



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

FINAL ORDER OF VARIANCE

GRANTEE:

U.S. Army Corps of Engineers
c/o Eric Summa
P.O. Box 4970
Jacksonville, Florida 32232-0018

PROJECT INFORMATION:

Variance No. 0307923-002-BV
Issuance Date: July 26, 2012
Expiration Date: July 3, 2022 (Same as the expiration
date of Permit No. 0307923-001-JC, unless extended)
Counties: Nassau and Duval
Project: Atlantic Intracoastal Waterway Maintenance
Dredging in the Vicinity of Sawpit Creek

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 62-4.242(2)(a)2.b., Florida Administrative Code (F.A.C.), to provide relief from the antidegradation requirement for turbidity in Outstanding Florida Waters (OFW).

This variance will temporarily establish a maximum allowable turbidity level of 15 NTUs above background at the edge of the mixing zone within OFW. This temporary variance shall only be valid during the construction activities authorized in Permit No. 0307923-001-JC and shall expire when the permit expires on July 3, 2022, unless the permit is modified to grant a time extension.

The associated joint coastal permit (No. 0307923-001-JC) authorizes periodic maintenance dredging of approximately 300,00 cubic yards of sandy material from cuts 24, 25, 26, 26A, 27 (Sta. 00 to Sta. 15), 27A, 27B, 27C of the Atlantic Intracoastal Waterway (AIWW) and the advanced maintenance areas in Sawpit Creek, the South Amelia River, the Intracoastal Cut and Nassau Sound. The dredged material will be placed on the beach on the south end of Amelia Island. The AIWW is to be maintained at a width of 90 to 150 feet and to a maximum depth of -14 feet below mean low water (MLW), which includes a design depth of -12 feet MLW, plus 2 feet of allowable overdepth.

After reviewing the Petition for Variance, the Department concluded 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 *Consolidated Notice of Intent to Issue Joint Coastal Permit, Variance and Authorization to Use Sovereign Submerged Lands* 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 May 28, 2012, notice was given in the Florida Times-Union and on July 6, 2012, notice was given in the Florida Administrative Weekly 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. A copy of the notice is attached as Exhibit A.

The Grantee 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 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. 0307923-001-JC.

The variance shall also be subject to the following conditions:

1. Best management practices and technology shall be employed to minimize turbidity within the OFW.
2. Given good cause by either party, the Chief of the Bureau of Beaches & Coastal Systems may alter the terms and conditions of the variance.
3. The variance is temporary and shall only be valid for the period that occurs during each dredging event conducted under the requirements of, and during the term of Permit No. 0307923-001-JC.
4. This variance shall be subject to all monitoring conditions required by Permit No. 0307923-001-JC.

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 26th day of July, 2012, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Danielle H. Fondren, Chief
Bureau of Beaches and Coastal Systems

Attachment: Exhibit A (Variance Notice)

Copies furnished to:

Jim Maher DEP, Northeast District
Tom Jacobs, BBCS
Mike Shirley, DEP, CAMA
Alex Reed, BBCS
Parks Small, FPS
Tom Heal, City of Jacksonville
Jane Chabre, FWC
Gene Chalecki, BBCS
Robbin Trindell-FWC
Martin Seeling, BBCS
Valerie Jones, CCCL
Guy Weeks, BECP, Project Manager
David Roach, FIND

Roxane Dow, BBCS
Lainie Edwards, BBCS
El Kromhout, BBCS (+hardcopy)
Vladimir Kosmynin, BBCS
Trey Hatch, BBCS Field Inspector
Ann Marie Lauritsen, USFWS
Robert Brantly, BBCS
Joey V. Duncan, City of Jacksonville
Robert Joseph (Bob), So. Amelia Island State Park
James McAdams, USACE
Ted Selby, Nassau County Manager
JCP Compliance Officer
BBCS Permit File

