biologist within the 300-foot buffer zone, these should be clearly marked. The posting shall be maintained in good repair until breeding is completed or terminated. Although solitary nesters may leave the buffer zone with their chicks, the posted area continues to provide a potential refuge for the family until breeding is complete. Breeding is not considered to be completed until all chicks have fledged.
- d. No construction activities, pedestrians, movement of vehicles or stockpiling of equipment shall be allowed within the buffer area.
- e. Travel corridors shall be designated and marked outside the buffer areas so as not to cause disturbance to breeding birds. Heavy equipment, other vehicles, or pedestrians may transit past breeding areas in these corridors. However, other activities such as stopping or turning shall be prohibited within the designated travel corridors adjacent to the breeding site. When flightless chicks are present within or adjacent to travel corridors, movement of vehicles shall be accompanied by the Bird Monitor who shall ensure no chicks are in the path of the moving vehicle and no tracks capable of trapping flightless chicks result.
- f. To discourage nesting within the travel corridor, it is recommended that the Permittee should maintain some activity within these corridors on a daily basis, without disturbing any nesting shorebirds documented on site

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or interfering with sea turtle nesting, especially when those corridors are established prior to commencement of construction.

13. **Notification:** If shorebird breeding occurs within the project area, a bulletin board shall be placed and maintained in the construction staging area with the location map of the construction site showing the bird breeding areas and a warning, clearly visible, stating that “NESTING BIRDS ARE PROTECTED BY LAW INCLUDING THE FLORIDA ENDANGERED AND THREATENED SPECIES ACT AND THE STATE and FEDERAL MIGRATORY BIRD ACTS”.
14. **Marine Turtle Nest Surveys and Relocation.** Sand placement may occur during the marine turtle nesting season, May 1 through October 31, provided the following marine turtle protection conditions are met, except where such work is prohibited by the managing agency or under applicable local land use codes.
15. For sand placement projects that occur during the period from April 15 through October 31, daily early morning (before 9 a.m.) surveys shall be conducted, and marine turtle eggs shall be relocated per the requirements below (a. to c.). *Note: sea turtle monitors shall not enter posted shorebird buffer areas to conduct monitoring or to relocate nests.*

Marine turtle nesting surveys shall be initiated 65 days prior to sand placement activities or by April 15, whichever is later, shall continue through September 30 and shall comply with the following requirements:

- a. Nesting surveys and nest marking will only be conducted by persons with prior experience and training in these activities and who are authorized to conduct such activities through a valid permit issued by FWC, pursuant to FAC 68E-1. Please contact FWC’s Marine Turtle Management Program in Tequesta at MTP@myfwc.com for information on the permit holder in the project area. Nesting surveys shall be conducted daily between sunrise and 9 a.m. (this is for all time zones). The contractor shall not initiate work until daily notice has been received from the marine turtle permit holder that the morning survey has been completed. Surveys shall be performed in such a manner so as to ensure that construction activity does not occur in any location prior to completion of the necessary marine turtle protection measures.
- b. Only those nests in the area where sand placement occurs shall be relocated. Nest relocation shall not occur upon completion of sand placement. Nests requiring relocation shall be moved no later than 9 a.m. the morning following deposition to a nearby self-release beach site in a secure setting where artificial lighting will not interfere with hatchling

orientation. Relocated nests shall not be placed in organized groupings. Relocated nests shall be randomly staggered along the length and width of the beach in settings that are not expected to experience daily inundation by high tides or known to routinely experience severe erosion and egg loss, or that are subject to artificial lighting. Nest relocations in association with construction activities shall cease when sand placement activities no longer threaten nests.

- c. Nests deposited within areas where construction activities have ceased or will not occur for 65 days, or nests laid in the nourished berm prior to tilling, shall be marked and left in place unless other factors threaten the success of the nest. The turtle permit holder shall install an on-beach marker at the nest site and/or a secondary marker at a point as far landward as possible to assure that future location of the nest will be possible should the on-beach marker be lost. No activity shall occur within this area nor shall any activities occur that could result in impacts to the nest. Nest sites shall be inspected daily to assure nest markers remain in place and the nest has not been disturbed by the project activity.

