



# Florida Department of Environmental Protection

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Tallahassee, Florida 32399-3000

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Lt. Governor

Michael W. Sole  
Secretary

## CONSOLIDATED JOINT COASTAL PERMIT AND INTENT TO GRANT SOVEREIGN SUBMERGED LANDS AUTHORIZATION

### PERMITTEE:

U.S. Army Corps of Engineers  
c/o Eric P. Summa  
701 San Marco Blvd  
Jacksonville, FL 32207

### PERMIT INFORMATION:

Permit Number: 0270453-001-JC

Project Name: John's Pass Maintenance  
Dredging

County: Pinellas

Issuance Date: March 29, 2010

Expiration Date of Construction Phase: March  
29, 2020

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### REGULATORY AUTHORIZATION:

This permit is issued under the authority of Chapter 161 and 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.

### ACTIVITY DESCRIPTION:

The project consists of the periodic maintenance dredging of the federally authorized 150-foot wide channel at John's Pass, with placement of beach compatible material on Treasure Island. The dredging will include maintenance of Cuts 1 and 2A, in addition to a 225-foot wide widener along the north side of the federally authorized channel, resulting in a total channel width of 375 feet. Dredging is authorized to a maximum depth of -14.9 feet NAVD 88. In addition, an ebb shoal borrow area located approximately 1,500 feet south of Cut 1 will be dredged in two subareas. The northeastern subarea of the ebb shoal borrow area will be dredged to a maximum depth of -14.4 feet NAVD 88, while the southwestern subarea will be dredged to a maximum depth of -13.5 feet NAVD 88.

**Joint Coastal Permit  
John's Pass Maintenance Dredging  
Permit No. 0270453-001-JC  
Page 2 of 24**

Dredged material will be placed on one or both of the following beach placement sites, which are listed in order of priority:

- 3,000 feet of beach located just south of John's Pass on Treasure Island (between R-126 and R-129), which will require up to approximately 160,000 cubic yards of sand per event; and
- 4,000 feet of beach located immediately south of 97th Street on Treasure Island (between R-136 and R-141), which will require up to approximately 200,000 cubic yards of sand per event.

Both beach placement sites will have a beach profile with a berm crest elevation of +6.0 feet MLW (+4.1 feet NAVD 88), a variable flat berm width (depending on amount of material), and a construction slope of 1:20 (vertical:horizontal) from the waterward limits of the berm to the intersection with the existing sand bottom.

The requested variance (File No. 0270453-002-EV) from Rule 62-4.244(5)(c), F.A.C., would temporarily establish an expanded mixing zone for this project that extends 1,500 meters downcurrent from the dredge sites and the placement areas.

**ACTIVITY LOCATION:**

The dredging location is John's Pass ebb shoal and channel, seaward of the Gulf Boulevard Bridge, and the beach placement sites are located on Treasure Island between R-126 and R-129 and between R-136 and R-141, all of which are in Pinellas County, Section 14 & 25, Township 31 South, Range 15 East, Gulf of Mexico, Class III Waters, within the Pinellas County Aquatic Preserve, Outstanding Florida Waters.

**PROPRIETARY AUTHORIZATION:**

The dredging of the ebb shoal borrow area and the beach placement activities also require proprietary authorization, as the activities are located on sovereign submerged lands, held in trust by the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 and 253.77, F.S. These activities are not exempt from the need to obtain proprietary authorization. The Board of Trustees delegated the Department the responsibility to review and take final action on this request for proprietary authorization in accordance with Section 18-21.0051, F.A.C., and the Operating Agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C. In addition to the above, these proprietary authorizations have been reviewed in accordance with Chapter 253 and Chapter 258, F.S., Chapter 18-20, Chapter 18-21 and Section 62-343.075, F.A.C., and the policies of the Board of Trustees.

**Joint Coastal Permit**  
**John's Pass Maintenance Dredging**  
**Permit No. 0270453-001-JC**  
**Page 3 of 24**

As staff to the Board of Trustees, the Department has reviewed the project described above, and has determined that the beach placement activity qualifies for a Letter of Consent to use sovereign, submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein. Therefore, consent is hereby granted to Pinellas County, the project's local sponsor, pursuant to Chapter 253.77, F.S., to perform the activity on the specified sovereign submerged lands.