FILING AND ACKNOWLEDGMENT

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



Deputy Clerk



Date

Prepared by: Tom Jacobs

THE FLORIDA TIMES-UNION
Jacksonville, FL
Affidavit of Publication

Florida Times-Union

JS ARMY CORP OF ENGINEERS
PO Box 4970
JACKSONVILLE FL 32232

Reference: 1000259541
Ad Number: C14279464

State of Florida
County of Duval

Before the undersigned authority personally appeared Sharon Walker who on oath says she/she is a Legal Advertising Representative of The Florida Times-Union, a daily newspaper published in Duval County, Florida; that the attached copy of advertisement is a legal ad published in The Florida Times-Union. Affiant further says that The Florida Times-Union is a newspaper published in Duval County, Florida, and that the newspaper has heretofore been continuously published in Duval County, Florida each day, has been entered as second class mail matter at the post office in Jacksonville, in Duval County, Florida for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission, or refund for the purpose of securing this advertisement for publication in said newspaper.

PUBLISHED ON: 05/28/2012

FILED ON: 05/28/2012

Name: Sharon Walker Title: Legal Advertising Representative
In testimony whereof, I have hereunto set my hand and affixed my official Seal, the day and year aforesaid.

NOTARY: *Sally W. Willis*



STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF INTENT TO ISSUE PERMIT AND VARIANCE

The Department of Environmental Protection gives notice of its intent to issue a joint coastal permit and variance (File Nos. 0307923-001-JC and 0307923-002-BV) to the U. S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232-0018, to provide improved navigation to Nassau Sound by periodic maintenance dredging of approximately 300,00 cubic yards of sandy material every three years from cuts 24, 25, 26, 24A, 27 (Sta. 60 to Sta. 15), 27A, 27B and 27C of the Atlantic Intracoastal Waterway (AIWW) and the advanced maintenance areas in Sawpitt Creek, the South Amelia River and Nassau Sound. The dredged material will be placed on the beach on the south end of Amelia Island. The AIWW is to be maintained at a width of 90 to 150 feet and to a maximum depth of -14 feet below mean low water (MLW). The dredged material will be placed on the beach on the south end of Amelia Island, which includes a design depth of -32 feet MLW, plus 2 feet of allowable over-depth.

The Department also gives notice of its intent to grant a variance (File No. 0307923-002-BV) from the provisions of Rule 62-4.242(2)(a)2 b., Florida Administrative Code (F.A.C.), to establish a maximum allowable turbidity level above background for work within the Nassau River-St. Johns River Marshes Aquatic Preserve and Timucuan Ecological and Historical Preserve Outstanding Florida Water (OFW), Class III Waters.

The maintenance dredging is located in Nassau and Duval Counties, Latitude 30 degrees 31.0 minutes, Longitude 81 degrees 27.0 minutes, through portions of Sawpitt Creek (Class III Waters - Shellfish Harvesting Prohibited), the South Amelia River and Nassau Sound (Class III Waters) within the Nassau River-St. Johns River Marshes Aquatic Preserve OFW and Timucuan Ecological and Historical Preserve OFW. The dredged material will be deposited on the beach of the south end of Amelia Island, which is located at Latitude 30 degrees 30 minutes, Longitude 81 degrees 25 minutes, Class III Water, Nassau County, Florida.

A person whose substantial interests are affected by the Department's action may petition for an administrative hearing in accordance with Sections 120.567 and 120.57, Florida Statutes (F.S.). The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the permit or even a denial of the application. Under Rule 62-110.106(4), Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding judge upon the filing of a motion in compliance with rule 28-106.205, F.A.C.