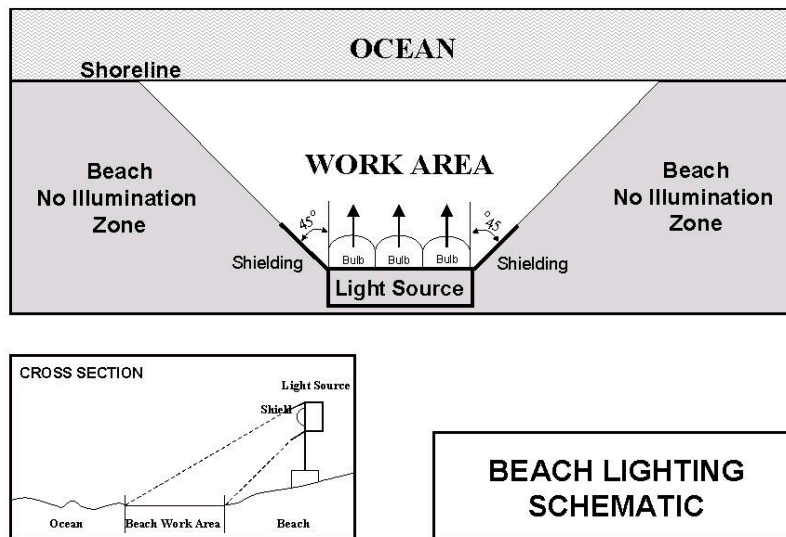
16. **Marine Turtle or Nest Encounters:** Upon locating a dead or injured sea turtle adult, hatchling or egg that may have been harmed or destroyed as a direct or indirect result of the project, the Permittee shall be responsible for notifying STSSN at SeaTurtleStranding@myfwc.com. Care shall be taken in handling injured sea turtles or eggs to ensure effective treatment or disposition, and in handling dead specimens to preserve biological materials in the best possible state for later analysis. In the event a sea turtle nest is excavated during construction activities, the permitted person responsible for egg relocation for the project shall be notified immediately so the eggs can be moved to a suitable relocation site.

17. **Equipment Storage and Placement:** All construction pipes that are placed on the beach shall be located as far landward as possible without compromising the integrity of the existing or reconstructed dune system. Pipes placed parallel to the dune shall be no farther seaward than 5 to 10 feet away from the toe of the dune. Temporary storage of pipes shall be off the beach to the maximum extent possible. If it will be necessary to extend construction pipes past a known shorebird nesting site or over-wintering area for piping plovers, then whenever possible those pipes should be placed landward of the site before birds are active in that area. No pipe or sand shall be placed seaward of a shorebird nesting site during the shorebird nesting season.

18. **Project Lighting:** Direct lighting of the beach and nearshore waters shall be limited to the immediate construction area during the sea turtle nesting season and shall comply with safety requirements. Lighting on offshore or onshore

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equipment shall be minimized through reduction, shielding, lowering and appropriate placement to avoid excessive illumination of the water's surface and nesting beach while meeting all Coast Guard, EM 385-1-1, and OSHA requirements. Light intensity of lighting equipment shall be reduced to the minimum standard required by OSHA for General Construction areas, in order not to misdirect sea turtles. Shields shall be affixed to the light housing and be large enough to block light from all lamps from being transmitted outside the construction area (Figure below).



19. **Fill Restrictions:** During the sea turtle nesting season, the contractor shall not extend the beach fill more than 500 feet along the shoreline between dusk and the following day until the daily nesting survey has been completed and the beach cleared for fill advancement. An exception to this may occur if there is a permitted sea turtle surveyor present on-site to ensure no nesting and hatching sea turtles are present within the extended work area. If the 500 feet is not feasible for the project, the Permittee may submit a request for an alternate distance to FWC, and FWC shall decide if that distance is acceptable during the preconstruction meeting. Once the beach has been cleared and the necessary nest relocations have been completed, the contractor shall be allowed to proceed with the placement of fill during daylight hours until dusk at which time the 500-foot length limitation shall apply.

20. **Compaction Sampling:** Sand compaction shall be monitored in the area of sand placement immediately after completion of the project and prior to April 15th for three (3) subsequent years. Compaction shall be monitored in accordance with a protocol agreed to by the FWS, FWC and the Permittee. The requirement for compaction monitoring can be eliminated if the decision is made to till regardless of post-construction compaction levels. Out-year compaction monitoring and remediation are not required if placed material no longer remains on the beach.

At a minimum, the protocol provided below shall be followed. If the average value for any depth exceeds 500 pounds per square inch (psi) for any two or more adjacent stations, then that area shall be tilled immediately prior to the following date listed above. If values exceeding 500 psi are distributed throughout the project area but in no case do those values exist at two adjacent stations at the same depth, then consultation with the FWC or FWS shall be required to determine if tilling is required. If a few values exceeding 500 psi are present randomly within the project area, tilling shall not be required.

- a. Compaction sampling stations shall be located at 500-foot intervals along the project area. One station shall be at the seaward edge of the dune/bulkhead line (when material is placed in this area), and one station shall be midway between the dune line and the high water line (normal wrack line).
- b. At each station, the cone penetrometer shall be pushed to a depth of 6, 12 and 18 inches, three times at each depth (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes, especially if sediment layering exists. Layers of highly compact material may lie over less compact layers. Replicates shall be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments. The three replicate compaction values for each depth shall be averaged to produce final values for each depth at each station. Reports shall include all 18 values for each transect line, and the final 6 averaged compaction values.
- c. No compaction sampling shall occur within 300 feet of any shorebird nest.
- d. Any vehicles operated on the beach in association with compaction surveys shall operate in accordance with the FWC's Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you-serve/wildlife/beach-driving/>).