The Department has also determined that the dredging of the ebb shoal borrow area (for up to 10 years) requires a public easement for the use of sovereign, submerged lands, pursuant to Chapter 253.77, F.S. The Department intends to grant the public easement to Pinellas County, the project's local sponsor, subject to the conditions outlined in the previously issued *Consolidated Intent to Issue* and in the Recommended Proprietary Action (entitled *Delegation of Authority*).

The final documents required to execute the public easement have been sent to the Division of State Lands. The Department intends to issue the public easement upon satisfactory execution of those documents. **You may not begin construction of this activity on state-owned, sovereign submerged lands until the easement has been executed to the satisfaction of the Department.**

The Department acknowledges that the maintenance dredging of the federal channel falls within one of the federal powers listed in the Submerged Lands Act under 43 USC 1311(d) or 43 USC 1314, and, under those provisions, the U.S. Army Corps of Engineers (Corps) needs no authorization from the Board of Trustees to utilize sovereignty submerged lands for that activity. However, under the provisions of the Coastal Zone Management Act (16 USC 1451-1465), this activity requires Florida's concurrence with a determination of consistency with the sovereignty submerged lands provisions of Florida's approved Coastal Management Program prior to federal approval of the proposed activity. The State has determined that the activity is consistent with the sovereignty submerged lands provisions of Florida's approved Coastal Management Program.

**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. This permit also constitutes certification of compliance with state water quality standards pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341.

**LOCAL SPONSOR AGREEMENT:**

The Department has entered into a contractual agreement with the local project sponsor, Pinellas County, under which Pinellas County will be responsible for conducting post construction monitoring, and beach maintenance activities for the protection of nesting marine turtles, their hatchlings and their habitat. The agreement is enforceable against Pinellas County and is independent of this permit.

**AGENCY ACTION:**

The above named Permittee is hereby authorized to construct the work outlined in the activity description and activity location of this permit and 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 and authorization to use sovereign submerged lands are subject to the General Conditions and Specific Conditions, which are a binding part of this permit and authorization.** 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 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.

- 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 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. No work shall be conducted until and unless the Department issues a Final Order of Variance (File No. 0270453-002-BV) from Rule 62-4.244(5)(c), F.A.C., to establish an expanded mixing zone for this project.
2. All reports or notices relating to this permit shall be sent to the DEP, Bureau of Beaches and Coastal Systems, JCP Compliance Officer, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000 (e-mail address: [JCPCompliance@dep.state.fl.us](mailto:JCPCompliance@dep.state.fl.us)), unless otherwise stated in a specific condition of this permit.
3. **Pre-Construction Conference.** The Permittee shall conduct a pre-construction conference to review the specific conditions and monitoring requirements of this permit with Permittee's contractors, the engineer of record and the JCP Compliance Officer (or designated alternant). In order to ensure that appropriate representatives are available, at least twenty-one (21) days prior to the intended commencement date for the permitted construction, the Permittee is advised to contact the Department, and the other agency representatives listed below:

**Joint Coastal Permit**  
**John's Pass Maintenance Dredging**  
**Permit No. 0270453-001-JC**  
**Page 7 of 24**

DEP, Bureau of Beaches & Coastal Systems  
JCP Compliance Officer  
Mail Station 300  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000  
phone: (850) 414-7716  
e-mail: [JCP.Compliance@dep.state.fl.us](mailto:JCP.Compliance@dep.state.fl.us)

DEP Southwest District Office  
Submerged Lands & Environmental Resources  
13051 N Telecom Pkwy  
Temple Terrace, FL 33637  
(813) 632-7600

Imperiled Species Management Section  
Florida Fish & Wildlife Conservation Commission  
620 South Meridian Street  
Tallahassee, Florida 32399-1600  
phone: (850) 922-4330  
fax: (850) 921-4369 or email: [marine.turtle@myfwc.com](mailto:marine.turtle@myfwc.com)