In accordance with Rules 28-106.111(2) and 62-110.106(3)(a)(1), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.567 and 120.57, F.S.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the 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 dispute issues of material fact. If there are none, the petition must so indicate; (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action; (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This intent to issue constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the DEP, Office of Beaches and Coast Systems, 4878 Capital Circle Northwest, Tallahassee, Florida 32303. The "CONSOLIDATED NOTICE OF INTENT TO ISSUE JOINT COASTAL PERMIT AND VARIANCE" and the "DRAP CONSOLIDATED JOINT COASTAL PERMIT AND VARIANCE" can be viewed at the Department Internet Web site at: www.dep.state.fl.us/beaches/permitting/permits.htm

RECEIVED

JUN 06 2012

BUREAU OF BEACHES
AND COASTAL SYSTEMS

the Florida Administrative Weekly pursuant to Chapter 120, Florida Statutes, and Chapter 59C-1, Florida Administrative Code.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF AVAILABILITY

FLORIDA CATEGORICAL EXCLUSION NOTIFICATION

City of Carrabelle

The Florida Department of Environmental Protection has determined that the City of Carrabelle's project to purchase the existing water system owned by Water Management Services, Inc. on St. George Island will not adversely affect the environment. The purchase price is estimated to be \$15,000,000. The project may qualify for a Drinking Water State Revolving Fund loan composed of federal funds and state funds. A full copy of the Florida Categorical Exclusion Notification can be obtained by writing to: Paul Brandl, Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS #3505, Tallahassee, Florida 32399-2400 or calling (850)245-8373.

NOTICE OF INTENT TO GRANT VARIANCE

The Department of Environmental Protection gives notice of its intent to grant a variance under Section 403.201, F.S., from the provisions of sub-subparagraph 62-4.242(2)(a)2.b., F.A.C., to the U.S. Army Corps of Engineers, P. O. Box 4970, Jacksonville, Florida 32232-0018, (File No. 0307923-002-BV) to establish a maximum allowable turbidity level above background for work within the Nassau River-St. Johns River Marshes Aquatic Preserve and Timucuan Ecological and Historical Preserve OFW, Class III Waters. This variance is associated with the proposed periodic maintenance dredging of the Atlantic Intercoastal Waterway in Sawpit Creek, South Amelia River, and Nassua Sound in Nassua County. (File No. 0307923-001-JC) The variance will allow 15 Nephelometric Turbidity Units above background at the edge of the mixing zone. The Department's file on this matter is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Office of Beaches and Coastal Systems, 4870 Capital Circle Northwest, Tallahassee, Florida 32303, Telephone: (850)414-7731.

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 of the Florida Statutes. The petition must contain the information set

forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000.

Mediation under Section 120.573, F.S. is not available.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the agency action or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this agency action automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities in accordance with this variance until the deadlines noted below for filing a petition for an administrative hearing, or request for an extension of time has expired.

Under subsections 28-106.111(3) and 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

In accordance with subsection 28-106.111(2) and paragraphs 62-110.106(3)(a), (4), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled

to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first.

Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

A petition that disputes the material facts on which the Department's action is based must contain the following information: (a) The name and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the 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; and (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.S. Under Sections 120.569(2)(c) and (d), F.S., a petition for

administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

This variance constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, Florida Statutes, by the filing of a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

Florida State Clearinghouse

The state is coordinating reviews of federal activities and federally funded projects as required by Section 403.061(40), F.S. A list of projects, comments deadlines and the address for providing comments are available at: <http://appprod.dep.state.fl.us/clearinghouse/>. For information, call: (850)245-2161. This public notice fulfills the requirements of 15 CFR 930.

DEPARTMENT OF HEALTH

Notice of Vacating Emergency Action

On June 22, 2012, the State Surgeon General, issued an Order Vacating Order of Emergency Suspension of License with regard to the license of William Edmund Crain Jr., R.N., License #9312202. The Department orders that the Emergency Suspension of License be vacated.

Notice of Emergency Action

On June 20, 2012, the State Surgeon General issued an Order of Emergency Suspension Order with regard to the license of Yuleixis C. Gonzalez Hernandez, C.N.A., License #CNA 195342. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant