



# Florida Department of Environmental Protection

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May 10, 2018

U.S. Army Corps of Engineers  
Jacksonville District  
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[Gina.P.Ralph@usace.army.mil](mailto:Gina.P.Ralph@usace.army.mil)

Major Permit Modification No. 0157891-020-BM  
Supersedes Permit No. 0157891-017-BI, Hillsborough County  
Tampa Harbor, Big Bend Channel Expansion

Dear Ms. Ralph:

Your request for a major modification to Permit No. 0157891-017-BI was received on November 17, 2017, and has been reviewed by Florida Department of Environmental Protection (Department) staff. The proposed permit modification is to authorize the construction of a channel widener at the northeastern corner of the intersection of the Turning Basin and East Channel, as well as an eastward extension of the East Channel. Additionally, the Department has updated some of the Specific Conditions of the permit; including the water quality conditions and the fish and wildlife conditions.

## **Permit History**

On April 8, 2015, the Department issued Permit No. **0157891-017-BI** to the U.S. Army Corps of Engineers (Corps) to deepen/widen and then maintain the Big Bend portion of the Tampa Harbor Federal Navigation Project, including the Big Bend entrance channel, turning basin, inner channel, east channel, and two non-federal berths located in the inner channel and east channel. The entire project was to be deepened to -45 feet mean lower low water (MLLW) with a one-foot allowable overdepth for a maximum dredge depth of -46 feet MLLW. The bottom of the Big Bend entrance channel was to be widened 50 feet to the north, and the turning basin was to be widened to accommodate a turning circle with a radius of 1,200 feet. A widener was to be

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added between the inner channel and east channel. Approximately 4 million cubic yards of material was to be dredged and deposited at Spoil Island 3D.

For additional background, including a history of previous permits in this area, please see the **CONSOLIDATED NOTICE OF INTENT TO ISSUE AN ENVIRONMENTAL RESOURCE PERMIT** for Permit No. 0157891-017-BI at the following website:

[ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/hillsbor/issued/0157891\\_Tampa\\_Bay\\_MD/017-BI%20Big%20Bend%20Channel/NOI/](ftp://ftp.dep.state.fl.us/pub/ENV-PRMT/hillsbor/issued/0157891_Tampa_Bay_MD/017-BI%20Big%20Bend%20Channel/NOI/)

*Please note: Permit No. 0157891-009-EI, despite its similar number, was a separate permit for dredging in this area. That project is known as the Tampa Harbor Comprehensive Maintenance Dredging Project. That permit, which was issued on April 7, 2006, to the U.S. Army Corps of Engineers (Corps), combined many individually-authorized channel dredging and disposal projects under one permit and includes the maintenance of approximately 67 miles of channels and berthing areas with several disposal options. A major modification (Permit No. 0157891-011-EM) later superseded permit number 0157891-009-EI. Permit No. 0157891-011-EM currently authorizes maintenance dredging for the same channels that will be deepened and widened under Permit No. 0157891-020-BM. Subsequent authorizations related to the comprehensive maintenance dredging project (Permit No. 0157891-011-EM) include a variance (0157891-013-EV), several modifications (0157891-012-EM through 0157891-016-EM, 0157891-018-BN and 0157891-019-BN), and a pending application for a modification (File No. 0157891-021-BN).*

**Justification and Staff Assessment**

The Department has determined that the construction of the channel wideners and the extension of East Channel would not have a negative impact on water quality due to alterations in flushing. However, dredging activities including the authorized side slopes along the northern widener at the intersection of the turning basin and the eastern channel (Feature 4) would directly impact two adjacent breakwaters, which were built by the Port of Tampa as mitigation to shelter the adjacent seagrass bed (Essential Fish Habitat – EFH). Sloughing beyond the authorized side slopes is not expected to impact the current seagrass beds. However, the water environment will be altered by the relocation of the breakwaters and the removal of a portion of the unvegetated shoal. Based on the changes in wave and wake conditions that are reasonably expected to result from the proposed construction activities, the distribution of seagrass will likely change following construction, potentially reducing the areal extent and or density of seagrass. Therefore, before the wideners may be dredged, the breakwaters must be moved outside of the side slopes, to an area that will still shelter the seagrass bed. The Permittee (Corps) will rely upon the Port to move the breakwaters prior to proceeding with the “East Channel Option”, which includes the abovementioned widener. The Department will require proof that the breakwaters have been successfully moved before construction of the East Channel Option will

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be authorized to proceed. Therefore, the Department has included specific conditions in the permit that require the Permittee (Corps) to demonstrate that the Port has relocated the breakwaters and has addressed the mitigation site in accordance with the Port's permit, prior to the initiation of construction on this portion of the project. To that end, the Port will apply for a permit to relocate the two breakwaters closer to the seagrass bed.

**Updating Specific Conditions**

The Department and the Florida Fish & Wildlife Conservation Commission (FWC) have refined the language of certain Specific Conditions to reduce ambiguity and improve safety for protected species. These changes clarify common misinterpretations and update certain requirements. As such, updates have been made throughout the permit.

**REGULATORY AUTHORIZATION:**

This major modification to Permit No. 0157891-017-BI is issued under the authority of Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.). Pursuant to Operating Agreements executed between the Department of Environmental Protection (Department) and the water management districts, as referenced in Chapter 62-113, F.A.C., the Department is responsible for reviewing and taking final agency action on this activity. This major modification, hereafter referred to as Permit No. **0157891-020-BM**, **supersedes** Permit No. 0157891-017-BI. Changes to Permit No. 0157891-017-BI are shown as strikethroughs (deletions) or underlines (additions).

**PROJECT DESCRIPTION**

The project is to deepen and/or widen and then maintain the Big Bend portion of the Tampa Harbor Federal Navigation Project (including the Big Bend entrance channel, turning basin, inner channel and east channel); and to deepen ~~two~~ three non-federal berths located in the inner channel and east channel. Specifically:

- The entire project will be deepened to -45 feet mean lower low water (MLLW) with a one-foot allowable overdepth for a maximum dredge depth of -46 feet MLLW;:-
- ~~The bottom of the Big Bend entrance channel will be widened 50 feet to the north;~~  
~~and~~
- the turning basin will be widened to accommodate a turning circle with a radius of 1,200 feet. ~~A;~~
- wideners will be added ~~between the inner channel to the southeast and northeast corners of the turning basin (at the intersection of the turning basin and the east channel); and~~
- the East Channel will be extended.

Approximately 4 million cubic yards of material will be dredged and deposited at Spoil Island 3D.