Pinellas County Aquatic Preserves  
Randy Runnels  
Aquatic Preserve Manager  
130 Terra Ceia Road  
Terra Ceia, FL 34250  
Phone: (941) 721-2068

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

4. **Pre-Construction Submittals.** At least fourteen (14) days prior to the date of the pre-construction conference (as required above), the Permittee shall submit the final plans and specifications for this project, which must be consistent with the activity description of this permit and the approved permit drawings. The Permittee shall point out any deviations from the activity description or the approved permit drawings, and any significant changes would require a permit modification. Submittal shall include one (1) hardcopy (sized 11 inches by 17 inches or greater, with all text legible) and one (1) electronic copy of the final plans and specifications. The plans and specifications shall

be accompanied by a letter indicating the project name, the permit number, the type of construction activity, the specific type of equipment to be used, the anticipated volume of material to be moved (if applicable) and the anticipated schedule. Further, the Permittee shall specify any anticipated sites that will be used (such as a disposal or re-use location) and appropriate contact information for those facilities. The final plans and specifications submitted under this condition must comply with all conditions set forth in this permit. Additionally, the Permittee shall submit a Physical Monitoring Plan, as identified in Specific Condition 35.

5. Excavation of the ebb shoal borrow area shall not commence on sovereign submerged lands, title to which is held by the Board of Trustees, until all easement documents have been executed to the satisfaction of the Department, and confirmation has been provided to the JCP Compliance Officer. The terms, conditions and provisions of the required public easement shall be met.
6. The Permittee and the Department, within their respective authorities and funding, shall ensure that beach compatible dredged material is placed on Florida's beaches, consistent with Florida's beach management plan adopted pursuant to Chapter 161, F.S.
7. In order to minimize the potential for elevated turbidity in Outstanding Florida Waters, the Permittee shall construct and maintain a shore-parallel sand dike at the beach fill area at all times during hydraulic discharge on the beach and maintain a minimum set-back for the discharge pipe from open water.
8. Sediment quality will be assessed as outlined in the Sediment QA/QC Plan (attached). Any occurrences of unacceptable material will be handled according to the protocols set forth in the Sediment QA/QC Plan. The sediment testing results shall be submitted to FDEP within 90 days following the completion of beach construction.
9. In the event that the local sponsor (Pinellas County) does not conduct all necessary protection and monitoring requirements outlined in the Local Sponsor Agreement, the Permittee is still responsible for those measures specified by the applicable U. S. Fish and Wildlife Service Biological Opinion and National Marine Fisheries Service Biological Opinion.

#### **Marine Turtle Protection Conditions**

10. ***Pre-Construction Meeting.*** A meeting between representatives of the contractor, the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission (FWC), and the permitted sea turtle surveyor prior to the commencement of work on this project must be held. At least 10 business days advance notice must be provided prior to conducting this meeting. This will provide an opportunity for explanation and/or clarification of the sea turtle and piping plover protection measures as well as additional



guidelines when construction occurs during the nesting season such as storing equipment, minimizing driving, and follow up meetings during construction.

11. ***Marine Turtle Nest Surveys.*** Sand placement activities are authorized to occur on the nesting beach (seaward of existing coastal armoring structures or the dune crest) during the nesting season (April 15 through September 30) under the following conditions:
- a) Sea turtle nesting surveys shall be initiated 65 days prior to nourishment or dredged channel material placement activities or by April 15, whichever is later. Nesting surveys must continue through the end of the project or through September 30, whichever is earlier. Hatchling and emerging success monitoring will involve checking nests beyond the completion date of the daily early morning nesting surveys.
  - b) Sea turtle nesting surveys and egg relocations will only be conducted by persons with prior experience and training in these activities and who are duly authorized to conduct such activities through a valid permit issued by FWC, pursuant to FAC 68E-1. Nesting surveys must be conducted daily between sunrise and 9 a.m.
  - c) The contractor shall not initiate work until daily notice has been received from the sea turtle permit holder that the morning survey has been completed. Surveys must be performed in such a manner so as to ensure that construction activity does not occur in any location prior to completion of the necessary sea turtle protection measures. (See also Specific Condition 14 if dredging on 24 hour basis).
  - d) The surveys shall be conducted and eggs shall be relocated per the following requirements:
    - i) Only those nests that may be affected by material placement will be relocated. Nests requiring relocation shall be moved no later than 9 a.m. the morning following deposition to a nearby self-release beach site in a secure setting where artificial lighting will not interfere with hatchling orientation. Relocated nests shall not be placed in organized groupings; relocated nests shall be randomly staggered along the length and width of the beach in settings that are not expected to experience daily inundation by high tides or known to routinely experience severe erosion and egg loss, or subject to artificial lighting. Nest relocations in association with construction activities shall cease when construction activities no longer threaten nests.
    - ii) Sea turtle nests deposited where the project activities have ceased or will not occur for 65 days shall be marked and left *in situ* unless other factors threaten the success of the nest. The turtle permit holder shall install an on-beach marker at the nest site and/or a secondary marker at a point as landward as possible to