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21. **Tilling Requirements:** If tilling is required as specified above, the area shall be tilled to a depth of 36 inches. All tilling activity shall be completed prior to the marine turtle nesting season. If tilling occurs during shorebird nesting season (See Specific Condition 11. b., above), shorebird surveys prior to tilling shall be required per the Shorebird Conditions included within this document. It is the responsibility of the contractors to avoid tilling, scarp removal or dune vegetation planting in areas where nesting birds are present. Each pass of the tilling equipment shall be overlapped to allow thorough and even tilling. If the project is completed during the marine turtle nesting season, tilling shall not be performed in areas where nests have been left in place or relocated. If compaction measurements are taken, a report on the results of the compaction monitoring shall be submitted electronically to FWC at marineturtle@myfwc.com prior to any tilling actions being taken.
- a. No tilling shall occur within 300 feet of any shorebird nest.
 - b. If flightless shorebird young are observed within the work zone or equipment travel corridor, a Shorebird Monitor shall be present during the operation to ensure that equipment does not operate within 300 feet of the flightless young.
 - c. A relatively even surface, with no deep ruts or furrows, shall be created during tilling. To do this, chain-linked fencing or other material shall be dragged over those areas as necessary after tilling.
 - d. Tilling shall occur landward of the wrack line and avoid all vegetated areas 3 square feet or greater with a 3-foot buffer around the vegetated areas. The slope between the mean high water line and the mean low water line must be maintained in such a manner as to approximate natural slopes.
 - e. Any vehicles operated on the beach in association with tilling shall operate in accordance with the FWC's Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you-serve/wildlife/beach-driving/>).
22. **Escarpment Surveys:** Visual surveys for escarpments along the project area shall be made immediately after completion of the sand placement project, weekly during sea turtle nesting season, and during March 15 to April 15 for three (3) subsequent years if sand from the project still remains on the beach. Weekly reports shall be submitted by Friday each week to marineturtle@myfwc.com.

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Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of at least 100 feet shall be leveled and the beach profile shall be reconfigured to minimize scarp formation by April 15. Any escarpment removal shall be reported to FWC by location. If the project is completed during the sea turtle nesting and hatching season, FWC may require the Permittee to level escarpments immediately, while protecting nests that have been relocated or left in place. If, during the nesting and hatching season, there is any subsequent reformation of escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet, the Permittee shall immediately contact FWC to determine the appropriate action to be taken. If it is determined that escarpment leveling is required during the nesting or hatching season, the FWS or FWC shall provide a brief written authorization that describes methods to be used to reduce the likelihood of impacting existing nests. An annual summary of escarpment surveys and actions taken shall be submitted electronically to marineturtle@myfwc.com along with the annual summary as described below. If escarpment removal occurs during shorebird breeding season (See Specific Condition 11. b.), shorebirds surveys shall be required prior to escarpment removal per the *Shorebird Conditions* included within this document. NOTE: Out-year escarpment monitoring and remediation are not required if placed material no longer remains on the dry beach.

- a. No heavy equipment shall operate within 300 feet of any shorebird nest.
 - b. If flightless shorebird young are observed within the work zone or equipment travel corridor, a Shorebird Monitor shall be present during the operation to ensure that equipment does not operate within 300 feet of the flightless young.
 - c. Any vehicles operated on the beach in association with escarpment surveys or removal shall operate in accordance with the FWC's Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you-conserve/wildlife/beach-driving/>).
23. All Terms and Conditions in the FWS Programmatic Piping Plover Biological Opinion, dated May 22, 2013, shall be met as required in that document.

Post-construction Shorebird Protection Conditions:

24. If beach cleaning will occur on the nourished beach, a minimum of 30% of the biotic material within the wrack line shall be left on the beach post-cleaning at the strand line in a natural configuration to ensure that the nourished beach re-establishes its function as foraging habitat for shorebirds. This shall occur for as long as the placed sand remains on the beach.

