



FLORIDA DEPARTMENT OF Environmental Protection

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September 16, 2020

U.S. Army Corps of Engineers
Attn: Michael Hollingsworth
Environmental Branch
Jacksonville District
Post Office Box 4970
Jacksonville, Florida 32232

Permit Modification No. 0303186-005-JN
Permit No. 0303186-001-JC, Duval County
Jacksonville Harbor Maintenance Dredging

Dear Mr. Hollingsworth:

Your request to modify Permit No. 0303186-001-JC was received on June 18, 2020, and has been reviewed by Florida Department of Environmental Protection (Department) staff. The proposed permit modification is to update the permit to reflect the expansion of the channel footprint as constructed by Permit No. 0129277-017-BI, and to delete Specific Condition 41, which requires submission of an annual progress report. Additionally, Specific Condition 10, which describes the *Maximum Expected Disturbance Depth*, as well as the reference to this disturbance depth in the activity description, were also deleted. The Department took the opportunity to update various specific conditions, including those related to turbidity monitoring and the protection of fish and wildlife, and to include the General Consent Conditions.

Background

On May 23, 2012, the Department issued Joint Coastal Permit No. **0303186-001-JC** to dredge shoal material annually from the Jacksonville Harbor Terminal Channel through Entrance Channel Bar Cut 3, and the West Blount Island Channel. Dredged material would be deposited in upland disposal areas, including Bartram Island, Buck Island, and/or another operational upland placement area; in an Ocean Dredged Material Disposal Site (ODMDS) authorized under the Marine Protection, Research, and Sanctuaries Act (MPRSA); in Huguenot Park; or within the South Beach Placement Area.

On May 23, 2012, the Department issued Variance No. **0303186-002-BV** to temporarily establish an expanded mixing zone of 600 meters for the areas adjacent to the dredging site within the Nassau

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River - St. John's River Marshes Aquatic Preserve, which is designated as Outstanding Florida Waters (OFWs) and a maximum allowable turbidity level of 6 NTUs above background at the edge of the mixing zone.

For additional background, please see the *CONSOLIDATED NOTICE OF INTENT TO ISSUE JOINT COASTAL PERMIT, AND AUTHORIZATION TO USE SOVEREIGN SUBMERGED LANDS* for Permit No. 0303186-001-JC at the following website:

ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/duval/issued/0303186_Jax_Harbor_M_D/001-JC/

On May 24, 2012, the Corps submitted a request, Application No. **0303186-003-JN**, to include additional dredging cuts and place the beach compatible material in the approved beach placement area. That request was withdrawn on June 11, 2012.

On April 15, 2016, the Department issued Permit No. **0303186-004-JN**, to revise the tiling and escarpment monitoring conditions to include an extension of the deadline to perform mechanical activities until April 30th and to extend the permit expiration date an additional 5 years, from May 23, 2022, to May 23, 2027.

Staff Assessment and Justification

Expanded Channel Footprint

In July 2016, the expansion (deepening and widening) of the Jacksonville Harbor Federal Channel was permitted (**0129277-017-BI**). The activity descriptions and activity location of this Jacksonville Harbor Maintenance Dredging permit (**0303186-001-JC**) are being updated to reflect the expanded channel footprint as constructed by the Jacksonville Harbor Federal Channel Expansion Project. Specifically, the total dredging depth shall now range from -34 feet MLLW to -51 feet MLLW instead of the -46 feet MLLW previously authorized; and the channel shall be widened at various locations, including the two turning basins at Blount Island and Brills Cut.

Annual Progress Report

Specific Condition 41, which requires the submission of an annual progress report, shall be deleted since this maintenance dredging project, is for multiple maintenance dredging events over the 15-year permit period, does not impose new construction activities or impacts.

Maximum Expected Disturbance Depth

The existing permit authorized a dredge tolerance titled the 'Maximum Expected Disturbance Depth', which authorized incidental errors that resulted in disturbance of sediment below the authorized total dredging depth. This dredge tolerance is no longer required. Consequently, Specific Condition 10 and the reference to the Maximum Expected Disturbance Depth in the Activity Description are being deleted.

Inclusion of the General Consent Conditions

The General Consent Conditions have been added to the permit. Rule 18-21.004(7), F.A.C., says:

All authorizations granted by rule or in writing under Rule 18- 21.005, F.A.C., ... shall be subject to the general conditions as set forth in paragraphs (a) through (i) below. The general conditions shall be part of all authorizations under this chapter, shall be binding upon the grantee, and shall be enforceable under Chapter 253 or 258, Part II, F.S.

Updating Specific Conditions

The Department and the Florida Fish & Wildlife Conservation Commission (FWC) have refined the language of Specific Conditions to reduce ambiguity. These changes clarify common misinterpretations, update requirements and ensure consistency with the current biological opinions. As such, updates have been made throughout the permit.

The General Consent Conditions shall be added as follows (underlines are additions):

1. Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.
2. Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.
3. Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.
4. Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.
5. Construction, use or operation of the structure or activity shall not adversely affect any species that is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C.
6. Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.

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7. Structures or activities shall not create a navigational hazard.
8. Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident or fire.
9. Structures or activities shall be constructed, operated and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(f), F.A.C., or any other applicable law.

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

The proposed project is to maintenance dredge ~~approximately a maximum of~~ three (3) million cubic yards of shoal material annually from the Jacksonville Harbor Upper Terminal Channel through Entrance Channel Bar Cut 3, and the West Blount Island Channel. The project consists of a main ship channel with associated channel wideners, as well as Cuts F and G of the West Blount Island channel. Dredging depths, which are the sum of the authorized project depth, the advance maintenance and the allowable overdepth, will range from -34 feet MLLW to ~~46~~ -51 feet MLLW. ~~Maximum expected disturbance depths, which include an additional depth tolerance, will range from -40 feet MLLW in the southern end of the Terminal Channel to -51 feet MLLW in the eastern portion of Bar Cut 3.~~ Dredged material would be deposited in upland disposal areas, including Bartram Island, Buck Island, and/or another operational upland placement area; in an Ocean Dredged Material Disposal Site (ODMDS) authorized under the Marine Protection, Research, and Sanctuaries Act (MPRSA); in Huguenot Park Beach Placement Site; or within the South Beach Placement ~~Area~~ Site.

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

The dredging activity is located within the St. Johns River from Commodore Point in downtown Jacksonville to the entrance channel Bar Cut 3, Duval County, Class III Waters, which is adjacent to the OFW of the Nassau River – St. Johns River Marshes Aquatic Preserve. The Bartram Island upland disposal area is located on the south bank of the St. Johns River between Cuts 44 and 49; the Buck Island upland disposal area is located on the south bank of the river between Cuts 16-19 and Cut 39; the Huguenot Park ~~Beach~~ Placement ~~Site~~ is located north of Bar Cut 3 between Stations 256+00 and 296+00; and the South Beach ~~Placement~~ Site is located between the south jetty and R-

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39 in the Atlantic Ocean, Class III Waters. The Jacksonville ODMDS is located ~~4.8~~5.8 nautical miles southeast of the south jetty, in the Atlantic Ocean and outside of state waters.