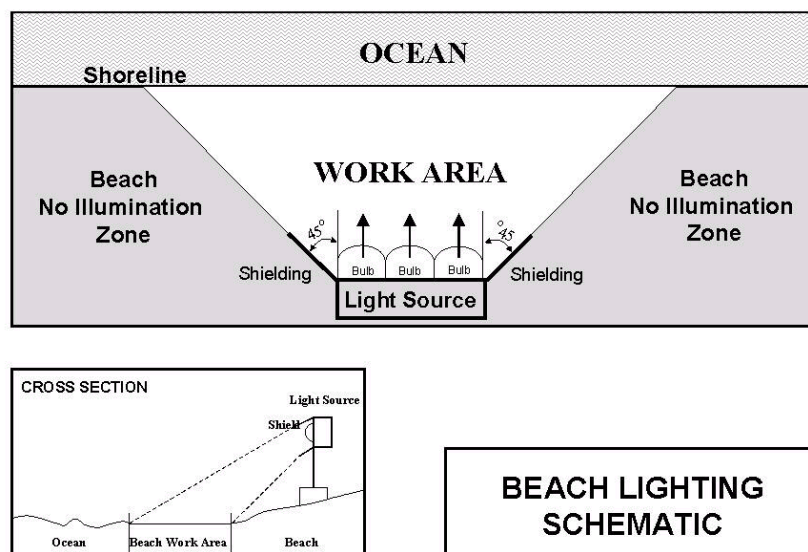
assure that future location of the nest will be possible should the on-beach marker be lost. A series of stakes and highly visible survey ribbon or string shall be installed to establish a 10-foot radius around the nest. No activity shall occur within this area, nor shall any activities occur which could result in impacts to the nest. Nest sites shall be inspected daily to assure nest markers remain in place and the nest has not been disturbed by the project activities.

- iii) Reports on all nesting activity shall be provided for the initial nesting season (by the USACE) and for a minimum of two additional nesting seasons (by the Local Sponsor) if placed material still remains on the beach. Monitoring of nesting activity in the seasons following construction shall include daily report sheets noting all activity, nesting success rates, hatching success of all relocated nests, hatching success of a representative sampling of nests left in place (if any), dates of construction and names of all personnel involved in nest surveys and relocation activities. Data for nesting activity on the nourished beach and on an equal length of beach that is not nourished shall be reported separately, and should include numbers of nests lost to erosion or washed out. Data should be reported in accordance with the attached Table. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted to the Tequesta office with a copy to the Tallahassee office by January 15 of the following year.

**Table 1. Marine Turtle Monitoring for Beach Restoration Projects**

Characteristic	Parameter	Measurement	Variable
Nesting Success	False crawls - number	Visual assessment of all false crawls	Number and location of false crawls in fill areas and nonfill areas: any interaction of the turtle with obstructions, such as groins, seawalls, or scarps, should be noted.
	False crawl - type	Categorization of the stage at which nesting was abandoned	Number in each of the following categories: emergence-no digging, preliminary body pit, abandoned egg chamber.
	Nests	Number	The number of marine turtle nests in filled and nonfilled areas should be noted. If possible, the location of all marine turtle nests shall be marked on map of project, and approximate distance to sea walls or scarps measured using a meter tape. Any abnormal cavity morphologies should be reported as well as whether turtle touched groins, seawalls, or scarps during nest excavation
		Lost Nests	The number of nests lost to inundation, erosion or the number with lost markers that could not be found.
	Lighting Impacts	Disoriented sea turtles	The number of disoriented hatchlings and adults shall be documented and reported in accordance with existing FWC protocol for disorientation events.
Reproductive Success	Emergence & hatching success	Standard survey protocol	Numbers of the following: unhatched eggs, depredated nests and eggs, live pipped eggs, dead pipped eggs, live hatchlings in nest, dead hatchlings in nest, hatchlings emerged, disoriented hatchlings, depredated hatchlings per each nest.

