

CESAJ-RD-SS (1200A)  
SAJ-1995-03779 (MOD-LCK)  
Modification #1

## MEMORANDUM FOR RECORD

SUBJECT: Supplement to the Department of the Army Environmental Assessment and Statement of Findings for the Above-numbered Permit.

### 1. Permittee:

a. Address:  
Town of Palm Beach  
Attn: Peter B. Elwell  
360 South County Road  
Palm Beach, FL 33480

b. Is the request for the modification from the current Permittee?  Yes  No

c. If no, was a transfer requested:  N/A  Yes  No – Explanation:

### 2. Background:

a. The Department of the Army permit dated 11 December 2014 authorized the placement of beach quality sand within the footprint of previously authorized beach nourishment by conducting the following activities:

(1) Placement of 875,586 cubic yards of compatible beach quality sand between FDEP monuments 89-102. The beach template has been slightly expanded to the North from R-89 to 90.5 and to the South from R101.4 to 102. A 1V:10H beach construction slope is being maintained seaward of the berm crest. The seaward limits of fill are maintained within the previously permitted project limits with constructed berm width average of 143 feet.

(2) The project requires dredging 1,355,500 cubic yards of beach quality sand from a 250.5 acre offshore borrow area between R-65 and R-70. Of the total, approximately 159,938 cubic yards of excess dredged material is proposed to be used for beach restoration at Phipps Ocean Park (Reach 7) and dune restoration at Reach 8. The Phipps segment is currently being reviewed under Corps permit application number SAJ-2000-00380 and requires approximately 112,554 cy of sand and the dunes at Reach 8 will require the use of 47,384 cy of the sand. The proposed work in Reach 8 would occur above the mean high water line. Mechanized machinery and trucks will be staged in the dune area at Midtown to transport the sand to the other locations on an ongoing basis from the Mid-Town stockpile area during project construction. The sediment within the borrow area typically has a carbonate fraction of less than 0.5% and

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finer/silt of less than 1%. Mean grain sizes for composited core samples in the borrow area range from 0.27 mm to 0.29 mm which exceed the minimum design grain size of 0.25 mm. The dredged material will be transported and discharged (pump) to the site via hopper dredge from a pre-determined offshore connection point. As the water/sand slurry is pumped onshore, mechanized construction equipment will be used to construct containment dikes and grade the material to the proposed design fill profile. Construction will be performed outside of peak turtle season (May 1 to October 31) to reduce potential for nest burial or excavation.

(3) Installation of one 256-square foot groin comprised of limestone boulders at R-99.3, with an elevation of +5 ft NAVD, crest width of 12-feet, and slope of 1:2. The dredged material will be transported and discharged (pump) to the site via hopper dredge from a pre-determined offshore connection point. As the water/sand slurry is pumped onshore, heavy construction equipment will be used to construct containment dikes and grade the material to the proposed design fill profile. Construction will be performed outside of peak turtle season (May 1 to October 31) to reduce potential for nest burial or excavation.

b. The authorization expires on 11 December 2019.

c. Previous permit modifications:  Yes  No – Explanation if “yes”:

d. Has the authorized work commenced?  Yes  No – Explanation if “yes”:

e. Status of work compliance: Construction was completed under the 2014 Permit and all reports and notifications were submitted to the Corps. The Corps has determined that the existing authorization is in compliance.

**3. Proposed Permit Modification:** The Town of Palm Beach has applied for a Department of the Army permit modification to the above-numbered existing DA permit. The modification request was received on 22 December 2017. The Permittee is requesting a modification to allow the use of an upland sand source.

#### 4. Coordination:

a. Endangered Species:

(1) Additional coordination required:  Yes  No The proposed project is part of a larger previously authorized shoreline stabilization project issued to the Town of Palm Beach (Midtown) on 12 December 2014. The larger project was previously coordinated with FWS, who provided a Biological Opinion (BO) dated 10 December 2014. The BO

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stated that the project was appropriate to apply the Statewide Programmatic Biological Opinion (SPBO) and the Piping Plover BO. However, the BO did not address red knots in regards to the P3BO. Therefore, by letter dated 30 January 2018, the Corps re-initiated consultation with FWS, and requested concurrence that the project is appropriate to apply the P3BO dated 22 May 2013 and the updated SPBO dated 13 March 2015, for the below reference species and designated critical habitat.

May affect:

- **Nesting Sea turtles:** The project is located within nesting habitat for the above listed species of sea turtles. The Corps has determined that the proposed project modification is appropriate to apply the SPBO dated 13 March 2015, for nesting sea turtles.

May affect not likely to adversely affect:

- **Piping plover:** The project is located within the piping plover consultation area, however, the proposed project is not located in piping plover critical habitat and piping plovers have not been documented in the project area, the area would be designated as non-optimal piping plover habitat which would constitute a "may ,, but not likely to adversely affect" for the piping plover. The Corps has determined that the proposed project modification is appropriate to apply the P3BO dated 22 May 2013, for the listed species.
- **Red Knott:** The project is located within the Red Knott consultation area. However, the Corps has determined that the proposed project modification is appropriate to apply the P3BO dated 13 March 2015, as it relates to the listed species.
- **Manatee:** May affect, but is not likely to adversely affect- As stated in the Statewide Programmatic Biological Opinion (SPBO) dated 13 March 2015, concerning sand placement activities along the coast of Florida for the Corps, if the Manatee In-water Construction Conditions are implemented; these activities are not likely to adversely affect the manatee. The proposed activities will not adversely modify its critical habitat because the project is not located within the species designated critical habitat.
- **Loggerhead Terrestrial designated critical habitat (LOGG-T-LL-12):** The project is not likely to destroy or adversely modify the designated critical habitat.