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

1. If the General Conditions, approved permit drawings or final Plans & Specifications contradict the Specific Conditions, then the Permittee shall be responsible for adhering to the Specific Conditions. The approved permit drawings shall prevail over any other depiction of the project.
2. Unless otherwise specified in the specific conditions of this permit, all submittals required herein shall be electronically submitted (via e-mail, file transfer site or hard drive). Email submittals shall be sent to the Department's JCP Compliance Officer (e-mail address: JCPCompliance@dep.state.fl.us). If a file transfer site is used, a link shall be e-mailed to the JCP Compliance Officer. If data are too large to be submitted via e-mail or file transfer site, the Permittee may submit the data via an external hard drive, provided by the Permittee. The external hard drive shall be mailed to:

Department of Environmental Protection
Office of Resilience and Coastal Protection
Attn: JCP Compliance Officer
2600 Blair Stone Road, Mail Station 3566
Tallahassee, FL 32399-2400

~~All submittals required herein shall be directed to both the DEP's Bureau of Beaches & Coastal Systems office and the Northeast District office (cover letter only) at the following addresses:~~

~~Florida Dept. of Environmental
Protection
Bureau of Beaches and Coastal Systems
Attn: JCP Compliance Officer
3900 Commonwealth Boulevard,
Mail Station 300
Tallahassee, Florida 32399-3000
Phone: 850-414-7716
Email: JCPCompliance@dep.state.fl.us~~

~~Florida Dept. of Environmental Protection
Northeast District Office
7825 Baymeadows Way
Suite B200
Jacksonville, Florida 32256
Phone: 904-807-3300
E-mail: Jim.Maher@dep.state.fl.us~~

Such submittals include, but are not limited to, record drawings, progress reports,

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and water quality monitoring reports. **All submittals shall clearly indicate the project name (Jacksonville Harbor Maintenance Dredging) and the permit number (0303186-001-JC).**

3. ~~Storage, stockpiling or staging of~~ The Permittee shall not store or stockpile tools, equipment, materials, etc. within wetlands, vegetated littoral zones or elsewhere within surface waters of the state without prior written approval from the Department . Storing, stockpiling or accessing of equipment on, in, over or through areas with benthic biological resources (including beds of submerged aquatic vegetation [SAV], wetlands, oyster reefs or hardbottom) is prohibited unless it occurs within a work area or ingress/egress corridor that is specifically approved by this permit and is shown on the approved permit drawings. Anchoring or spudding of vessels and barges within areas with benthic biological resources is also prohibited
4. No elevation of turbidity or extended mixing zone is authorized within the boundaries of the Nassau River - St. John's River Marshes Aquatic Preserve, designated as Outstanding Florida Waters (OFW), unless the Department issues a Final Order for a Variance (File No. 0303186-002-BV) from Rule 62-4.244(5)(c), F.A.C., to establish a temporary mixing zone greater than 150 meters, and from Rules 62-4.242(2)(a)2.b. F.A.C., to establish a maximum allowable turbidity level above background within these Outstanding Florida Waters (OFW) during project construction.
5. No direct or secondary impacts are authorized to wetlands, submerged aquatic vegetation, shellfish beds or hardbottom communities. If any such impacts occur, the Permittee shall immediately report the incident to the ~~BBCS'~~Department's JCP Compliance Officer and take immediate corrective action to avoid any further impacts. Within 30 days of any event, the Permittee shall propose a remediation/mitigation plan, which shall be implemented immediately upon approval by the Department.
6. In advance of a major storm and/or high water event, the Permittee shall alter operations as necessary to maintain water quality standards at the compliance locations. All construction activities shall be suspended and the site secured during events that may be expected to result in release of sediment from upland dredged material disposal sites to offsite areas or into any wetlands or surface waters.
7. **Pre-Construction Meeting.** At least seven (7) days prior to commencement of ~~the each~~ dredging event authorized by this permit, the Permittee shall conduct a pre-construction conference to review the specific conditions and monitoring

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requirements of this permit with the Permittee's contractors, Contracting Officer Representative, those responsible for turbidity monitoring, those responsible for protected species monitoring, staff representatives of the Fish and Wildlife Conservation Commission (FWC) and the Department's JCP Compliance Office (or their designee). This condition can be best met at the pre-construction conference arranged by the Permittee. Once the JCP Compliance Officer has confirmed his/her availability, the Permittee shall provide written notification, at least 14 days in advance of the meeting, to the following offices advising of the date, time, and location of the pre-construction conference. In order to ensure that appropriate representatives are available, at least twenty-one (21) days prior to the intended commencement date for the permitted construction, the Permittee is advised to contact the Department, and the other agency representatives listed below:

DEP, JCP Compliance Officer
e-mail: JCPCCompliance@dep.state.fl.us

FWC Imperiled Species Management Section
e-mail: marineturtle@myfwc.com

FWC, Regional Biologist
Contact list: <http://myfwc.com/conservation/you-serve/wildlife/shorebirds/>

At least seven (7) days in advance of the pre-construction conference, the Permittee shall provide written notification, advising the participants of the agreed-upon date, time and location of the meeting, and also provide a meeting agenda and a teleconference number.

If the actual construction start date is different from the expected start date proposed during the preconstruction conference, at least 48 hours prior to the commencement of each dredging event, the Permittee shall ensure that notification is sent to the FWC, at marineturtle@myfwc.com, indicating the actual start date and the expected completion date. The Permittee shall also ensure that all contracted workers and observers are provided a copy of all permit conditions.

- ~~DEP, Bureau of Beaches and Coastal Systems (BBCS)~~
- ~~FWC, Imperiled Species Management Section~~
- ~~DEP, Northeast District Office~~

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~~The contact information for the DEP BBCS and the DEP Northeast District Office is given above. The contact information for FWC is:~~

~~FWC, Imperiled
Species Mgmt.
Section 620 South
Meridian Street, 6A
Tallahassee, FL
32399-1600
Phone: (850) 922-4330
Fax: (850) 921-4369
E-mail: fempmail@myfwc.com~~

8. **Best management practices (BMPs)** for erosion and sediment control shall be utilized where appropriate and maintained at all times during project construction to minimize turbidity generation, especially when conditions appear conducive to the encroachment of a turbidity plume into the OFW, and to prevent the spillage of hazardous substances into waters of the state from the dredge and scows. Turbidity control devices, where necessary or appropriate, shall be installed prior to the commencement of construction in any given area and maintained daily to ensure integrity and functionality until post- construction clean-up of each work area has been completed. BMPs shall generally adhere to the guidance in the Florida “Erosion and Sediment Control - Designer and Reviewer Manual,” available at the following website:
<https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>
www.stormwater.ucf.edu/FL/ErosionSedimentManual_6_07.pdf
9. At least 15 days prior to the commencement of each dredging event authorized by this permit, the following items shall be submitted to the Department, with clear reference to the project name and permit number:
- a. A written summary of the construction schedule, the specific type of dredge equipment to be used, the anticipated volume of material to be dredged and the disposal sites that may be utilized;
 - b. One (1) electronic copy of the final Plans and Specifications, ~~and one (1) paper copy (sized 11 inches by 17 inches or larger, with all text legible) of the final Plans only,~~ that are consistent with the Activity Description of this permit and the approved permit drawings. The Permittee shall point out any deviations from the Activity Description of this permit (as stated above) or the approved permit drawings (attached to this permit), and any

significant changes that would require a permit modification. The plans shall include a description of drawings and surveys that show all biological resources and work spaces (e.g., anchoring areas, pipeline corridors, staging areas, boat access corridors, etc.) to be used for this project;

- c. Documentation from the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) that this work will be covered under a Statewide Programmatic Biological Opinion or a Biological Opinions (BO) issued for construction on this project site. If the BO contains conditions that are not already contained herein, a permit modification may be required prior to construction to include those additional conditions ~~A plan view of all staging areas, overlaid on a recent aerial photograph;~~
- d. ***Turbidity Monitoring:*** In order to assure that turbidity levels do not exceed the compliance standards established in this permit, construction at the project site shall be monitored closely by an individual with formal training in water quality monitoring and professional experience in turbidity monitoring for coastal construction projects. Also, an individual familiar with beach construction techniques and turbidity monitoring shall be present at all times when turbidity generating activities are occurring. This individual shall have authority to alter construction techniques or shut down the dredging or beach construction operations if turbidity levels exceed the compliance standards established in this permit.
- ***Qualifications.*** The names, credentials (demonstrating experience and qualifications) and 24-hour contact information contact information for the individuals who will conduct the turbidity monitoring and the manatee/sea turtle observations;
- eii. **A Scope of Work (SOW)** for the turbidity monitoring to ensure that the right equipment is available to conduct the monitoring correctly at any location, and under any conditions. This SOW shall ~~A copy of the Contractor's Environmental Protection Plan, or equivalent,~~ that provides project-specific details of the Best Management Practices (BMPs) that will be implemented to prevent erosion, turbidity and the release of hazardous substances at the dredge/scow, staging areas or during the transfer of material to offshore disposal sites;

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- iii. *Draft turbidity sampling map.* An example of the geo-referenced map that will be provided with turbidity reports, including aerial photography and the boundaries of biological resources and/or OFW (pursuant to Specific Condition 13);

- e. **Fish & Wildlife Monitoring Qualifications:** To ensure that individuals conducting monitoring of fish and wildlife resources have appropriate qualifications, the Permittee shall provide documentation demonstrating expertise/experience in surveying the types of resources that are present in the project. The Department and the Florida Fish and Wildlife Conservation Commission (FWC) will review this information for confirmation that the monitors are capable of meeting the requirements in Specific Conditions 14 through 27. This documentation shall include the following:
 - i. *Marine Turtle Protection:* A list of the names and FWC permit numbers for the Marine Turtle Permit Holders.