Rock structures and a seagrass bed, previously authorized as mitigation for a different Port of Tampa permit, are adjacent to the expansion area of the widener at the northeast corner of

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the turning basin. The rock structures must be relocated prior to construction of the widener at the northeast corner of the turning basin. The rock structures will be relocated under a separate permit.

**PROJECT LOCATION:**

The dredging activities are located in the Big Bend entrance channel, turning basin, inner channel and east channel in Port Tampa Bay, Sections 03 and 09, Township 31 South, Range 19 East. Spoil Island 3D is located in Section 31, Township 30 South, Range 19 East. Both the dredging and disposal activities are located on the east side of Tampa Bay, Class III Florida Waters in Hillsborough County, not sovereign submerged lands.

**PROPRIETARY AUTHORIZATION:**

As staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), the Department has determined that the activity is not located on submerged lands owned by the State of Florida. Therefore, your project is not subject to the requirements of Chapter 253, F.S. or Chapter 18-21, F.A.C.

**COASTAL ZONE MANAGEMENT:**

This permit constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

**WATER QUALITY CERTIFICATION:**

This permit constitutes certification of compliance with state water quality standards pursuant to Section 401 of the Clean Water Act, 33 United States Code (U.S.C.) § 1341.

**AGENCY ACTION:**

The above-named Permittee is hereby authorized to construct the work outlined in the Project Description and Project Location of this permit, and as shown on the approved permit drawings, plans and other documents attached hereto. This agency action is based on the information submitted to the Department as part of the permit application, and adherence with the final details of that proposal shall be a requirement of the permit. **This permit is subject to both the General and Specific Conditions, which are a binding part of this permit.** Both the Permittee and their Contractor are responsible for reading and understanding this permit (including the permit conditions and the approved permit drawings) prior to commencing the authorized activities, and for ensuring that the work is conducted in conformance with all the terms, conditions and drawings.

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**GENERAL CONDITIONS:**

1. This permit, including its general and specific conditions, must be construed in light of the February 28, 2006 Interagency Coordination Agreement for Civil Works Projects (ICA) between the Department and the U.S. Army Corps of Engineers (Corps). As recognized in the ICA, the Department has the authority to include reasonable conditions in this permit. All of the conditions in this permit, both general and specific, are enforceable to the extent sovereign immunity has been waived under 33 U.S.C. §§ 1323 and 1344(t). The ICA is incorporated herein by reference.
2. All activities approved shall be implemented as set forth in the drawings incorporated by reference and in compliance with the conditions and requirements of this document. The Corps shall notify the Department in writing of any anticipated changes in:
  - a) operational plans;
  - b) project dimensions, size or location;
  - c) ability to adhere to permit conditions;
  - d) project description included in the permit;
  - e) monitoring plans.

If the Department determines that a modification to the permit is required then the Corps shall apply for and obtain the modification. Department approval of the modification shall be obtained prior to implementing the change, unless the change is determined by the Department to reduce the scope of work from that authorized under the original permit, and will not affect compliance with permit conditions or monitoring requirements.

3. If, for any reason, the Corps does not comply with any condition or limitation specified herein, the Corps shall immediately provide the Department with a written report containing the following information:
  - a) a description of and cause of noncompliance;
  - b) the period of noncompliance, including dates and times;
  - c) impacts resulting or likely to result from the non-compliance;
  - d) steps being taken to correct the non-compliance; and
  - e) the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Compliance with the provisions of this condition shall not preclude the Department from taking any enforcement action allowed under state law with respect to any non-compliance.

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4. The Corps shall obtain any applicable licenses, permits, or other authorizations which may be required by federal, state, local or special district laws and regulations. Nothing herein constitutes a waiver or approval of other Department permits or authorizations that may be required for other aspects of the total project.
5. Nothing herein conveys to the Corps or creates in the Corps any property right, any interest in real property, any title to land or water, constitutes State recognition or acknowledgment of title, or constitutes authority for the use of Florida's sovereign submerged lands seaward of the mean high-water line or an established erosion control line, unless herein provided, and the necessary title, lease, easement, or other form of consent authorizing the proposed use has been obtained from the State.
6. Any delineation of the extent of a wetland or other surface water submitted as part of the application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this authorization or a formal determination under section 373.421(2), F.S., provides otherwise.
7. Nothing herein authorizes any entrance upon or activities on property which is not owned or controlled by the Corps or local sponsor, or conveys any vested rights or any exclusive privileges.
8. This document or a copy thereof, complete with all conditions, attachments, modifications, and time extensions shall be kept at the work site of the authorized activity. The Corps shall require the contractor to review this document prior to commencement of the authorized activity.
9. The Corps specifically agrees to allow Department personnel with proper identification, at reasonable times and in compliance with Corps specified safety standards access to the premises where the authorized activity is located or conducted for the purpose of ascertaining compliance with the terms of this document and with the rules of the Department and to have access to and copy any records that must be kept; to inspect the facility, equipment, practices, or operations regulated or required; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance. Reasonable time may depend on the nature of the concern being investigated.
10. At least forty-eight (48) hours prior to the commencement of authorized activity, the Corps shall submit to the Department a written notice of commencement of activities indicating the anticipated start date and the anticipated completion date.
11. If historic or archaeological artifacts such as, but not limited to, Indian canoes, arrow heads, pottery or physical remains, are discovered at any time on the project site, the Corps shall immediately stop all activities in the immediate area which disturb the soil

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and notify the Department and the State Historic Preservation Officer. In the event that unmarked human remains are encountered during permitted activities, all work shall stop in the immediate area and the proper authorities notified in accordance with Section 872.05, *Florida Statutes*.

12. Within a reasonable time after completion of construction activities authorized by this permit, the Corps shall submit to the Department a written statement of completion. This statement shall notify the Department that the work has been completed as authorized and shall include a description of the actual work completed. The Department shall be provided, if requested, a copy of any as-built drawings required of the contractor or survey performed by the Corps.