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The action of the installation of the groin and sand placement has already been reviewed by the FWS.

(2) Are all endangered species conditions current:  N/A  Yes  No –  
Explanation: (If no, include updates as part of the modification.)

**U.S. Fish and Wildlife Service (FWS): FWS:** The Corps initiated formal consultation with the FWS on 27 February 2018, and notified FWS the project complies with the Statewide Programmatic Biological Opinion (SPBO) and the Piping Plover Programmatic Biological Opinion (P<sup>3</sup>BO). By letter dated 20 March 2018, the FWS concurred with the Corps effect determinations.

Piping plover: The FWS has determined the Project's impact to non-optimal piping plover habitat is consistent with the analysis in the P<sup>3</sup>BO. The County has agreed to follow and implement the Conservation Measures outlined in the P<sup>3</sup>BO that apply to the Project. As it relates to survey guidelines defined in P<sup>3</sup>BO Conservation Measure #2, the FWS approves a reduction in the survey effort, and the following revised survey guidelines can be implemented by the County:

- One preconstruction winter shorebird survey will be conducted within a 10-day timeframe beginning the first Friday in February, as outlined in the Florida Shorebird Alliance's Winter Shorebird Survey (<http://flshorebirdalliance.org>). If the February preconstruction survey is not possible, two preconstruction winter shorebird surveys will be conducted as close as possible to the February dates and at least 15 days apart, and reported to the FWC (<https://public.myfwc.com/crossdoi/shorebirds/loginfonn.aspx>). Preconstruction surveys will not be conducted between May 16 and July 14. If piping plovers are documented during the preconstruction survey, the FWS will be contacted for potential implementation of additional conservation measures prior to construction commencement. In addition, a February winter shorebird survey will be conducted as outlined above, for 2 years post-construction. All shorebird survey data will be forwarded to the FWS annually upon completion.
- The person(s) conducting the surveys must demonstrate the qualifications and ability to identify shorebird species and be able to provide the information outlined in the Winter Shorebird Survey.

b. Essential Fish Habitat (EFH):

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(1) Additional coordination required:  Yes  No

(2) Are all EFH conditions current:  N/A  Yes  No – Explanation: (If no, include updates as part of the modification.)

c. Other coordination:

(1) Internal Corps coordination:  Yes  No – Explanation:

(2) External coordination:  Yes  No – Explanation: The project was coordinated with the FWS (reference section above).

## 5. Mitigation:

a. Compensatory mitigation required in original permit:  Yes  No

b. Summary: N/A

c. Compensatory mitigation status: N/A

d. The requested permit modification requires additional mitigation:  Yes  No – If yes, describe the additional compensatory mitigation and the functional assessment used:

## 6. Special Conditions:

a. Special Conditions added or modified:  Yes  No

b. Explanation/description: Due to consultation with the FWS, the existing special conditions number 3 and 4 will be revised to include the most up to date FWS letter and programmatic Biological Opinion(s). The two (2) revised special conditions below (that will supersede previous conditions, strike through represents what is being revised, and underlined indicates the revision), which are incorporated in, and made a part of the permit.

3. Biological Opinion: This permit does not authorize the Permittee to take an endangered species, in particular the nesting sea turtles (*Chelonia mydas*, *Eretmochelys imbricata*, *Lepidochelys kempii*, *Dermochelys coriacea*, *Caretta caretta*). In order to legally take a listed species, the Permittee must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a BO

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under ESA Section 7, with “incidental take” provisions with which you must comply). The enclosed United States Fish and Wildlife Service Biological Opinion dated December 10, 2014 (BO) (Attachment C), FWS letter dated March 20 2018, and the FWS State Programmatic (SP) BO dated ~~April 19, 2014~~ March 13 2015 (Attachment D), contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with “incidental take” that is also specified in the BO. Authorization under this permit is conditional upon compliance with all of the mandatory terms and conditions associated with incidental take of the enclosed BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with this permit. The United States Fish and Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

4. All Terms and Conditions in the FWS Programmatic Piping Plover Biological Opinion, dated May 22, 2013 (Attachment E), shall be met as required in that document. As it relates to survey guidelines defined in P<sup>3</sup>BO Conservation Measure #2, the FWS approves a reduction in the survey effort, and the following revised survey guidelines can be implemented by the County:

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**7. Determination:** The Corps has reviewed all pertinent information in the proposed modification request and has concluded that the previous determinations for this permit evaluation are still valid. The impacts on the environment and navigation of the proposed modification to this permit have been evaluated and found to be insignificant. Therefore, the requested modification is hereby approved.

PREPARED BY:

Linda C. Knoeck  
Project Manager

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Date

APPROVED BY:

*Alisa Zarbo*

Alisa A. Zarbo  
Chief, Palm Beach Gardens Permits Section

3 April 2018

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Date