 - ii. *Shorebird Protection:* A list of Bird Monitors with their contact information, summary of qualifications including bird identification skills, and avian survey experience, proposed locations of shorebird survey routes, and the locations of travel routes.

 - iii. *Marine Mammal Protection:* A list of dedicated observers with their contact information, qualifications including detailed descriptions of past observational experience including related documentation. For additional information, see FWC's website at: <https://myfwc.com/wildlifehabitats/wildlife/manatee/watch-program/>.

- f. A copy of the active operational permit issued by the Department for each authorized upland disposal site before disposal operations can begin;

- g. A signed report from a project engineer, based on a site inspection, on the integrity and suitability of the upland disposal site(s) to accept dredged material; and

- h. A copy of the valid EPA authorization for each offshore disposal site to be used. If new sediment sampling and testing has been performed in support of the EPA authorization since the previous dredge event, a copy of that testing report and supporting geotechnical, chemical and/or toxicity data shall also be submitted to the Department;

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~~10. Dredging shall not exceed the depths (in MLLW) listed in Plate 4 of 26 of the permit drawings under the column titled "Maximum Expected Disturbance Depth". A determination of any exceedance of this tolerance shall be based upon a comparison between the pre-construction and immediate post-construction bathymetric surveys. The dredging tolerance is intended to authorize incidental errors that result in occasional pockets of disturbance below the authorized project depth, which includes an overdredge allowance and advanced maintenance. It is not intended to authorize frequent or systematic dredging below the project depth, nor is it intended to authorize the dredging of holes or pockets in the seafloor that may trap significant quantities of shoaled beach quality sand and prevent future beneficial use.~~

1044. Sediment quality will be assessed as outlined in the attached Sediment QA/QC plan (dated January 25, 2011). ~~Any occurrences of unacceptable material will~~ Placement of material that is not in compliance with the Plan shall be handled according to the protocols set forth in the Sediment QA/QC plan. The sediment testing result will be submitted to ~~FDEP~~ the Department within 90 days following the completion of beach construction. The Sediment QA/QC plan includes the following:

- a. If, during construction, the Permittee or Engineer determines that the beach fill material does not comply with the sediment compliance specifications, the Permittee shall take measures ~~will be taken~~ to avoid further placement of noncompliant fill, and the sediment inspection results will be reported to the Department.
- b. The Permittee will submit post-construction sediment testing results and an analysis report as outlined in the Sediment QA/QC plan to the Department within 90 days following beach construction. The sediment testing results will be certified by a P.E. or P.G. from the testing laboratory. A summary table of the sediment samples and test results for the sediment compliance parameters as outlined in Table 1 of the Sediment QA/QC plan shall accompany the complete set of laboratory testing results. A statement of how the placed fill material compares to the sediment analysis and volume calculations from the geotechnical investigation shall be included in the sediment testing results report.
- c. A post-remediation report containing the site map, sediment analysis, and volume of noncompliant fill material removed and replaced shall ~~will~~ be submitted to the Department within 120 days following completion of remediation activities.

- d. The Permittee shall ensure that plans and equipment will be available for use to address any noncompliant material encountered during dredging.

WATER QUALITY MONITORING

~~1142.~~ Turbidity monitoring for this project shall be conducted by individuals with prior experience in turbidity monitoring for major dredging projects. Prior to the required pre- construction meeting, the Permittee shall provide (in writing to the JCP Compliance Officer) the name, telephone number and credentials of the individual(s) or company(s) responsible for monitoring. Routine **turbidity monitoring** at the dredge sites (including the bed leveling sites) shall be measured according to the following protocols:

a. LOCATION:

Background – At surface and mid-depth, at least 300 meters upcurrent of the dredge location and clearly outside the influence of turbidity generated by this project or other obvious turbidity plumes.

Compliance (outside OFW) - At surface and mid-depth, not more than 150 meters downcurrent from the dredge location or beach placement site, within the densest portion of any project-related turbidity plume.

Compliance (in OFW) - At surface and mid-depth, not more than 600 meters downcurrent from the dredge location, within the densest portion of any project- related turbidity plume.

- b. FREQUENCY: **Background and Compliance** - Samples shall be collected approximately every four (4) hours during daylight dredging, beginning approximately 30 minutes after the commencement of dredging or placement activities, and also whenever a substantial plume approaches the edge of the mixing zone (i.e., 150 meters from dredge or 600 meters from dredge when plume extends into OFW) such that a water quality violation may exist.
- c. UNANTICIPATED DISCHARGE: The mixing zone only applies at the dredge site during the time of dredging. Any project-associated discharge that is observed to extend beyond the established mixing zone (e.g., scow leakage during transit to the ODMS) shall be monitored as close to the source as possible until turbidity levels meet the state standard, or until otherwise directed by the Department. When this type of unanticipated discharge causes a turbidity exceedance, as compared to a corresponding Background site at least 300 meters upcurrent of the discharge and outside

any obvious plume, the Permittee shall adhere to the turbidity compliance actions outlined in Specific Condition No. ~~1213~~-below.

- d. **TURBIDITY STANDARD:** Turbidity levels at the edge of the approved mixing zones outside of OFW shall not exceed **29 Nephelometric Turbidity Units (NTUs)** above the turbidity level measured at the background location. For turbidity plumes extending beyond the limits of the navigation channel into the OFW (i.e., the Nassau River - St. John's River Marshes Aquatic Preserve), project activities shall not elevate turbidity more than **6 NTUs** above background beyond the edge of the 600-meter mixing zone, according to the terms of Variance No. 0303186-002-BV. If the variance has not been issued, or is expired, the project shall not cause turbidity within the OFWs to exceed background levels outside of a 150-meter mixing zone.
- e. **CALIBRATION:** ~~Turbidity measurements must be acquired in adherence to the Department's Standard Operating Procedure (SOP) for field turbidity, available at the website: www.dep.state.fl.us/labs/qa/sops.htm~~ More specifically, the instruments used to measure turbidity shall be fully calibrated with primary standards within one month of the commencement of the project, and at least once a month thereafter during the project. Calibration, with secondary standards, shall be verified each morning prior to use, and after each time the instrument is turned on, using two secondary a turbidity "standards" that bracket the anticipated turbidity samples is different from the one used during calibration. If the post-sampling calibration value deviates more than 8% from the previous calibration value, results shall be reported as estimated and a description of the problem shall be included in the field notes.

Analysis of turbidity samples shall be performed in compliance with DEP-SOP-001/01 FT 1600 Field Measurement of Turbidity:
<http://publicfiles.dep.state.fl.us/dear/sas/sopdoc/2008sops/ft1600.pdf>

If the turbidity monitoring protocol specified above prevents the collection of accurate data, the Permittee shall contact the JCP Compliance Officer to establish a more appropriate protocol. Once approved in writing by the Department, the new protocol shall be implemented through an administrative permit modification.

- ~~1213~~. The **compliance** locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. If monitoring reveals turbidity levels at the **compliance** sites that are greater than **6 NTUs**

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above the corresponding background turbidity levels when the plume extends into OFW, or 29 NTUs above the corresponding background turbidity levels, construction activities shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence shall also be immediately reported to the JCP Compliance Officer via email at JCPCompliance@dep.state.fl.us and include in the subject line, “TURBIDITY EXCEEDANCE”, and the Project Name and Permit Number. Also notify the Department’s Northeast District office.