**SPECIFIC CONDITIONS:**

1. All reports, notices or other submittals relating to this permit shall be electronically submitted to the Department's JCP Compliance Officer (e-mail address: [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us)), unless otherwise specified in the specific conditions. All submittals shall clearly indicate the project name (Tampa Harbor, Big Bend Channel Expansion) and the permit number (0157891-~~020-BM017-B1~~).
2. **Pre-Construction Conference.** Prior to commencement of the work authorized by this permit, the Permittee shall conduct a pre-construction conference ~~prior to construction~~ to review the General and sSpecific eConditions and the monitoring requirements of this permit with the Permittee's contractors, the engineer of record, those responsible for turbidity monitoring, the JCP Compliance Officer (or designated alternate), those responsible for protected species monitoring, and a representative from the Florida Fish and Wildlife Conservation Commission (FWC) (phone: (850) 922-4330, email: [imperiledspecies@myfwc.com](mailto:imperiledspecies@myfwc.com)). The Permittee is advised to contact the JCP Compliance Officer and FWC, to schedule the pre-construction conference, at least (21) twenty one ~~fourteen~~ days in advance of the preferred meeting ~~prior to the construction commencement~~ date in order to ensure that appropriate representatives are available.

JCP Compliance Officer  
e-mail: [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us)

Southwest District Office Permitting & Compliance/Enforcement  
e-mail: [SW\\_ERP@dep.state.fl.us](mailto:SW_ERP@dep.state.fl.us)

FWC Imperiled Species Management Section  
email: [marineturtle@myfwc.com](mailto:marineturtle@myfwc.com)

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

The Permittee is also advised to schedule the pre-construction conference at least a week prior to the intended construction commencement date. At least seven (7) days in advance of the pre-construction conference, the Permittee shall provide notification, advising the participants of the **agreed-upon** date, time and location of the meeting, a meeting agenda and a teleconference number.

3. **Pre-Construction Submittals. The Permittee shall not commence construction until the Permittee has received written acknowledgement from the Department upon the satisfactory receipt of preconstruction submittal items.** *Note: The project includes the construction of the ‘East Channel Option’ [i.e., the wideners at the intersection of the East Channel and the turning basin, the deepening of the non-federal berths within the East Channel and the eastward extension of the East Channel (see portions of Features 4 and 5 shown on Plates C-05 and C-10)], which may include blasting. Blasting and the construction of the East Channel Option each require submission of specific pre-construction submittals and receipt of a separate written acknowledgement, as detailed in Specific Condition 4, below.*

At least **2010 business days** prior to the date of the pre-construction conference, for each construction event, the Permittee shall submit the following items for review and confirmation by the Department and the FWC:

- a. One (1) electronic copy of detailed Final Plans and Specifications for all authorized activities to be conducted, which shall be consistent with the project description of this permit and the approved permit drawings. The Permittee shall point out any deviations from the project description or the approved permit drawings. Any significant changes shall require a permit modification. The final plans and specifications submitted under this condition shall comply with all conditions set forth in this permit. The final plans and specifications shall be certified by an engineer duly-registered pursuant to the Interagency Coordination Agreement of February 28, 2006, and Chapter 471, F.S.
- b. A **Signed and Certified Report** from a project engineer on the suitability of Spoil Island 3D, based on a site inspection conducted within 60 days prior to construction. The report shall state that the integrity of the dikes has been verified, weirs and associated outfall structures are functional, and that the dredge disposal site will adequately contain and treat the sediment-laden water generated by the dredging activities authorized by this permit. The report shall include a brief summary of the engineer’s site inspection addressing, as applicable, the capacity of the disposal site, the visual condition of the dikes, and the status of the inlet/outfall pipes and weir structures.

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- c. A copy of the contractor's detailed **Environmental Protection Plan (EPP)**, or equivalent, for protected species. The Plan should ~~which~~ provides pertinent project-specific details regarding listed species protection, including but not limited to: for monitoring fish and wildlife during construction, as well as steps that will be followed to address any unavoidable listed species Take that may occur. A list of dedicated protected marine species observers, their contact information and qualifications shall also be included in the EPP.
- i. The final details of the *Marine Species Watch Program (MSWP)*, required for all in-water work activities conducted between November 1 and March 31, as detailed in Specific Condition 17.
- ii. The final details for *Marine Turtle Protection*: A list of the names and permit numbers for the Marine Turtle Permit Holders, required if hopper dredging is utilized, as detailed in Specific Condition 21,
- iii. The final details for *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 corridors.
- d. Anticipated construction schedule, a detailed description of the proposed construction methods including the specific type of dredge equipment to be used, and a map that clearly shows all of the proposed work spaces (i.e., anchoring areas, pipeline corridors, staging areas, boat access corridors, etc.).
- e. The names, credentials and contact information for the individuals who will conduct the turbidity monitoring. The turbidity monitor(s) shall have both formal training in turbidity monitoring and professional experience in monitoring turbidity for navigation projects in Florida. The turbidity monitor(s) shall also be independent of both the design engineer and the construction contractor.
- f. A **Scope of Work** for the turbidity monitoring (including the sample map required in Specific Condition 9.i.) to ensure that the right equipment is available to conduct the monitoring correctly at any location, and under any conditions;
4. ~~At least 48 hours prior to the commencement of construction, the Permittee shall submit a completed Construction Commencement Notice (Exhibit 2) to the JCP Compliance Officer via email at [JCPCompliance@dep.state.fl.us](mailto:JCPCompliance@dep.state.fl.us), and shall copy FWC at [imperiledspecies@myfwc.com](mailto:imperiledspecies@myfwc.com).~~ **The Permittee shall not commence blasting or construction of the East Channel Option until the Permittee has received written acknowledgement from the Department indicating satisfactory receipt of**

**preconstruction submittal items. Prior to initiation of these activities, the Permittee shall submit the information listed below:**

- a. **Blasting:** At least 30 days prior to the formal coordination meeting required in Specific Condition 27, the final details of the blasting protection measures, including information that addresses the requirements of Specific Conditions 28 and 29, shall be submitted to FWC at [imperiledspecies@myfwc.com](mailto:imperiledspecies@myfwc.com) and copied to [Allen.Foley@myfwc.com](mailto:Allen.Foley@myfwc.com) and [JCPcompliance@dep.state.fl.us](mailto:JCPcompliance@dep.state.fl.us).
  
- b. **Construction of the East Channel Option:** In order to avoid potential adverse impacts to an adjacent mitigation area, which was required by the regulatory division of the US Army Corps of Engineers (Corps) for a different Port of Tampa project, the East Channel Option shall not be constructed until the Department confirms that the Port has adequately addressed the Mitigation Sites and the Permittee has conducted a formal coordination meeting.