Post-construction Monitoring and Reporting Marine Turtle Protection Conditions:

25. Reports on all marine turtle nesting activity shall be provided for the initial marine turtle nesting (*May 1 through September 15*) and hatching (*through October 31*) season and for up to three additional nesting seasons as follows:
- a. For the initial nesting season and the following year, the number and type of emergences (nests or false crawls) shall be reported per species in accordance with the **Table below**. An additional year of nesting surveys may be required if nesting success for any species on the nourished beach is less than 40%.
 - b. For the initial nesting season, reproductive success shall be reported per species in accordance with the **Table below**. Reproductive success shall be reported for all sea turtle nests if possible. Otherwise a statistically significant number of nests for each species shall be reported.
 - c. In the event that the reproductive success documented by species meets or exceeds required criteria (outlined in **Table below**) for each species, monitoring for reproductive success shall be recommended, but not required for the second year post-construction.
 - d. Monitoring of nesting activity in the seasons following construction shall include daily surveys and any additional measures authorized by the FWC. Summaries shall include all crawl activity, nesting success rates, hatching success of all relocated nests, hatching success of a representative sampling of nests left in place (if any) by species, project name, applicable project permit numbers and dates of construction.

Data shall be reported for the nourished areas in accordance with the **Table below** and shall include number of nests lost to erosion or washed out. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets) to the FWC Imperiled Species Management section at MTP@myfwc.com. All summaries shall be submitted by January 15 of the following year. The FWC Excel spreadsheet is available upon request from MTP@myfwc.com.

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Table. Marine Turtle Monitoring:

Metric	Duration	Variable	Criterion
Nesting Success	Year of construction, one year to two or three years post construction if placed sand remains on beach and variable does not meet criterion based on previous year	Number of nests and non-nesting emergences by day by species	40% or greater
Hatching Success	Year of construction and one to three years post construction if placed sand remains on beach and variable does not meet criterion based on previous year	Number of hatchlings by species to completely escape egg	Average of 60% or greater (data must include washed out nests)
Emergence Success	Year of construction and one to three years post construction if placed sand remains on beach and variable does not meet success criterion based on previous year	Number of hatchlings by species to emerge from nest onto beach	Average must not be significantly different than the average hatching success
Disorientation	Year of construction and one to three years post construction if placed sand remains on beach	Number of nests and individuals that misorient or disorient	
Lighting Surveys	Two surveys the year following construction , one survey between May 1 and May 15 and second survey between July 15 and August 1	Number, types, locations and custodians of artificial lights sources that emit light visible from the beach.	
Compaction	Not required if the beach is tilled prior to nesting season each year placed sand remains on beach	Shear resistance	Less than 500 psi
Escarpment Surveys	Weekly during nesting season for up to three years each year placed sand remains on the beach	Number of scarps 18 inches or greater extending for more than 100 feet that persist for more than 2 weeks	Successful remediation of all persistent scarps as needed

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The Contractor shall use the approved sea turtle sub-contractor to perform the two lighting surveys. A nighttime survey shall be conducted of all lighting visible from the beach placement area by the Contractor, using standard techniques for such a survey, both immediately prior to and after construction. During the nighttime lighting surveys, a surveyor shall walk the length of the beach placement area looking for light from artificial sources. During the nighttime lighting surveys, a complete census shall be made of the number, types, locations, and custodians of artificial light sources that emit light visible from the beach. Because problem lighting will be most visible on the darkest nights, lighting inspections are to be conducted when there is no moon visible. Descriptions of light sources identified during the survey should be detailed enough so that anyone can locate the lighting. In addition to a general description of each luminaire (e.g., HPS floodlight directed seaward at the top northeast corner of the building at 123 Ocean Street), photographs or sketches of the lighting may be necessary. Descriptions should also include an assessment of how the specific lighting problem can be resolved (e.g., needs turning off; should be directed 90 to the east, etc.). A summary report of the survey shall be submitted to the Corps Contracting Officer.

Specific Conditions 16 through 20 shall be renumbered as 26 through 30.

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

Plates 1 through 16 (dated June 13, 2013) shall replace the previously authorized 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 the 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, F.S., as provided below. The procedures for

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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), 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 Permittee 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 (16 pages)

cc: Jim McAdams, USACE	Subarna Malakar, DWRM
Laurel Reichold, USACE	Jennifer Coor, DWRM
Paul Karch, USACE	Mary Yeargan, DEP, Southwest District
Aubree Hershorin, USACE	Mark Sramek, NMFS
Bruce Laurion, Tampa Port Authority	Andy Squires, Pinellas County
Larry Shipp, Tampa Port Authority	MarineTurtle@myfwc.com
Roxane Dow, DWRM	Luke Davis, FWC ISMS
Catherine Florko, DWRM	Robbin Trindell, FWC ISMS
Alex Reed, DWRM	FWCConservationPlanningServices@myfwc.com
Steve West, DWRM Field Inspector	Jeff Howe, FWS
Vladimir Kosmynin, DWRM	JCP Compliance Officer
Robert Brantly, DWRM	DWRM Permit File
Elizabeth Yongue, 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

8/16/13

Deputy Clerk

Date