Any project-associated turbidity source other than dredging or fill placement for beach nourishment (e.g., scow or pipeline leakage) shall be monitored as close to the source as possible. If the turbidity level exceeds 29 NTUs above corresponding background outside of OFW, or 6 NTUs above background within OFW, the construction activities related to the exceedance shall cease immediately and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. This turbidity monitoring shall continue every hour until background turbidity levels are restored or until otherwise directed by the Department. The Permittee shall notify the Department, by separate email to the JCP Compliance Officer, of such an event within 24 hours of the time the Permittee first becomes aware of the discharge. The subject line of the email shall state “OTHER PROJECT-ASSOCIATED DISCHARGE, TURBIDITY EXCEEDANCE”.

a. When reporting a turbidity exceedance, the following information shall also be included:

- i. the Project Name;
- ii. the Permit Number;
- iii. location and level (NTUs above background) of the turbidity exceedance;
- iv. the time and date that the exceedance occurred; and
- v. the time and date that construction ceased.

b. Prior to re-commencing the construction, a report shall be emailed to the Department with the same information that was included in the “Exceedance Report”, plus the following information:

- i. turbidity monitoring data collected during the shutdown

documenting the decline in turbidity levels and achievement of acceptable levels;

ii. corrective measures that were taken; and

iii. cause of the exceedance.

~~The following measures shall be taken whenever turbidity levels exceed the standards stated above, which indicates an exceedance of state water quality standards, though not necessarily a violation of this permit:~~

- ~~a. Immediately cease all dredge or discharge operations that may be contributing to the water quality exceedance. Cessation of dredging or discharge operations shall continue until monitoring indicates that turbidity levels are meeting the Standard;~~
- ~~b. Notify the JCP Compliance Officer, at JCPCCompliance@dep.state.fl.us, within 24 hours of the time the exceedance is first detected. The subject line shall include the phrase “**Water Quality Violation.**”. The exceedance report shall include the project name, the permit number, a description of the corrective actions taken or proposed to be taken and the turbidity values (background, compliance and the difference) of the exceedance;~~
- ~~c. Modify the work procedures that were responsible for the violation such as reducing the dredge rate and/or installing additional BMPs or repairing any non-functioning turbidity containment devices;~~
- ~~d. Dredging shall not resume until two (2) monitoring events conducted at least one hour apart confirm that turbidity readings are in compliance with the Standard, and~~
- ~~h. Provide a copy of all monitoring data sheets to the JCP Compliance Officer within 24 hours of the time when any suspended dredge or discharge operations resume (email acceptable).~~

REPORTS

1314. Turbidity monitoring reports shall be submitted to the Department BBCS on a weekly basis within seven (7) days of collection, except when required more frequently by Specific Condition No. 1213 above. The data shall be presented in tabular format, indicating the measured turbidity levels at the compliance sites for each depth, the corresponding background levels at each depth and the number of

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NTUs over background at each depth. Any exceedances of the turbidity standard (6 NTUs or 29 NTUs above background) shall be highlighted in the table.

These reports may be submitted electronically to the JCP Compliance Officer at JCPCCompliance@dep.state.fl.us. In the subject line of the reports, include the Project Name, Permit Number and the dates of the monitoring interval. Reports shall be submitted with a cover letter or e-mail message containing the following statement: **"This information is provided in partial fulfillment of the monitoring requirements in Permit No. 0303186-001-JC for Jacksonville Harbor Maintenance Dredging"**. The cover letter shall summarize any significant compliance issues and the dates or monitoring period of the reports. Also, please clearly reference the permit number on each page of the reports. In addition to analytical results for samples and quality control, each report should also include:

- a. Time of day samples were taken;
- b. Depth of waterbody;
- c. Depth of each sample;
- d. Antecedent weather conditions, including wind direction and velocity;
- e. Tidal stage and direction of flow;
- f. Dates of sampling and analysis; ~~Wind direction and velocity~~;
- g. A statement describing the methods used in collection, handling, storage and analysis of the samples;
- h. Turbidity meter calibration/documentation;
- i. Sampling results, the net difference between compliance and background results, and whether the turbidity level is in compliance;
- j. A georeferenced map, overlaid on an aerial photograph, indicating the location of the current construction activity, the sampling locations (background and compliance), the visible plume pattern of the applicable mixing zone, and the direction of flow.; ~~and~~ The map shall also include the boundaries of any benthic resources or location of nearby Outstanding Florida Waters, if applicable.; ~~and~~ A sample map shall be submitted to and reviewed by the Department prior to construction (Specific Condition 9);

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- k. A statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data; and.
- l. Water Temperature.

Failure to submit monitoring reports in a timely manner constitutes a violation of the permit pursuant to Chapter 403.161, Florida Statutes and may be grounds for permit revocation.

Specific Conditions 15-40 shall be deleted and replaced with Specific Conditions 14-32.

Fish and Wildlife

14. **In-water Activity.** The Permittee shall adhere to the following requirements for all in-water activity:

- a. The Permittee shall instruct all personnel associated with the project about the presence of marine turtles and manatees, and the need to avoid collisions with (and injury to) these protected marine species. The Permittee shall be responsible for harm to these resources and shall require their contractors to advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees or marine turtles, which are protected under the Endangered Species Act, the Marine Mammal Protection Act, the Marine Turtle Protection Act and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate project 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 manatee entanglement or entrapment. Barriers shall not impede manatee or marine turtle movement or travel.
- d. The Permittee is responsible for all on-site project personnel and shall require them to observe water-related activities for the presence of marine turtles and manatee(s). All in-water operations shall be immediately shut down if a marine turtle or manatee comes within 50 feet of the operation. For unanchored vessels, operators shall disengage the propeller and drift out of the potential impact zone. If drifting would jeopardize the safety of the vessel then idle speed may be used to

leave the potential impact zone. 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.

- 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. Any collision with (and/or injury to) a marine turtle shall also be reported immediately to the Sea Turtle Stranding and Salvage Network (STSSN) at SeaTurtleStranding@myfwc.com.
- f. Temporary signs concerning manatees shall be prominently posted prior to and during all in-water project activities, at sufficient locations to be regularly and easily viewed by all personnel engaged in water-related activities. Two temporary signs, which have already been approved for this use by the FWC, shall be posted at each location. One sign shall read "Caution Boaters – Watch for Manatees". A second sign measuring at least 8 ½" by 11", shall explain the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations. All signs shall be removed by the Permittee upon completion of the project. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to ImperiledSpecies@myFWC.com.

15. **Clamshell or other Mechanical Dredging.** When clamshell or other mechanical dredging is being performed, a dedicated observer shall be present (i.e., on-site) when in-water work is being performed using a clamshell or other mechanical dredge. Additionally, between April 1 and November 30, at least two dedicated observers shall be present during night-time mechanical dredging. The dedicated observers shall perform no other duties that may interfere with their ability to observe for protected marine species (such as manatees, marine turtles, dolphins, etc.) during dredging activities.

- a. Requirements and procedures for dedicated observers are as follows:
 - i. Dedicated Observers shall have prior on-the-job experience observing protected marine species (including manatees and marine turtles) during previous dredging events where the activities were similar in nature to this project.
 - ii. Dedicated Observers shall be outfitted with equipment needed for observation of and for reaction to observed protected marine species (such

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as binoculars, polarized sunglasses, lights, two-way radios, contact information for dredge operator and contracting officer, etc.).

- iii. The Contractor shall immediately shut down project operations upon notification by the dedicated observer (or any on-site project personnel) of the sighting a protected marine animal within the designated safety distance (50-feet) of any in-water construction or vessel activity; or if the detection of a protected marine animal is not possible due to weather or other conditions (such as during fog, rain, wind, etc.).
- iv. Dedicated Observers shall maintain a daily log that details sightings, collisions, or injuries to protected marine species (manatees, marine turtles, dolphins, etc.), and actions taken as a result of the sighting, collisions or injuries.

b. Additionally, during clamshell dredging, the dredge operator shall gravity-release the clamshell bucket only at the water surface, and only after confirmation that there are no manatees within the safety distance identified in specific condition 14.d.

16. Hydraulic dredging shall be used as much as practicable.

17. Blasting shall be prohibited.

18. **Hopper Dredging.** If a hopper dredge is used for this project, the following requirements shall be met in addition to the Terms and Conditions of the applicable NMFS Biological Opinion which applies to hopper dredging:

- a. Handling of captured marine turtles during hopper dredging activities shall be conducted only by persons with prior experience and training in these activities, such as a National Marine Fisheries Service (NMFS)-approved marine turtle observer, or by persons who have submitted documentation to the Corps of meeting the FWC Marine Turtle Conservation Guidelines specific to stranding activities. The Corps shall forward documentation of these qualifications to FWC for review, as required in Specific Condition 4. Corps staff or their designee who transport live or dead marine turtles or marine turtle parts into, out of, or within, the state of Florida shall notify FWC in writing, specifying the number of transported specimens, species of turtle, type of specimen, and the destination after transport is complete. Before transport, if the turtle is believed to be alive, Corps staff or their designee shall coordinate with FWC to determine the appropriate facility to receive live marine turtles for rehabilitation. Corps staff or their designee shall abide by the State of Florida's FWC Marine Turtle

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Conservation Guidelines

(<http://www.myfwc.com/wildlifehabitats/managed/seaturtles/conservation-guidelines/>) specific to transport of live stranded turtles.

- b. In order to minimize impingement or entrainment of marine turtles within the water column, when initiating dredging, suction through the drag heads shall be allowed just long enough to prime the pumps, then the drag heads shall be placed firmly on the bottom. When lifting the drag heads from the bottom, suction through the drag heads shall be allowed just long enough to clear the lines, and then shall cease while maneuvering or during travel to/from the placement area. When possible, dredging pumps shall be disengaged by the operator when the drag heads are not firmly on the bottom.
 - c. A state-of-the-art rigid deflector draghead shall always be used on all hopper dredges.
 - d. The Sea Turtle Stranding and Salvage Network (STSSN) Coordinator shall be notified of the start-up and completion of hopper dredging operations at 1-904-573-3930 or via e-mail at Allen.Foley@myfwc.com. If a marine turtle is captured or marine turtle parts are recovered, the STSSN shall be contacted at seaturtlestranding@myfwc.com.
19. **Trawling.** If relocation trawling or non-capture trawling for marine turtles is required as per applicable NMFS Biological Opinions and Incidental Take authorizations, the following is required:
- a. 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 prior to trawling.
 - b. The Permittee or their contractor shall e-mail (MTP@MyFWC.com) reports to the FWC's Imperiled Species Management Section on Friday of each week that trawling is conducted in Florida waters. These weekly reports shall include the species and number of turtles captured, their general health, and release information. A summary of all trawling activity (including non-capture trawling) shall be submitted to MTP@myfwc.com by January 15 of the following year, or at the end of the project. The summary shall be recorded/documented on the FWC-provided Excel spreadsheet (available at <http://myfwc.com/media/33168/Trawl-Report-Template.pdf>), and shall list all turtles captured in Florida waters, the measurements of all captured turtles, the location of captures (latitude and longitude in decimal degrees), the location of tow start-stop points (latitude and longitude in decimal degrees), and times for the start- stop points of the tows

(including tows when no turtles are captured).

20. **Construction Area Project Lighting.**

During the marine turtle nesting season (April 15 through October 31), direct lighting of the beach and nearshore waters shall be limited to the immediate area of active construction .

Lighting on offshore and onshore equipment shall be minimized by reducing the number of fixtures, shielding, lowering the height and appropriately placing fixtures to avoid excessive illumination of the water's surface and nesting beach. The intensity of lighting shall be reduced to the minimum standard required for general construction area safety. Shields shall be affixed to the light housing on dredge and on land-based lights and shall be large enough to block lamp light from being transmitted outside the construction area or to the adjacent marine turtle nesting beach. (Figure 1 below).

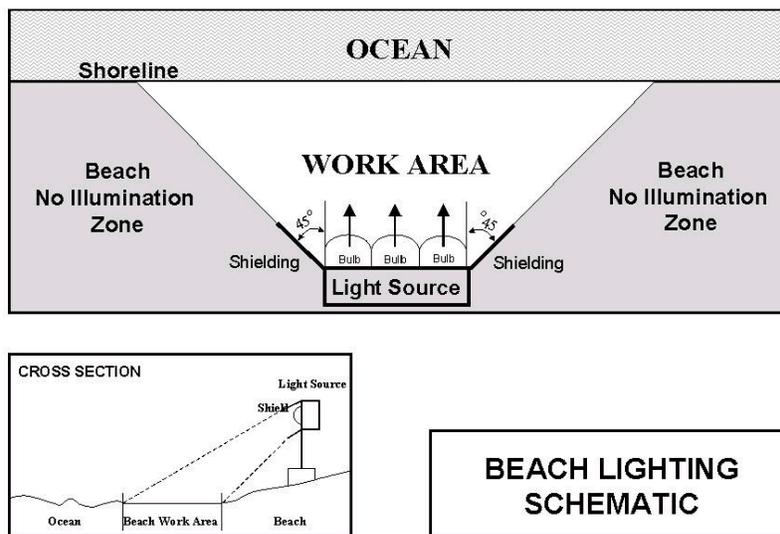


Figure 1

21. **Wildlife Conditions for All Beach Related Activities.** The Permittee shall adhere to the following requirements for all beach-related activities during marine turtle and shorebird nesting/breeding seasons March 1 – October 31.

a. **Beach Maintenance:**

i. The Permittee shall require their contractor and protected species monitors to inspect all active work areas that have excavations and temporary alterations of

beach topography each day, to determine which areas have deviations (such as depressions, ruts, holes and vehicle tracks) capable of trapping flightless shorebird chicks or marine turtle hatchlings. If so, the deviations from the natural beach profile shall be filled or leveled prior to 9:00 p.m. each day. The beach surface shall also be inspected subsequent to completion of the project, and all tracks, mounds, ridges or impressions, etc. left by construction equipment on the beach shall be smoothed and leveled.

- ii. All debris, including derelict construction or coastal armoring material, concrete and metal, found on the beach placement site, shall be removed from the beach to the maximum extent practicable prior to any placement of fill material. If debris removal activities will take place during protected species nesting seasons, the work shall be conducted during daylight hours only, and shall not commence until completion of daily monitoring surveys.

b. Equipment Storage and Placement.

- i. Staging areas and temporary storage for construction equipment and pipes shall be located off the beach to the maximum extent practicable. Nighttime storage of construction equipment that is not in use shall be located off the beach. If staging and storage areas off the beach are not possible, then additional marine turtle and shorebird protective measures shall be implemented. Such protective measures shall be determined in coordination with the Department and FWC prior to beginning of construction. All construction pipes that are in use 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 5 to 10 feet away from the toe of the dune.

- ii. If it will be necessary to extend construction pipes past a known shorebird nesting site, then those pipes shall 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. If such placement is not feasible for the project, FWC's Regional Biologist shall be contacted for alternative measures. See contacts available at <http://myfwc.com/conservation/you-conserve/wildlife/shorebirds/contacts>.