At least 30 days prior to commencement of construction of the East Channel Option, the Permittee shall:

- i. submit a copy of the Department's **Letter of Confirmation**, provided to the Port, confirming that the Mitigation Sites have been addressed in accordance with the Port's permit to relocate the breakwaters, and that further work may proceed;
  
  - ii. conduct a **formal coordination meeting**, with representatives from the Port and Department, specifically for the East Channel Option (i.e., separate from the pre-construction meeting required pursuant to Specific Condition 2).
5. **Dredge Disposal site inspections** (including dikes, weirs and associated outfall structures) shall be conducted on each day that the site is in use during dredging. Additional inspections are required 30 days and 12 months after final placement of dredged material in the disposal area(s). Corrective actions to stabilize the disposal area shall be taken immediately if at any time the integrity of the disposal area dikes or other structures appears compromised. The Permittee shall obtain written approval from the Department prior to any adjustments or alterations to the disposal area unless the adjustment is necessary to prevent an imminent breach, in which case the details of the adjustment shall be reported to the Department immediately following the corrective action. A summary of the inspections required in this paragraph and any required corrective actions shall be submitted to the Department in a final report, signed and sealed by a project engineer, within 60 days of the final inspection.

6. **Pipeline Inspection and Maintenance.** If hydraulic dredging is used, material may be transported to Spoil Island 3D via pipeline. A visual inspection of the pipeline from the dredge area to the discharge point shall be conducted twice daily during all dredge disposal operations. If any leaks, cuts, breaks or discharges of any type are detected, the inspector shall radio the dredge immediately to order shutdown of the dredge. Turbidity within any visible plumes shall be measured as soon as possible in the densest part of the plume, and continue hourly until water quality standards are met (i.e., less than 29 Nephelometric Turbidity Units (NTUs) above background) in comparison to an appropriate background location at least 100 meters upcurrent of the source. The dredge shall remain shut down until such time that leaks, breaks, abrasions or discharges of any kind are repaired. Upon completion of repairs, the inspector shall remain in the area of the repair in constant radio communication with the dredge during the recommencement of dredging. If the inspector observes any discharge or other repair failure, he shall radio the dredge immediately to order shutdown of the dredge, and repairs shall commence again. The inspector or a substitute of equivalent status and experience shall remain at the site of the repair failure until successful repair is verified. Once repairs are completed and verified, the inspector shall notify the Permittee and the Department's JCP Compliance Officer with a written summary of the incident, including the results of any turbidity measurements.
  
7. The maximum **mixing zone** for turbidity shall be a circle with a radius of 150 meters, originating from the dredge or from the outfall pipe at Spoil Island 3D. Beyond the mixing zone, the turbidity standard shall be met during all project-related activities, including dredging, transport, transfer of dredged material from a barge into the disposal site, and discharge of return water from disposal site. **Turbidity mMonitoring shall be conducted** as follows:
  - a. **Dredge Site:**
    - Frequency: Three times daily, approximately four hours apart, during all dredging activities. Sampling shall be conducted **while the highest project-related turbidity levels are crossing the edge of the mixing zone**. Since turbidity levels can be related to pumping rates, the dredge pumping rates shall be recorded, and provided to the Department upon request. The compliance samples and the corresponding background samples shall be collected at approximately the same time, i.e., one shall immediately follow the other.
  
    - Location: **Background:** Samples shall be collected at surface, mid-depth, and (for sites with depths greater than 25 feet) 2 meters above the bottom, at least 300 meters upcurrent from the source of turbidity at the dredge site, clearly outside the influence of any artificially-generated turbidity plume.

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**Compliance:** Samples shall be collected at surface, mid-depth, and (for sites with depths greater than 25 feet) 2 meters above the bottom, no more than 150 meters downcurrent from the source of turbidity at the dredge or at the edge of the closest downcurrent seagrass bed, whichever is closest, within the densest portion of any visible turbidity plume. If no plume is visible, follow the likely direction of flow.

**b. Outfall from Spoil Island 3D:**

**Frequency:** Three times daily and at least four hours apart during discharge, starting approximately 30 minutes following commencement of discharge.

**Location:** **Background:** Mid-depth, at a point at least 500 meters upcurrent from the nearest discharge point, where turbidity levels would be comparable to the outfall site in the absence of this project, clearly outside of any turbidity generated by the project or other obvious plume.

**Compliance:** Mid-depth, no more than 100 meters down current from the discharge point at Spoil Island 3D, within the densest portion of the turbidity plume.

**Calibration:** The instruments used to measure turbidity shall be fully calibrated with primary standards within one month of commencement of the project, and at least once a month throughout the project. Calibration with secondary standards shall be verified each morning prior to use, after each time the instrument is turned on, and after field sampling using two secondary turbidity “standards” that bracket the anticipated turbidity samples. 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 person in charge of the turbidity monitoring 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.

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8. The **compliance** locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. If monitoring reveals that turbidity levels at the **compliance** sites are greater than 29 NTUs above the corresponding background turbidity levels, construction activities shall **cease immediately** and shall 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 [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us) and include in the subject line, “TURBIDITY EXCEEDANCE”, and the project name and permit number.

Any project-related turbidity source other than dredging or decant water discharging from the dredge disposal site outfall structure (e.g., scow or pipeline leakage) shall be monitored as close to the source as possible. If the turbidity level exceeds 29 NTUs above background, 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-RELATED DISCHARGE, TURBIDITY EXCEEDANCE”.

- a. When reporting a turbidity exceedance, the following information shall also be included:
- ia. Project name;
  - iib. Permit number;
  - iiie. Location and level (NTUs above background) of the turbidity exceedance;
  - ivd. Time and date that the exceedance occurred; and
  - ye. Time and date that construction ceased.
- b. Prior to re-commencing construction, a report shall be emailed to the JCP Compliance Officer with the same information that was included in the “Exceedance Report”, plus the following information:
- ia. Turbidity monitoring data collected during the shutdown documenting the decline in turbidity levels and achievement of acceptable levels;

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iib. Corrective measures that were taken; and

iiie. Cause of the exceedance.

9. **Turbidity Reports:** All turbidity monitoring data shall be submitted within one week of collection. 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 NTUs above background at each depth. Any exceedances of the turbidity standard (29 NTUs above background) shall be highlighted in the table. In addition to the raw and processed data, the reports shall also contain the following information:

- a. Time of day samples were taken;
- b. Dates of sampling and analysis;
- c. GPS location coordinates of sample and source. When possible, coordinates should be provided in decimal degrees with a 5-decimal level of precision (i.e., 0.000001). Please also indicate the datum;
- d. Depth of water body;
- e. Depth of each sample;
- f. Antecedent weather conditions, including wind direction and velocity;
- g. Tidal stage and direction of flow;
- h. Water temperature;
- i. A map, overlaid on an aerial photograph, indicating the sampling locations, dredging and discharge locations, and direction of flow. A sample map shall be reviewed and approved by the Department prior to construction;
- j. Statement describing the methods used in collection, handling, storage and analysis of the samples; ~~and a~~
- k. Statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection, calibration of the meter, accuracy of the data and precision of the GPS measurements.