12. **Project Lighting.** From April 15 through November 30, lighting on offshore or onshore equipment shall be minimized through reduction, shielding, lowering, and appropriate placement to avoid excessive illumination of the water's surface and nesting beach while meeting all Coast Guard, EM 385-1-1, and OSHA requirements. Light intensity shall be reduced to the minimum standard required by OSHA for General Construction areas, in order not to misdirect sea turtles. Shields shall be affixed to the light housing and be large enough to block light from all lamps from being transmitted outside the construction area, as illustrated below.



13. **Equipment Storage.** Staging areas for construction equipment for sand placement shall be located off the beach to the maximum extent practicable from April 15 to September 30.
- a) Nighttime storage of the beach restoration project construction equipment not in use shall be off the beach to minimize disturbance to sea turtle nesting and hatching activities.
  - b) All construction pipes that are placed on the beach shall be located as far landward as possible without compromising the integrity of the existing or reconstructed dune system.

- i) Temporary storage of pipes shall be off the beach to the maximum extent possible.
  - ii) Temporary storage of pipes on the beach shall be in such a manner so as to impact the least amount of nesting habitat and shall not compromise the integrity of the dune systems.
  - iii) Pipes placed parallel to the dune shall be five to ten feet away from the toe of the dune.
- 14. **Fill Restrictions.** During nesting season (April 15 through September 30), the contractor shall not extend the beach fill more than 500 feet along the shoreline between dusk and the following day until the daily nesting survey has been completed and the beach cleared for fill advancement.
  - a) If the 500 feet is not feasible for the project, an agreed upon distance shall be decided on during the preconstruction meeting.
  - b) Once the beach has been cleared and the necessary nest relocations have been completed, the contractor is allowed to proceed with the placement of fill during daylight hours until dusk at which time the 500-foot length limitation shall apply.
- 15. **Beach Maintenance.** All derelict concrete, metal, and coastal armoring material and other debris shall be removed from the beach prior to any dredged material placement to the maximum extent practicable. If debris removal activities will take place from April 15 through September 30, the work shall be conducted during daylight hours only and shall not commence until completion of the sea turtle survey each day. All excavations and temporary alterations of the beach topography shall be filled or leveled to the natural beach profile prior to 9 p.m. each day.
- 16. **Tilling Requirements.** Immediately after completion of the each fill placement event (to be conducted by the USACE), and prior to April 15, for 3 subsequent years (to be conducted by the Local Sponsor), if placed sand still remains on the beach, the beach shall be tilled as described below or the Permittee may follow the procedure outlined below to request a waiver of the tilling requirement. During tilling, at a minimum, the protocol provided below shall be followed:
  - a) The area shall be tilled to a depth of 24 inches. All tilling activity must be completed prior to April 15. Each pass of the tilling equipment shall be overlapped to allow more thorough and even tilling. Tilling must occur landward of the wrack line and avoid all vegetated areas 3 square feet or greater with a 3 foot buffer around the vegetated areas.