- c. **Beach Driving.** All vehicles operated on the beach 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/>). Specifically, the vehicle shall be operated at speeds less than 6 mph and run at or below the high-tide line. All personnel associated with the project shall be

instructed about the potential presence of protected species, and the need to avoid injury and disturbance to these species. *Note: when flightless chicks are present within or adjacent to travel corridors, construction-related vehicles shall not be driven through the corridor unless a Bird Monitor is present pursuant to Specific Condition 26.*

22. Marine Turtle Protection Conditions.

Construction-related activities are authorized to occur on the nesting beach (sandy beach seaward of existing coastal armoring structures or dune crest and all areas used for beach access) during marine turtle nesting season (April 15 through October 31) under the following conditions:

- a. Daily early morning marine turtle nest surveys shall start on April 15 or 65 days prior to beach placement whichever is later. Daily nesting surveys shall continue through November 30, or until two weeks after the last crawl in the project area, whichever is earlier.
- b. Daily nesting surveys shall be conducted beginning ½ hour prior to sunrise, and no construction activity may commence until completion of the marine turtle survey each day.
- c. The Permittee shall ensure that marine turtle nesting surveys are conducted as required in this authorization, and only conducted by personnel with a valid FWC Marine Turtle Permit, that covers all project activities as required by Chapter 68E-1, F.A.C. For information on the authorized Marine Turtle Permit Holders in the project area, contact FWC at MTP@MyFWC.com.
- d. Only those nests laid in the area where sand placement will occur shall be relocated, and nest relocation shall cease after the sand placement is completed. Nests requiring relocation shall be moved no later than 9 a.m., the morning following deposition (no longer than 12 hours from the time the eggs are laid), to a nearby self-release beach site in a secure setting, where artificial lighting will not interfere with hatchling orientation. The relocation site shall be determined in conjunction with and approved by FWC prior to nest relocations. Relocated nests shall not be placed in organized groupings. Relocated nests shall be randomly staggered along the length and width of beach settings that are not expected to experience any of the following: inundation by high tides; severe erosion; previous egg loss; or illumination by artificial lighting.
- e. Nests deposited within areas where construction activities will not occur for 65 days, or nests laid in the nourished berm prior to tilling, shall be marked and left in place. The Marine Turtle Permit Holder shall install on-beach markers at the nest

site to establish a minimum 5-foot radius around the approximate clutch location and shall also install a secondary marker at a point as far landward as possible to assure that the nest can be located should the on-beach marker be lost. No activity shall occur within the marked 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.

23. **Fill Restrictions.** During the marine turtle nesting season, the contractor shall not advance the beach fill more than 500 feet along the shoreline between dusk and the following day, until the daily nesting survey is completed, and the beach has been cleared for fill advancement. If the 500-foot advancement limitation is not feasible for the project, an alternative distance shall be established during the preconstruction meeting, if a distance can be agreed upon in consultation with FWC. If the work area is extended, nighttime nesting surveys are required, and a Marine Turtle Permit Holder is required to be present on-site to ensure that no nesting and hatching marine turtles are present. If any nesting turtles are sighted on the beach within the immediate construction area, activities shall cease immediately until the turtle has returned to the water and the Marine Turtle Permit Holder responsible for nest monitoring has relocated the nest.
24. **Marine Turtle or Nest Encounters.** Upon locating a dead or injured marine turtle adult, hatchling, or egg that may have been harmed or destroyed as a result of the project, the Permittee shall be responsible for notifying FWC Wildlife Alert at 1-888-404-FWCC (3922). Care shall be taken in handling injured marine turtles or exposed eggs to ensure effective treatment or disposition, and in handling dead specimens to preserve biological materials for later analysis. If a marine turtle nest is excavated during construction activities, but not as part of the authorized nest relocation process outlined in these specific conditions, 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.
25. **Tilling, Compaction and Escarpment Remediation Requirements.** For the years after the first-year sand placement (out-year), compaction monitoring, tilling and escarpment monitoring are not required if placed material no longer remains on the dry beach.
- a. **Compaction Sampling.** Sand compaction shall be monitored in the area of sand placement immediately after completion of the nourishment event, and two weeks prior to the beginning of marine turtle nesting season, for three (3) subsequent years if placed sand remains on the beach. The requirement for compaction monitoring may be eliminated if the placed sand is tilled, regardless of post-construction compaction levels. 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 prior to the beginning of marine turtle nesting season. If a few values exceeding 500 psi are present randomly within the project area, tilling will not be required. Compaction monitoring shall be in accordance with the following protocol:

- 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 depths of 6, 12 and 18 inches three times (i.e., three replicates at each depth). 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.
 - iii. 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 the Permittee shall consult with the FWC to determine if tilling is required. A request for a tilling waiver based on these compaction values shall be submitted to the FWC at MarineTurtle@MyFWC.com.
- b. Tilling Requirements.** If tilling is performed regardless of post-construction compaction levels or tilling is required based on compaction measurements, the area shall be tilled to a depth of 24 inches. Tilling shall be in accordance with the following protocol:
- i. All tilling activity shall be completed prior to the marine turtle nesting season. 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.
 - ii. 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. Each pass of the tilling equipment shall be overlapped to allow thorough and even tilling.

- iii. Tilling shall occur landward of the wrack line and shall avoid all naturally vegetated areas that are at least 3 square feet in size, as well as any planted areas that have been authorized by the Department. A 3-foot-wide No-Tilling buffer shall be maintained around vegetated areas. The slope between the mean high-water line and the mean low water line shall be maintained to approximate natural slopes.
- c. **Escarpment Surveys.** Visual surveys for escarpments along the project area shall be made immediately after completion of sand placement, within 30 days prior to April 15 and weekly throughout the marine turtle season for three (3) subsequent years, each year placed sand remains on the dry beach. Escarpment remediation shall be as follows:
- i. Prior to marine turtle nesting season, escarpments that interfere with marine turtle nesting or that exceed 18 inches in height for a distance of at least 100 feet shall be leveled to the natural beach contour or the beach profile shall be reconfigured to minimize scarp formation. Any escarpment removal shall be reported relative to R- monument location to FWC at MarineTurtle@MyFWC.com with a copy sent to the JCP Compliance Officer.
- ii. If weekly surveys during the marine turtle nesting season document escarpments that exceed 18 inches in height for a distance of at least 100 feet and have persisted for more than two weeks, the FWC shall be contacted immediately to determine the appropriate action to be taken. The Permittee shall provide locations and measurements of the escarpments to the closest R monument as well as the coordinates for the location of marine turtle nests located within 20 feet of the escarpments (latitude and longitude in decimal degrees), with photographs when possible. Upon written notification by FWC that the escarpment needs to be leveled, the Permittee shall level the escarpment. If nests are located nearby, to minimize impacts to any existing nest the Permittee shall also coordinate with the marine turtle permit holder prior to leveling the escarpments. An annual summary of escarpment surveys and actions taken shall be submitted electronically to FWC (MarineTurtle@MyFWC.com) by December 31 of each year.

Note for Shorebird Protection: If compaction sampling, tilling or escarpment removal occurs during shorebird breeding season, the Shorebird Conditions (including surveys) included in this authorization shall be followed. No heavy equipment shall operate, and no compaction sampling or tilling shall occur within 300 feet of any shorebird nest. If flightless shorebird chicks are present within the work zone or equipment travel corridor, a Bird Monitor shall be present during the operation to ensure that no heavy equipment operates within 300 feet of the

flightless young or within a site-specific corridor established per Specific Condition 27. It is the responsibility of the Permittee to ensure that their contractors avoid tilling, scarp removal or dune vegetation planting in areas where nesting birds are present.

26. Post-Construction Monitoring and Reporting Marine Turtle Protection Conditions

- a. For each sand placement event, reports for all required marine turtle nesting surveys shall be provided for the post construction (partial or remaining) nesting season and for two full nesting seasons post construction provided placed sand remains on the beach in accordance with the Table 1 (below). If nesting and reproductive success is less than the criteria in the table below, an additional year of monitoring and reporting may be required. If criteria is not met, additional conditions prior to the next sand placement on this beach may be required by the Department and FWC.
- b. Data shall be reported and summarized for the nourished areas and reference beach in accordance with Table 1 (below). Reports shall summarize all crawl activity, hatching success of a representative sampling of nests left in place (if any) by species, project name and applicable project permit numbers and dates of construction. Data on nesting activity on the nourished areas and on an equal length of beach that is not nourished shall be submitted in electronic format (Excel spreadsheets) which are available upon request from MarineTurtle@MyFWC.com. Reports shall be sent to the FWC Imperiled Species Management section at MarineTurtle@MyFWC.com and copied to JCPCCompliance@dep.state.fl.us. All summaries should be submitted by January 15th of the following year.