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1. When samples cannot be collected, include an explanation in the report. If unable to collect samples due to severe weather conditions, include a copy of a current report from a reliable, independent source, such as an online weather service.

**Manatee and Marine Turtle Protection Conditions for Dredging Activities:**

10. The Permittee shall instruct ~~All~~ personnel associated with the project ~~shall be instructed~~ about the presence of marine turtles, manatees and manatee speed zones, and the need to avoid collisions with (and injury to) these protected marine species. The Permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing or killing manatees, which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
11. All vessels associated with the construction project shall operate at “Idle Speed/No Wake” at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow routes of deep water whenever possible.
12. Siltation or turbidity barriers (if used) shall be made of material in which manatees and marine turtles cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid entanglement or entrapment. Barriers shall not impede manatee or marine turtle movement.
13. The Permittee is responsible for ~~All~~ on-site project personnel, and shall require them to ~~are responsible for~~ observing water-related activities for the presence of marine turtles and manatees. **All in-water activities, including vessel operations, shall be shut down if a marine turtle or manatee comes within 50 feet of the activity.** For example, for unanchored vessels, operators should 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 a 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.
14. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-3922, and to FWC at [imperiledspecies@myfwc.com](mailto:imperiledspecies@myfwc.com).
15. Any collision with and/or injury to a marine turtle shall be reported immediately to the Sea Turtle Stranding and Salvage Network (STSSN) at [SeaTurtleStranding@myfwc.com](mailto:SeaTurtleStranding@myfwc.com). Care shall be taken when handling sick or injured marine turtle specimens to ensure effective treatment and care, and when handling dead marine turtle specimens to preserve biological materials in the best possible state for later analysis of cause of death. In conjunction with the care of sick or injured endangered or threatened species or

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preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.

16. 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. ~~All signs shall be removed by the Permittee upon completion of the project.~~ Two temporary signs, which that have already been approved for this use by FWC, shall be used-posted at each site. One sign ~~that shall~~ reads *Caution Boaters: Watch for Manatees* shall be posted. A second sign, measuring at least 8 ½" by 11", shall explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations shall be posted in a location prominently visible to all personnel engaged in water-related activities. All signs shall be removed by the Permittee upon completion of the project. These signs can be viewed at <http://www.myfwc.com/manatee>. Questions concerning these signs can be sent to FWC at [imperiledSpecies@myfwc.com](mailto:imperiledSpecies@myfwc.com).
17. Between November 15 and March 31, at least two dedicated protected marine species observers (dedicated observers) shall be on the dredge when in-water work is being performed. 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. ~~That person~~ Dedicated observers shall have ~~significant~~ prior on-the-job experience observing ~~for~~ protected marine species (including manatees and marine turtles) during previous dredging events where the activities were similar in nature to this project. ~~Observers shall be equipped with polarized sunglasses to aid in observation during the daytime.~~
    - ii. Dedicated observers shall be outfitted with equipment needed for observation of and for reaction to observed protected marine species (such 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.).



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- b. permit number;
- c. names of dedicated observers and their contact information;
- d. reporting period;
- e. a summary of all sightings, collisions and injuries (in spreadsheet form); and
- f. actions taken in response to each sighting, collision or injury.

**19. Incident Reporting. If an injured or dead marine mammal or marine turtle is discovered in the vicinity of the project location while mobilized, the following shall occur:**

- a. All work in the active work zone of the incident, shall cease immediately, and the Permittee (or their designee) shall immediately notify the JCP Compliance Officer (at [JCPCompliance@dep.state.fl.us](mailto:JCPCompliance@dep.state.fl.us)), as well as the applicable agency contacts, listed below.

FWC Wildlife Alert Hotline: 1-888-404-3922 and [ImperiledSpecies@myfwc.com](mailto:ImperiledSpecies@myfwc.com) (manatees, marine turtles and whales)

NMFS Emergency Stranding Hotline: 1-877-433-8299 (marine turtles, whales and dolphins)

STSSN: [SeaTurtleStranding@myfwc.com](mailto:SeaTurtleStranding@myfwc.com)

- b. The Permittee (or their designee) shall maintain contact with the injured or dead animal to the greatest extent practicable until the appropriate authorities (i.e., FWC or NMFS) arrive to retrieve the animal.
- c. In the case of a marine turtle take, work may resume while the submitted details and other reports (such as internal FWC rescue or necropsy reports) are assessed by FWC. In the case of a marine mammal take, the Permittee in coordination with the agencies (i.e., FWC, NMFS, and DEP) will determine when work may resume.
- d. Details of the incident shall be sent to FWC at [ImperiledSpecies@myfwc.com](mailto:ImperiledSpecies@myfwc.com) within 24 hours. Information shall include, but not be limited to: a narrative of the incident; photographs/videos of the incident and surrounding environment (if possible); a GPS point where the animal was discovered; names, titles and contact numbers of all personnel onsite at the time of the incident; and the name, title and contact number for the designated permittee representative. Additional information may be requested by FWC, and telephone interviews may be required.

e. Once the circumstances have been reviewed, FWC will provide their written determination to the Permittee/Contractor on how to proceed: whether operations can proceed normally; whether modifications to the protective measures are required in order to proceed; or if operations need to cease temporarily due to the need for further investigation. If modifications to the protective measures are required, construction shall not resume until the Corps, FWC, NMFS, FWS and the Department agree to the changes. The Department will determine if a permit modification is required if substantial modifications to protective measures are requested.

**2019. Clamshell dredging is prohibited at night (dusk to dawn) year-round.**

**Hopper Dredging Conditions (if utilized):**

~~2120.~~ 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, concurrently with the submission of the contractor's Environmental Protection Plan. 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 Conservation Guidelines (<http://www.myfwc.com/wildlifehabitats/managed/sea-turtles/conservation-guidelines/>) specific to transport of live stranded turtles.

~~2221.~~ 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. Permits may be obtained by contacting FWC's Imperiled Species Management Section at [MTP@myfwc.com](mailto:MTP@myfwc.com).

