



Florida Department of Environmental Protection

Bob Martinez Center
 2600 Blair Stone Road
 Tallahassee, Florida 32399-2400

Rick Scott
 Governor

Carlos Lopez-Cantera
 Lt. Governor

Jonathan P. Steverson
 Secretary

FINAL ORDER GRANTING VARIANCE

Permittee:

U.S. Army Corps of Engineers
 c/o Eric P. Summa, Chief
 Planning and Policy Division
 701 San Marco Boulevard
 Jacksonville, FL 32207

PROJECT INFORMATION:

Variance No. 0129277-018-BV
 Date of Issue: July 29, 2016
 Expiration Date: Same as expiration date of
 Permit No. 0129277-017-BI
 County: Duval
 Project: Jacksonville Harbor Federal Channel Expansion

FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants, to the U.S. Army Corps of Engineers (Corps), a variance from the requirements of Rule 62-4.244(5)(c), Florida Administrative Code (F.A.C.), to establish a temporary mixing zone greater than 150 meters, and from Rules 62-4.242(2)(a)2.b. and 62-302.700(1), F.A.C., to provide relief from the antidegradation requirement for turbidity in the Outstanding Florida Waters (OFWs) of the Timucuan Ecological and Historic Preserve and the Nassau River – St. Johns River Marshes Aquatic Preserve.

This variance will temporarily establish an expanded mixing zone that extends 600 meters downcurrent from the dredge for work adjacent to the existing federal channel in the OFWs. The variance will also temporarily establish a maximum allowable turbidity level of 6 Nephelometric Turbidity Units (NTUs) above background for work within the OFWs at the edge of the mixing zone. This temporary variance shall only be valid during the construction activities authorized in Permit No. 0129277-017-BI and shall expire when the permit expires on July 29, 2016, including any extensions of the permit expiration date.

The associated Environmental Resource Permit (No. 0129277-017-BI) is to deepen and widen the federal navigation channel to the following specifications:

Location*	Project Depth + Required Overdepth + Allowable Overdepth**
Bar Cut 3 Station 0+00 to Bar Cut 3 Station 210+00	49 feet + 1 foot + 1 foot = 51 foot max
Bar Cut 3 Station 210+00 to Cut 45 Station 28+18.43 and Blount Island Turning Basin (north side)	47 feet + 1 foot + 1 foot = 49 foot max

Advanced Maintenance Zones Location*	Project Depth + Advanced Maintenance Depth + Required Overdepth + Allowable Overdepth**
Bar Cut 3 Station 217+00 to Bar Cut 3 Station 270+00	47 feet + 2 feet + 1 foot + 1 foot = 51 foot max
Bar Cut 3 Station 270+00 to Cut 6 Station 24+72.08 (south half of channel)	
Cut 41 Station 12+30 to Cut 41 Station 28+10 (north side of channel including widened area)	
Cut 42 Station 20+00 to Cut 42 Station 135+00	
Blount Island Turning Basin (south side)	
Brills Cut Turning Basin	

*Reference from Corps plans

**Referenced to mean lower low water (MLLW)

- Widen 200 feet to the north from Cut 8 Station 0+87.32 to Cuts 14/15 Station 6+04.61;
- Widen 100 feet to the south from Cut 12 Station 4+96.23 to Cut 16 Station 5+00 transitioning to 250 feet from Cut 17 Station 0+00 to Cut 17 Station 10+92.08 and back to 100 feet from Cut 18 Station 5+00 to Cut 39 Station 5+00;
- Widen both sides of the channel by varying amounts up to 300 feet from Cut 39 Station 24+52 to Cut 42 Station 30+00;
- Blount Island Turning Basin: expand to approximately 2700 feet long by 1500 feet wide in Cut 42;
- Brills Cut Turning Basin: expand to approximately 2500 feet long by 1500 feet wide in Cut 45.

All dredged material (approximately 18 million cubic yards) will be placed in the Jacksonville Harbor Ocean Dredged Material Disposal Site (ODMDS), outside of State Waters. The use of confined underwater blasting of consolidated sediments and underlying rock may be required as a pre-treatment technique.

After reviewing the Petition for Variance, the Department determined that it satisfied the requirements and criteria set forth in Section 403.201, Florida Statutes (F.S.), and Rule 62-110, F.A.C.

The **NOTICE OF INTENT TO ISSUE AN ENVIRONMENTAL RESOURCE PERMIT AND VARIANCE** notified the Corps of the Department's proposed agency action and advised them of their right to a hearing pursuant to Sections 120.569 and 120.57, F.S. On March 11, 2016, notice was given in the Florida Times Union and on February 19, 2016, notice was given in the Florida Administrative Register informing the public of the Department's intended action and offering an opportunity for hearing pursuant to Sections 120.569 and 120.57, F.S.

The Permittee and interested parties having been advised of their rights under Chapter 120, F.S., and having failed or declined to file a Petition pursuant to Sections 120.569 and

120.57, F.S., are hereby deemed to have waived those rights. Acceptance by the Corps of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof. It is therefore:

ORDERED by the State of Florida, Department of Environmental Protection, that the Petition of the Corps requesting a variance be and is hereby granted, subject to the conditions specified by the Department in Permit No. 0129277-017-BI.

The variance shall also be subject to the following conditions:

1. The variance is temporary, and shall only be valid during construction of the Jacksonville Harbor Federal Channel Expansion Project under all the conditions of, and during the term of, Permit No. 0129277-017-BI, including subsequent modifications.
2. All practical means of limiting the suspension or discharge of sediments (i.e., best management practices to control turbidity) shall be employed during construction.
3. Within OFWs, the Permittee shall not exceed the temporary water quality standard for turbidity specified in this variance at or beyond the edge of the mixing zone, also specified in this variance. Additionally, the minimum water quality criteria identified in Rule 62-302.500(1)(a), F.A.C., shall be maintained within the mixing zone.

Any Party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of the Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the clerk of the Department.

DONE AND ORDERED this 29 day of July, 2016, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Lainie Edwards, Ph.D.
Program Administrator
Beaches, Inlets and Ports
Division of Water Resource Management

Attachment: Exhibit A (Variance Notice Publication)

cc: Jason Spinning, Corps	Thomas Adams, DEP OGC
Laurel Reichold, Corps	Bob Brantly, DEP DWRM
Mike Hollingsworth, Corps	JCP Compliance Officer, DEP DWRM
Jason Harrah, Corps	Betsy Hewitt, DEP Office of General Counsel
Paul Stodola, Corps	Dee Ann Miller, DEP Office of Secretary
Wendy Dauberman-Zerby, Corps	Jim Maher, DEP NE District
Joe Miller, Jaxport	Chris Stahl, DEP Office of Intergovernmental Affairs
David Kaufman, Jaxport	Andrea Noel, DEP Coastal Office
David Stubbs, Jaxport	Scott Sanders, FWC
Scott Skinner, Jaxport	Laura DiGruttolo, FWC
Frederick Aschauer, DEP DWRM	Miles Croom, NOAA Fisheries Service
Jane Herndon, DEP DWRM	Dawn Jennings, FWS
Marty Seeling, DEP DWRM	Heinz Mueller, EPA
Roxane Dow, DEP DWRM	Chris Hughes, NPS
Jennifer Peterson, DEP DWRM	Gian Basili, SJRWMD
Kirk White, DEP OGC	Lisa Rinaman, St. Johns Riverkeeper

FILING AND ACKNOWLEDGMENT

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

Sandra H. Rogers

07/29/2016

Deputy Clerk

Date