Table 1. Marine Turtle Monitoring for Beach Placement of Material

Date	Duration	Variable	Criterion
<u>Nesting Success</u>	<u>Year of in-season construction and two entire nesting seasons post construction, with possible additional year¹ & ²</u>	<u>Number of nests and non-nesting emergences by day by species</u>	<u>40 percent or greater</u>
<u>Hatching success</u>	<u>Year of in-season construction and one entire nesting season post construction, with possible additional year¹ & ²</u>	<u>Number of hatchlings by species to hatch from egg</u>	<u>60 percent or greater (a statistically valid number of loggerhead and green nests, and all leatherback nests)</u>
<u>Emergence Success</u>	<u>Year of in-season construction and one entire nesting season post construction, with possible additional year¹ & ²</u>	<u>Number of hatchlings by species to emerge from nest onto beach</u>	<u>Average must not be significantly different than the average hatching success</u>
<u>Disorientations</u>	<u>Year of in-season construction and two entire nesting seasons post construction¹</u>	<u>Number of nests and/or individuals that misorient or disorient</u>	
<u>Nests affected by erosion or inundation</u>	<u>Year of construction and two years post construction if placed sand remains on the beach</u>	<u>Number of nests lost and/or affected, by species</u>	

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Date	Duration	Variable	Criterion
<u>Compaction</u>	<u>Three nesting seasons beginning with the year of construction. Not required if the beach is tilled prior to nesting season¹</u>	<u>Shear resistance</u>	<u>Less than 500 psi</u>
<u>Escarpment Surveys</u>	<u>Weekly during nesting season for three years beginning with year of construction¹</u>	<u>Number of scarps 18 inches or greater extending for more than 100 feet that persist for more than 2</u>	<u>Successful remediation of all persistent scarps as needed</u>
¹ <u>If placed sand remains on the beach</u> ² <u>Additional years may be required if variable does not meet criterion based on previous year</u>			

27. **Shorebird Protection.** The term “shorebird” is used here to refer to all solitary nesting shorebirds and colonial nesting seabirds that nest on Florida’s beaches. These conditions are intended to avoid direct impacts associated with the construction of the project and may not address all potential take incidental to the operation and use related to this authorization. The Permittee shall adhere to the shorebird protection conditions during the shorebird breeding cycle, which includes nesting.

- a. Shorebird breeding season dates for this project area are **March 1 through September 1** (note that while most species have completed the breeding cycle by September 1, flightless young may be present through September and must be protected if present).
- b. Any parts of the project where “project activities” on the beach take place *entirely outside the breeding season*, do not require shorebird surveys. The term “project activities” includes operation of vehicles on the beach, movement or storage of equipment on the beach, sand placement or sand removal, and other similar activities that may harm or disturb shorebirds. Bird survey routes must be established and monitored throughout the entire breeding season in any parts of

the project area where: 1) potential shorebird breeding habitat occurs, and 2) project activities are expected to occur at any time within the breeding season. Breeding season surveys shall begin on the first day of the breeding season or 10 days prior to project commencement (including survey activities and other pre-construction presence on the beach), whichever is later.

- c. Bird 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. One or more shorebird survey routes shall be established by the Permittee to cover project areas which require shorebird surveys. These routes shall be determined in coordination with the FWC Regional Biologist prior to the initiation of construction. Routes shall not be modified without prior notification to FWC.

- d. During the pre-construction and construction activities associated with the project, the Permittee shall ensure that surveys for detecting breeding activity and the presence of flightless chicks shall be completed **on a daily basis** by a qualified bird monitor. This shall be completed 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. If all project activities are completed and all personnel and equipment have been removed from the beach prior to the end of the breeding season, route surveys shall continue to be conducted at least weekly through the end of the breeding season. If breeding or nesting behavior is confirmed by the presence of a scrape, eggs or young, the Permittee (or their designee) shall establish a 300-foot buffer around the site and shall notify the FWC Regional Biologist within 24 hours. The posts and materials for the shorebird buffer zones shall be removed once all breeding or nesting behavior has ceased.

- e. The Permittee shall require the Bird Monitor to conduct a shorebird education and identification program (and/or provide educational materials) with the on-site staff to ensure protection of precocial (mobile) chicks. All personnel are responsible for watching for shorebirds, nests, eggs and chicks. If the Bird Monitor finds that shorebirds are breeding within the project area, the Permittee shall place and maintain a bulletin board 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”.

28. **Shorebird Monitor Requirements.**

- a. The Permittee shall ensure that nesting and breeding shorebird surveys are conducted by trained, dedicated individuals (Bird Monitors) with proven shorebird identification skills and avian survey experience.
- b. Bird Monitor(s) shall be required to review and become familiar with the general information, employ the data collection protocol, and implement data entry procedures outlined on the FWC's FSD website (<http://www.flshorebirddatabase.org> or [Florida Shorebird Database](#)). They shall use the data-collection protocol and implement data entry procedures as outlined in that website.
- c. The Permittee shall submit a list of Bird Monitors, with their contact information and a summary of qualifications, including bird identification skills and avian survey experience to the FWC Regional Biologist and JCPCCompliance@dep.state.fl.us, prior to any construction or shorebird surveys. The determination that the selected Bird Monitor(s) meet the required qualifications shall be coordinated between the Permittee and the FWC Regional Biologist. Once approved, the Permittee shall submit the names and contact information of the Bird Monitor(s) who have been approved by FWC to JCPCCompliance@dep.state.fl.us, prior to any construction or shorebird surveys. The Bird Monitor(s) shall meet the following minimum qualifications:
 - iii. Has previously participated in beach-nesting shorebird surveys in Florida (provide references or resume). Experience with previous projects must document the ability to 1) identify all species of beach-nesting birds by sight and sound, 2) identify breeding/territorial behaviors, and find nests of shorebirds that occur in the project area, and 3) identify habitats preferred by shorebirds nesting in the project area.
 - iv. Have a clear working knowledge of, and adhere to, the [Breeding Bird Protocol for Florida's Seabirds and Shorebirds](#).
<https://publictemp.myfwc.com/crossdoi/shorebirds/resources.aspx>
 - v. Have completed full-length webinars: Route-Surveyor Training and Rooftop Monitoring Training, including the annual refresher training. Training resources can be found on the [Florida Shorebird Database \(FSD\)](#) website.
<https://publictemp.myfwc.com/crossdoi/shorebirds/index.aspx>
 - vi. Familiar with [FWC beach driving guidelines](#).
(<https://myfwc.com/conservation/you-serve/wildlife/beach-driving/>).

vii. Experience posting beach-nesting bird sites, consistent with [Florida Shorebird Alliance \(FSA\) Guidelines](http://flshorebirdalliance.org/resources/instructions-manuals.aspx).
<http://flshorebirdalliance.org/resources/instructions-manuals.aspx>

viii. Has registered as a contributor to the FSD.

29. **Shorebird Survey Protocols.** Bird survey protocols, including downloadable field data sheets, are available on the [FSD website](#). All breeding activity shall be reported to the FSD website within one week of data collection. If the use of this website is not feasible for data collection, the FWC Regional Biologist shall be contacted for alternative methods of reporting. The Permittee shall ensure that the Bird Monitors use the following survey protocols:

- a. Surveys shall be conducted by walking the length of all survey routes and visually surveying for the presence of shorebirds exhibiting breeding behavior, shorebird chicks or shorebird juveniles, as outlined in the FSD Breeding Bird Protocol for Shorebirds and Seabirds. Use of binoculars (minimum 8x40) is required and use of a spotting scope may be necessary to accurately survey the area. If an ATV or other vehicle is needed to cover large survey routes, the Bird Monitor shall stop at intervals of no greater than 600 feet to visually inspect for breeding activity.
- b. Once breeding or nesting behavior is confirmed by the presence of a scrape, eggs or young, the Permittee (or their designee) shall notify the FWC Regional Biologist within 24 hours.

30. **Shorebird Buffer Zones and Travel Corridors.** The Permittee shall require the Bird Monitor(s) and Contractor(s) to meet the following:

- a. The Bird Monitor(s) shall establish a disturbance-free buffer zone around any location within the project area where the Bird Monitor has observed shorebirds engaged in breeding behavior, including territory defense. A 300-foot buffer shall be established around each nest or around the perimeter of each colonial nesting area. A 300-foot buffer shall also be placed around the perimeter of areas where shorebirds are seen digging nest scrapes or defending nest territories. All construction activities, movement of vehicles, stockpiling of equipment, and pedestrian traffic are prohibited in the buffer zone. **Smaller, site-specific buffers may be established if approved in writing by the FWC Regional Biologist.** Travel corridors shall be designated and marked outside the buffer areas for pedestrian, equipment or vehicular traffic.
- b. The Bird Monitor(s) shall keep breeding sites under sufficient surveillance to

determine if birds appear agitated or disturbed by construction or other activities in adjacent areas. If birds appear to be agitated or disturbed by these activities, then the Bird Monitor(s) shall immediately widen the buffer zone to a sufficient size to protect breeding birds.