~~2222.~~ The Permittee or their contractor shall e-mail FWC at [MTP@myfwc.com](mailto:MTP@myfwc.com) weekly reports on Friday each week that trawling is conducted in Florida waters. These weekly reports shall include the species and number of marine turtles captured in Florida waters, their general health, and release information. A summary (FWC provided Excel spreadsheet) of all trawling activity shall be submitted to [MTP@myfwc.com](mailto:MTP@myfwc.com) by January 15 of the

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following year or at the end of the project. The summary shall include trawling, all marine turtles captured in Florida waters, measurements of the turtles, the latitude and longitude (in decimal degrees) of captures and tow start-stop points, and times for the start-stop points of the tows, including those tows in which no marine turtles are captured.

2423. The Permittee shall notify the STSSN Coordinator at 904-573-3930 or via e-mail at [Allen.Foley@myfwc.com](mailto:Allen.Foley@myfwc.com) of the start-up and completion of hopper dredging operations. In the event of capturing or recovering marine turtles or marine turtle parts, the Permittee shall contact the STSSN at [seaturtlestranding@myfwc.com](mailto:seaturtlestranding@myfwc.com).

**Manatee and Marine Turtle Protection Conditions for Blasting Activities (if utilized):**

2524. Blasting activities shall only occur during daylight hours and are prohibited between November 15 and March 31 of any year. The FWC and the JCP Compliance Officer shall be notified of the initiation and completion of all in-water blasting events.

2625. The final details of the approved blasting protection measures A ~~Blast and Watch Plan~~ (BWP) shall be developed and submitted to FWC at [imperiledspecies@myfwc.com](mailto:imperiledspecies@myfwc.com) and [Allen.Foley@myfwc.com](mailto:Allen.Foley@myfwc.com) 30 days prior to any blasting activities. These details BWP shall include all information needed for the site-specific blasting activities that are proposed at this location, as well as the following:

- a. a list of all dedicated observers associated with the project:
  - i. their names;
  - ii. their credentials;
  - iii. their qualifications;
  - iv. their contact information;
  - v. a description of their observational experience, including nighttime/daytime experience, type of activity, observation location (such as boat based, land based, etc.), and number and type of protected marine species observed on each project referenced;
  - vi. their proposed roles (aerial observer, boat-based observer, watch coordinator...).
  
- b. Locations, shifts and equipment: ~~specify protected marine species (such as manatees, marine turtles, dolphins, etc.) and protection measures employed, before, during and after each blast.~~
  - i. description (including a map) of where the observers will be located during blasting and how they will cover the areas required. *Please note:*

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To maximize visibility, the observers shall be in elevated positions, when possible;

- ii. The length of work shifts for the observers; and
- iii. The equipment used to aid in observation and communication, as addressed in Specific Condition 29, below.

~~The BWP shall adequately incorporate all protection requirements for a blast and watch program and shall be followed during all blasting events (including testing). Any modifications to the plan~~ The Permittee shall abide by these details, and any alteration of these details shall be coordinated with these FWC and the JCP Compliance Officer entities prior to implementation. These entities and the JCP Compliance Officer shall also be notified at the initiation and completion of all in-water blasting events.

27. A formal coordination meeting shall be held at least two days prior to the first blast event. Attendees shall include the dedicated observers in the blasting watch, construction contractors, the blasting demolition subcontractors, and other interested parties, such as FWC and the JCP Compliance Officer (or designated alternate). The construction contractors, demolition subcontractors and observers shall present the protocol and logistics of the project.

2826. **Blast Details.** For each blast event, the Permittee shall provide the following details: The following elements of a blast program shall be incorporated into the BWP:

- a. ~~The~~ the amount of explosive charge proposed,
- b. the explosive charge's equivalency in TNT,
- c. how it will be executed (depth of drilling, stemming, amount of time between delays, etc.),
- d. a drawing depicting the placement of the charges, size of the safety radius and how it will be marked (also depicted on a map).; *At minimum, the following criteria for establishment of the zones shall be followed: For each explosive charge placed, three zones shall be calculated and provided to the dedicated observers at least 24 hours before each blast event. This information shall also be denoted on the monitoring reports.*
  - i. *Danger /Exclusion Zone: The distance in feet from blast (radius)  $\equiv (260 w^{1/3}) + 500$  feet. The "w" is the maximum charge weight (in tetryl or TNT pounds) per delay of an individual confined shot. Detonation shall not occur if a marine animal is known to be (or based on previous sightings, may be) within this circular area around the detonation site.*

- ii. Safety Zone: The distance in feet from blast (radius) =  $(520 w^{1/3})$ . The "w" is the maximum charge weight (in tetryl or TNT pounds) per delay of an individual confined shot. Any marine animal within this circular area around the Danger/Exclusion Zone shall be monitored continuously. Detonation shall not occur if a marine animal appears to be traveling towards and nears the Danger/Exclusion Zone and detonation site during countdown.
- iii. Watch Zone: Three times the radius of the Danger/Exclusion Zone. This is the minimum watch distance to ensure that marine animals entering or traveling close to the exclusion and safety zones are spotted and appropriate actions can be implemented before or as the animal enters the exclusion zone (i.e., a delay in blasting activities).

- e. tide tables for each blasting event, and
- f. estimates of times and days for blasting events (with an understanding this is an estimate, and may change due to weather, equipment, etc).
- g. the list of dedicated observers assigned and their role (watch coordinator/dedicated observer) and position (aerial, boat or land based observer)  
Note: For each blast event, the final list shall be provided to FWC and copied to the JCP Compliance Officer at least 24 hours before each planned blast event.  
This information shall also be included in the monitoring reports.

This information shall also be recorded by the ~~protected marine species observer lead~~ Watch Coordinator for each blasting event, and shall be included in the a final report to FWC, as described in Specific Condition 30.

