



# FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

RICK SCOTT  
GOVERNOR

HERSCHEL T. VINYARD JR.  
SECRETARY

September 25, 2013

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

Permit Modification No. 0221569-013-JN  
Permit No. 0221569-008-JM, Pinellas County  
Treasure Island/Long Key, Time Extension

Dear Mr. Summa:

Your request to modify Permit No. 0221569-008-JM was received on August 27, 2013, and has been reviewed by Department of Environmental Protection (Department) staff. The proposed permit modification is to extend the duration of the Treasure Island/Long Key Nourishment Project by six (6) years, to March 29, 2020.

On May 17, 2004, the Department issued Permit No. 0221569-001-JC to Pinellas County for the Treasure Island and Long Key Beach Nourishment Project. That 10-year permit was due to expire on May 17, 2014. On March 29, 2010, the Department issued Permit No. 0221569-008-JM, which was a major modification to Permit No. 0221569-001-JC and which superseded the original permit. That major modification included transferring the permit to the U.S. Army Corps of Engineers (Corps); 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. As stated in the Variance, it will *expire when the permit expires on May 17, 2014, unless the permit is modified to grant a time extension*. The new permit did not change the expiration date of the previous permit or variance, which was set to expire on May 17, 2014.

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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/](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 revise Permit No. 0221569-008-JM. The modification added the Egmont Shoal East Borrow Area as a sand source for the Treasure Island/Long Key Nourishment project.

On August 16, 2013, the Department issued Modification No. **0221569-011-JN** to revise Permit No. 0221569-008-JM. The modification expanded the beach placement areas of the original template for the Treasure Island and Long Key Nourishment project, and added the Pass-a-Grille segment at the south end of Long Key as a placement site for the 2013-2014 nourishment event.

On August 26, 2013, the Department issued Statutory Time Extension No. **0221569-012-JN** to extend the expiration date of the Treasure Island/Long Key Nourishment project (Permit No. 0221569-008-JM) until July 1, 2014. Under Section 22 of Chapter 2013-41 Laws of Florida (Senate Bill 1502), the Florida Legislature extended the expiration dates for all projects that were eligible for federal Flood Control and Coastal Emergencies (FCCE) funding in order to allow the Corps to complete all of those emergency projects by July 1, 2014.

#### **STAFF ASSESSMENT / JUSTIFICATION**

On August 27, 2013, the Corps informed the Department that they would not be able to complete the Treasure Island/Long Key beach nourishment project by July 1, 2014. Rule 62B-49.011(5), F.A.C., limits joint coastal permits to 10 years. Although Permit No. 0221569-001-JC was issued for the full 10 years, the project was reevaluated on March 29, 2010, when the Department issued the major modification (Permit No. 0221569-008-JM). That reevaluation allowed the Department to extend the expiration date up to 10 years from the issuance date of the new permit.

According to Rule 62B-49.011(6), F.A.C., *In order to be eligible for a time extension the permittee must provide:*

- (a) *Documentation that the authorized construction could not be completed within the allotted period;*
- (b) *Reasonable assurance that the activity can be completed within the time extension requested (based on a schedule for completion included with the request); and*

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- (c) *Reasonable assurance that no significant change in shoreline conditions, including biological habitat, has occurred since the original permit was issued.*

The Applicant has provided reasonable assurance that these criteria have been met. Therefore, the expiration dates of Permit No. 0221569-008-JM and Variance No. 0221569-009-BV shall be extended until **March 29, 2020**.

**AGENCY ACTION**

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 we are notifying all necessary parties of the modification.

This letter of approval extends the permit expiration date to **March 29, 2020**, but does not alter Specific or General Conditions or the monitoring requirements of the permit. This letter must be attached to the original permit.

This permit is hereby modified unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, 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

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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.

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

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- 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.

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.

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If you have any questions regarding this matter, please contact Liz Yongue by email at [Elizabeth.Yongue@dep.state.fl.us](mailto:Elizabeth.Yongue@dep.state.fl.us) or by telephone at (850) 414-7798.

Sincerely,



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

MKS/edy

cc: Jim McAdams, USACE  
Laurel Reichold, USACE  
Paul Karch, USACE  
Aubree Hershoin, USACE  
Bruce Laurion, Tampa Port Authority  
Larry Shipp, Tampa Port Authority  
Roxane Dow, DWRM  
Catherine Florko, DWRM  
Alex Reed, DWRM  
Steve West, DWRM Field Inspector  
Vladimir Kosmynin, DWRM  
Robert Brantly, DWRM  
Elizabeth Yongue, DWRM  
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Robbin Trindell, FWC ISMS  
FWCConservationPlanningServices@myfwc.com  
Jeff Howe, FWS  
JCP Compliance Officer  
DWRM 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.



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Deputy Clerk

9/25/13  
Date