- c. The Bird Monitor(s) shall ensure that reasonable and traditional pedestrian access is not blocked in situations where breeding birds will tolerate pedestrian traffic. This is generally the case with lateral movement of beachgoers walking parallel to the beach at or below the highest tide line. Pedestrian traffic may also be allowed when breeding was initiated within 300 feet of an established beach access pathway. The Bird Monitor(s) shall work with the FWC Regional Species Conservation Biologist to determine if pedestrian access can be accommodated without compromising nesting success. These site-specific buffers must be determined in coordination with the FWC Regional Biologist.
- d. The Bird Monitor(s) shall ensure that the perimeters of designated buffer zones shall be marked according to FSA Posting Guidelines available at: <http://flshorebirdalliance.org/resources/instructions-manuals.aspx>) with posts, twine and FWC-approved signs stating “Do Not Enter, Important Nesting Area” or similar language around the perimeter (see example of signage for marking designated buffer zones at <http://myfwc.com/conservation/you-protect/wildlife/shorebirds/>). Posts shall 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 pathway and/or equipment travel corridor modifications are approved by the FWC Regional Biologist, these shall be clearly marked. Posting shall be maintained in good repair until no active nests, eggs, or flightless young are present. Although solitary nesters may leave the buffer zone temporarily 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.
- e. The Permittee shall ensure that no construction activities, pedestrians, moving vehicles, or stockpiled equipment are allowed within the buffer area.
- f. The Permittee shall ensure that the Bird Monitor(s) designate and mark travel corridors 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 heavy equipment and vehicles shall be prohibited within the designated travel corridors adjacent to the breeding site.

- g. When flightless chicks are present within or adjacent to travel corridors, construction related vehicles shall not be driven through the corridor unless a Bird Monitor is present to adequately monitor the travel corridor. The Permittee shall require the contractor with the oversight of the Bird Monitor(s) to avoid any chicks that may be in the path of moving vehicles. The Permittee shall also require the contractor with the oversight of the Bird Monitor(s) to level any tracks, ruts, or holes that may be capable of trapping flightless chicks, while avoiding any impacts to the chicks.
- h. Notification. Any injury or death of a shorebird (including crushing eggs or young) resulting from project activities shall be reported immediately to the FWC Regional Biologist.

31. **North Atlantic Right Whale Protection Conditions:** In addition to the Terms and Conditions of the applicable NMFS Biological Opinion, the following requirements shall be met when a hopper dredge is utilized seaward of river mile 6, between November 1 to April 30:

- a. A dedicated observer shall be posted to spot North Atlantic right whales. Additionally, all personnel on all support vessels (vessels associated with dredging and dredge spoil deposition in the Ocean Dredged Material Disposal Site) shall observe for right whales in the Southeast Seasonal Management Area (SMA). If a whale is seen by the dredge dedicated whale observer, or support vessel personnel during daylight hours, the vessel operator shall take necessary precautions to avoid whales.
- b. When a whale is observed or reported within 38 nautical miles of a dredge or support vessels which are within the Southeast SMA, vessels must slow to 10 knots or slowest safe navigable speed until the next North Atlantic right whale survey when no whales are observed. Vessels may resume speed once outside the Southeast SMA. Outside of the Southeast SMA, but within the range of North Atlantic right whale habitat, the vessel must slow to 10 knots for 36 hours, or until the next North Atlantic right whale survey when no whales are observed. Daily updates of whale sightings during this portion of the year are maintained by the National Marine Fisheries Service (NMFS) and can be obtained by contacting NMFS at nmfs.ser.rw.subscribe@noaa.gov. Any sighting update request to this NMFS email address shall direct the NMFS sighting alerts to one address capable of receiving emails with sighting alerts.
- c. All dredge and support vessel operators shall be familiar with, and adhere to, 50 CFR 224.103(c), the federal right whale minimum approach regulation.

~~41. Progress reports for the project shall be submitted to the Department beginning 60 days after issuance of this permit and shall continue to be submitted biannually until construction of the permitted project is completed. The cover page shall indicate the permit number, project name and the Permittee name. Progress reports must be submitted to the Department even if there is no ongoing construction. Reports shall include the current project status and the construction schedule for the following six months.~~

~~In addition, the report shall include the following information:~~

- ~~a. The permit number (0303186-001-JC), project name (Jacksonville Harbor Maintenance Dredging), reference to this Specific Condition and date permitted activity was begun. If work has not begun on site, please indicate.~~
- ~~b. Brief description and extent of the work (e.g., percentage dredging) completed since the previous report or since the permit was issued. Show on copies of the permit drawings those areas where work has been completed.~~
- ~~c. Brief description and extent of the work anticipated in the next six months. Indicate on copies of the permit drawings those areas where it is anticipated that work will be done.~~
- ~~d. This report shall include on the first page, just below the title, the certification of the following statement by the individual who supervised preparation of the report: "This report represents a true and accurate description of the activities conducted during the six month period covered by this report."~~

POST CONSTRUCTION

~~3342.~~ In accordance with General Condition No. 12, the Permittee shall include a written statement of completion. The following information shall be included:

- a. The permit number (0303186-001-JC); and project name (Jacksonville Harbor Maintenance Dredging),
- b. The specific location of the dredging;
- c. The date on which dredging began and the date of completion;
- d. A table identifying any violations of turbidity standards that occurred during dredging or disposal, the probable causes of the violations, and corrective measures taken to reduce turbidity; and

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- e. The quantity of material dredged; ~~and~~
3443. Per General Condition No. 12, the Department hereby notifies the Permittee that a copy of any as-built drawings required of the contractor or survey performed by the Corps is requested upon completion of the dredging event. If possible, the as-built or record drawings should be based on the Department permit construction drawings and should be clearly labeled as "As-Built" or "Record" drawings.
35. **Post-Construction Meeting.** Within 60 days following each construction activity with beach placement authorized by this permit, the Permittee shall hold a post-construction conference. Attendees shall include at minimum, the Permittee, Department representative, and FWC representative.

After thorough review of your application, staff finds that the proposed modification is not expected to adversely affect water quality or be contrary to 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 marine 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 and the attached plans, we are notifying all necessary parties of the modification.

This letter of approval does not alter the **May 23, 2027** expiration date. The only Specific Conditions of the permit that are altered by this modification are those stated above. This letter and the attached drawings and the attached plans must be attached to the original permit.

This permit is hereby modified unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, Florida Statutes (F.S.), as provided below. The procedures for petitioning for a hearing are set forth below. Mediation under Section 120.573, F.S., is not available for this proceeding.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

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Petition for Administrative Hearing

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. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing 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.

The petition 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., 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. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing)

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under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the deadline for filing a petition for an administrative hearing. 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.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, 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 must be filed within 30 days from the date this action is filed with the Clerk of the Department.

If you have any questions regarding this matter, please contact Rachel Grundl by email at Rachel.Grundl@FloridaDEP.gov or by telephone at (850) 245-7594.

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EXECUTION AND CLERKING:

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Gregory W. Garis
Program Administrator
Beaches, Inlets and Ports Program
Office of Resilience and Coastal Protection

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this permit and all attachments were sent on the filing date below to the following listed persons:

cc: Ivana KennyCarmola, RCP
Robert Brantly, RCP
Trey Hatch, RCP
JCP Compliance Officer, RCP
Karina Kronsis, RCP

Robbin Trindell, FWC
Michelle Pasawicz, FWC
Luke Davis, FWC
ImperiledSpecies@myfwc.com
Marineturtle@myfwc.com
Fwconservervationplanningservices@myfwc.com

FILING AND ACKNOWLEDGMENT

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



Clerk

September 16, 2020
Date