~~For each explosive charge placed, three zones shall be calculated, denoted on monitoring reports, and provided to protected species observers before each blast for incorporation in the watch plan for each planned detonation.~~

~~These zones are:~~

- a. ~~Danger/Exclusion Zone: The distance in feet from blast (radius) =  $(260 w^{1/3}) + 500$  feet. The "w" is the maximum charge weight (in tetryl or TNT pounds) per delay of an individual confined shot. Detonation shall not occur if a marine animal is known to be (or based on previous sightings, may be) within this circular area around the detonation site.~~

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- ~~b. — Safety Zone: The distance in feet from blast (radius) =  $(520 w^{1/3})$ . The "w" is the maximum charge weight (in tetryl or TNT pounds) per delay of an individual confined shot. Any marine animal within this circular area around the Danger/Exclusion Zone shall be monitored continuously. Detonation shall not occur if a marine animal appears to be traveling towards and nears the Danger/Exclusion Zone and detonation site during countdown.~~
- ~~e. — Watch Zone: Three times the radius of the Danger/Exclusion Zone. This is the minimum watch distance to ensure that marine animals entering or traveling close to the exclusion and safety zones are spotted and appropriate actions can be implemented before or as the animal enters the exclusion zone (i.e., a delay in blasting activities).~~

2927. **Blasting Watch.** At least six dedicated observers shall be observing marine protected species (such as manatees, marine turtles, dolphins, etc.) when blasting is being performed. The dedicated observers shall perform no other duties that may interfere with their ability to observe protected marine species. At a minimum, one of these dedicated observers shall be designated as the Watch Coordinator and one dedicated observer shall conduct aerial surveys. All the dedicated observers shall be stationed in elevated positions. Note: The Watch Coordinator will be the liaison between the dedicated observers and the Blasting Contractor and Contracting Officer and shall perform no other duties that may interfere with their ability to coordinate the watch. The following shall be included in the BWP: a list of the observers and their contact information; detailed information regarding their qualifications; and the proposed positions for the watch, including a map depicting the proposed locations for boat or land-based observers.

- a. Requirements and procedures for the dedicated observers for blasting activities are as follows:
- i. Qualified Dedicated observers shall have significant, prior, on the job experience observing for protected marine species during previous in-water blasting events where the blasting activities were similar in nature to this project. Note: Each observer's past experience shall: 1) be in a similar the same observer position as proposed for this project (i.e., the Watch Coordinator shall have prior experience coordinating a watch, the Aerial Observer shall have prior experience conducting Aerial Surveys...); 2) include experience working as part of an observation team during an in-water blasting project; and 3) have Each observer's past experience shall indicate extensive manatee or sea marine turtle observations experience during previous dredging or blasting projects and/or during manatee or sea turtle research studies.

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- ii. Dedicated observers shall be outfitted with equipment needed for observation and for reaction to observed protected marine species (such as binoculars, polarized sunglasses, lights, two-way radios, contact information for dredge operator and contracting officer, a red flag for backup visual communication etc.). *It is recommended that extra communication and observation equipment shall be available in case of failures.*
  - iii. The Contractor shall immediately shut down project operations upon notification by the dedicated observer (or any on-site project personnel) upon sighting a protected marine animal within the danger/exclusion zone; if detection of a protected marine animal is not possible due to weather or other conditions (such as during fog, rain, wind, failure of observation or communication equipment etc.), or if any of the blast or watch conditions is not met prior to or during the blasting.
  - iv. Dedicated observers shall maintain a daily log that details sightings, collisions, or injuries to protected marine species (manatees and marine turtles), and actions taken as a result of the sighting, collisions or injuries.
28. ~~A formal coordination meeting shall be held at least two days prior to the first blast event. Attendees shall include the observers in the watch program, construction contractors, demolition subcontractors, and other interested parties, such as FWC. The construction contractors, demolition subcontractors and observers shall present the protocol and logistics of the project.~~
29. ~~The watch program shall consist of a minimum of six observers and one coordinator. There shall be a minimum of one aerial survey observer, with the other observers elevated in positions on boats or on land, depending upon the specific project. Each observer shall be equipped with a two-way radio that shall be dedicated exclusively to the watch. Extra radios shall be available in case of failures. All of the observers shall be in close communication with the blasting subcontractor in order to halt the blast event if the need arises. If all observers do not have working radios and cannot contact the primary observer and the blasting subcontractor during the pre-blast watch, the blast shall be postponed until all observers are in radio contact. Observers shall also be equipped with polarized sunglasses, binoculars, a red flag for backup visual communication, and a sighting log with a map to record sightings. All blasting events shall be weather dependent. Climatic conditions shall be suitable for optimal viewing conditions, as determined by the observers.~~
- b. The Blasting Watch shall begin at least one hour prior to the scheduled start of blasting, and shall continue until at least one half-hour after detonations are complete.

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- ~~c30.~~ The Blasting ~~w~~Watch program shall include a continuous aerial survey to be conducted by aircraft, as approved by the Federal Aviation Administration. ~~The event shall be halted if an animal(s) is spotted within the Danger/Exclusion Zone.~~ An "all-clear" signal shall be obtained from the aerial observer before detonation can occur.
- ~~d.~~ The blasting event shall be halted immediately upon request of any of the observers. If animals are sighted in the Danger/Exclusion Zone, the blast event shall not take place until the animal(s) moves out of the area under its own volition. Animals shall not be herded away or harassed into leaving. Specifically, the animals shall not be intentionally approached by project watercraft. If the animal(s) is not sighted a second time, the event may resume 30 minutes after the last sighting.
- ~~31.~~ ~~The watch program shall begin at least one hour prior to the scheduled start of blasting to identify the possible presence of manatees, dolphins, or marine turtles. The watch program shall continue until at least one half hour after detonations are complete.~~
- ~~e32.~~ ~~If any one of the blast or watch conditions is not met prior to or during the blasting, the watch observers shall have the authority to terminate the blasting event is halted by the notification of a dedicated observer, it shall not resume, until resolution can has been reached with between the Watch Coordinator and the Contracting Officer. The Contracting Officer or their representative shall contact FWC, as appropriate.~~
- ~~f33.~~ If an injured or dead marine mammal or marine turtle is sighted during or after the blast event, the dedicated observer(s) shall maintain contact with the injured or dead animal until authorities arrive. ~~The observer~~ Watch Ceordinator shall contact the Contracting Officer, or their representative, who ~~will~~ shall contact FWC at the FWC Hotline: 1-888-404-FWCC and 850-922-4330 (manatees and marine turtles. Blasting and all other demolition activities shall cease until an agreement has been reached between the Permittee and FWC addressing the likely cause of injury or death, and procedures by which such an occurrence may be avoided in the future.
- ~~g34.~~ After each blasting event, the dedicated observers and contractors shall evaluate any problems encountered during the blasting events and logistical solutions shall be presented to the Contracting Officer and the JCP Compliance Officer. Corrections to the blasting watch or other blast protection measures programs and BWP shall be made prior to the next blasting event. The Department will determine if the solutions presented would require a permit modification.

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- a. ~~If an injured or dead marine mammal or marine turtle is sighted after the blast event, blasting shall be postponed until consultations are completed and determinations can be made of the cause of injury or mortality. If blasting injuries are documented, all demolition activities shall cease until a revised plan addressing the likely cause of injury or death is agreed upon by the Permittee and FWC. In the event of an injury or death, the Permittee shall contact FWC at the FWC Hotline: 1 888 404 FWCC and 850 922 4330 (manatees and marine turtles).~~
- 30b. Within 30 days after completion of all blasting events, the ~~observer~~ Watch Ceordinator shall submit a report to FWC at [imperiledspecies@myFWC.com](mailto:imperiledspecies@myFWC.com) providing a description of the event, the number and location of animals seen and what actions were taken when animals were seen. ~~Any problems associated with the event, and suggestions for improvements, shall also be documented in the report.~~ This report shall include the following:
- a. the project name;
  - b. permit number;
  - c. names of dedicated observers and their contact information;
  - d. reporting period;
  - e. a description of each event (including any problems associated with each event, and suggestions for improvements);
  - f. a summary of all sightings, collisions and injuries; and
  - g. actions taken in response to each sighting, collision or injury.

**Nesting Seabird and Shorebird Conditions:**

35. ~~**Pre-Construction Meeting.** A meeting between representatives of the contractor, FWC, and Bird Monitors as appropriate, shall be held prior to commencement of construction. Notification of the proposed meeting to FWC shall be at least ten business days before the date of that meeting. The FWC Regional Species Conservation Biologist shall be invited (see Exhibit 3 for contact information). The purpose of this meeting is to ensure that the Permittee fully understands the wildlife protection measures and site-specific measures that need to be taken before, during, and after construction. This meeting may~~

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~~be combined with the pre-construction conference that is required in Specific Condition 2.~~

3136. Nesting seabird and shorebird (i.e., shorebird) surveys shall be conducted by trained, dedicated individuals (Bird Monitor) with proven shorebird identification skills and avian survey experience. A list of candidate Bird Monitors with their contact information, summary of qualifications, including bird identification skills, and avian survey experience, shall be provided to FWC. This information shall be submitted to the FWC Regional ~~Species Conservation~~ Biologist prior to any construction or hiring for shorebird surveys. Bird Monitors shall use the following survey protocols:

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

Spoil Islands in Hillsborough County: March 1 - September 1

On the dredge disposal islands in Hillsborough Bay, weekly surveys shall be conducted by a qualified Bird Monitor beginning no later than March 1 to determine the onset of nesting. Once nesting is documented, the Migratory Bird Protection Plan shall be implemented and daily monitoring shall begin. If no nesting is observed prior to April 1, daily surveys shall be initiated on that date or ten days prior to project commencement (including surveying activities and other pre-construction presence on the site), whichever is later. Surveys shall be conducted until all breeding activity has concluded for the season, as determined by the Bird Monitor.

- c. Breeding season surveys shall be conducted in all potential beach-nesting bird habitats within the project boundaries that may be impacted by construction or pre-construction activities. One or more shorebird survey routes shall be established in the FSD website to cover these areas.
- d. During the pre-construction and construction phases of the project, surveys for detecting breeding activity and the presence of flightless chicks shall be completed on a daily basis (once nesting has initiated, or beginning April 1, whichever is later) prior to movement of equipment, operation of vehicles, or

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other activities that could potentially disrupt breeding behavior or cause harm to the birds or their eggs or young.

- e. Surveys shall be conducted by walking or driving the project area (and/or boating along the shoreline) 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 is required. If an ATV or other vehicle is needed to cover large project areas, operators shall adhere to FWC's *Best Management Practices for Operating Vehicles on the Beach* located at:  
<http://myfwc.com/conservation/youconserve/wildlife/beach-driving/>. Specifically, the vehicle shall be operated at a speed <6 mph and when operating on beaches run at or below the high-tide line. The Bird Monitor shall stop at no greater than 200-meter intervals to visually inspect for breeding activity.
- f. Once breeding is confirmed by the presence of a scrape, eggs, or young, the Bird Monitor shall notify the FWC Regional Species Conservation Biologist within 24 hours. All breeding activity shall be reported to the FSD website within one week of data collection.

**3237. Notification.** If shorebird breeding occurs within the project area, a bulletin board shall be placed and maintained in the construction staging area. The bulletin board shall include a location map of the construction site showing the bird breeding areas, and a clearly-visible warning that states: “NESTING BIRDS ARE PROTECTED BY LAW INCLUDING THE FLORIDA ENDANGERED AND THREATENED SPECIES ACT AND THE STATE and FEDERAL MIGRATORY BIRD ACTS”.

**3338. Equipment Storage and Placement.** Staging areas for construction equipment shall be located off the shoreline whenever possible. Nighttime storage of construction equipment not in use shall be located off the shoreline to minimize disturbance to shorebird nesting activities. In addition, all construction pipes that are placed on the shoreline shall be located as far landward as possible. Temporary storage of pipes shall be off the shoreline to the maximum extent possible. If it will be necessary to extend construction pipes past a known shorebird nesting site or over-wintering area for piping plovers, then whenever possible those pipes 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.

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

The set of permit drawings authenticated on March 20, 2014 shall be replaced by the set of permit drawings authenticated on March 7, 2018.

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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. Since the proposed modification is not expected to result in any adverse environmental impact or water quality degradation, the **permit is hereby modified** as stated above. By copy of this letter and the attached drawings, we are notifying all necessary parties of the modification.

This letter of approval does not alter the **April 8, 2020**, expiration date of the permit. The entire set of permit conditions are provided above, including the modifications to the Specific Conditions. This letter and the attached drawings must be attached to the original permit.

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

### **NOTICE OF RIGHTS**

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.

#### 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;

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- (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](mailto: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 **21** 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 **21** days of publication of the notice or within **21** 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) 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](mailto: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.

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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 Ivana Kenny Carmola by email at [Ivana.KennyCarmola@dep.state.fl.us](mailto:Ivana.KennyCarmola@dep.state.fl.us) or by telephone at (850) 245-7618.

**EXECUTION AND CLERKING:**

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



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Gregory W. Garis  
Program Administrator  
Beaches, Inlets and Ports Program  
Division of Water Resource Management

**Attachments:** Permit drawings (authenticated March 7, 2018, 16 sheets)

**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:

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Paul Karch, Corps, [Paul.J.Karch@usace.army.mil](mailto:Paul.J.Karch@usace.army.mil)  
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[BIPP@dep.state.fl.us](mailto:BIPP@dep.state.fl.us)

**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.

*Kaslyn Massey* 5/10/2018  
Clerk Date