- b) An annual summary of compaction surveys and the actions taken shall be submitted to the FWC.
  - c) If the project is completed just before the nesting season, tilling shall not occur in areas where nests have been left in place or relocated unless authorized by the U.S. Fish and Wildlife Service in an Incidental Take Statement.
  - d) This condition shall be evaluated annually and may be modified if necessary to address sand compaction problems identified during the previous year.
  - e) To request a waiver of the tilling requirement, the Permittee may measure sand compaction in the area of sand placement in accordance with a protocol agreed to by the FWC, the Department, the U.S. Fish & Wildlife Service, and the Permittee to determine if tilling is necessary.
17. ***Compaction Sampling.*** To request a waiver of the tilling requirement, sand compaction shall be monitored in the area of sand placement immediately after completion of the beach restoration project (to be conducted by the USACE) and prior to April 15, for 3 subsequent years (to be conducted by the Local Sponsor). The protocols to be followed include:
- a) Compaction sampling stations shall be located at 500-foot intervals along the project area. One station shall be at the seaward edge of the dune/bulkhead line (when material is placed in this area) and one station shall be midway between the dune line and the high water line (normal wrack line).
  - b) At each station, the cone penetrometer shall be pushed to a depth of 6, 12, and 18 inches three times (three replicates). Material may be removed from the hole if necessary to ensure accurate readings of successive levels of sediment. The penetrometer may need to be reset between pushes, especially if sediment layering exists. Layers of highly compact material may lie over less compact layers. Replicates shall be located as close to each other as possible, without interacting with the previous hole and/or disturbed sediments. The three replicate compaction values for each depth shall be averaged to produce final values for each depth at each station. Reports shall include all 18 values for each transect line, and the final 6 averaged compaction values.
  - c) If the average value for any depth exceeds 500 psi for any two or more adjacent stations, then that area shall be tilled prior to April 15.
  - d) If values exceeding 500 psi are distributed throughout the project area, but in no case do those values exist at two adjacent stations at the same depth, then consultation with the FWC shall be required to determine if tilling is required. If a few values

exceeding 500 psi are present randomly within the project area, tilling shall not be required.

18. ***Escarpment Surveys.*** Visual surveys for escarpments along the beach fill area shall be made immediately after completion of the beach nourishment project (to be conducted by the USACE) and between March 15 and April 15 for the following three years (to be conducted by the Local Sponsor) if placed sand still remains on the beach. All scarps shall be leveled or the beach profile shall be reconfigured to minimize scarp formation. In addition, weekly surveys of the project area shall be conducted during the two nesting seasons following completion of fill placement as follows:
  - a) The number of escarpments and their location relative to DNR-DEP reference monuments shall be recorded during each weekly survey and reported relative to the length of the beach surveyed (e.g., 50% scarps). Notations on the height of these escarpments shall be included (0 to 2 feet, 2 to 4 feet, and 4 feet or higher) as well as the maximum height of all escarpments.
  - b) Escarpments that interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet shall be leveled to the natural beach contour by April 15. Any escarpment removal shall be reported relative to R-monument.
  - c) If weekly surveys during the marine turtle nesting season document subsequent reformation of escarpments that exceed 18 inches in height for a distance of 100 feet, the FWC shall be contacted immediately to determine the appropriate action to be taken. Upon written notification, the Permittee shall level escarpments in accordance with mechanical methods prescribed by the FWC.
19. ***Lighting Surveys.*** A survey shall be conducted of all lighting visible from the beach placement area by the local sponsor, using standard techniques for such a survey, between May 1 and May 15, and between July 15 and August 1, in the year following construction. For each light source visible, the local sponsor shall notify the property owner(s) and/or the municipality/county (in which the property(s) may be located) of the light and to specify the action(s) recommended for correcting the light within a reasonable resolution timeframe. A summary report of the surveys including documentation of property owner notification shall be submitted to the FWC Imperiled Species Management Section in Tallahassee by December 1 of each year in which surveys are conducted. After the annual report is completed, a meeting shall be set up by the local sponsor with the municipality, FWC and the U.S. Fish and Wildlife Service to discuss the survey report, as well as any documented sea turtle disorientations in or adjacent to the project area.
20. ***Marine Turtle or Nest Encounters.*** Upon locating a dead, injured, or sick endangered or threatened sea turtle specimen, initial notification must be made to the FWC at 1-888-

404-FWCC. Care should be taken in handling sick or injured specimens to ensure effective treatment and care and in handling dead 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 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. In the event a sea turtle nest is excavated during construction activities, all work shall cease in that area immediately and the permitted person responsible for egg relocation for the project should be notified so the eggs can be moved to a suitable relocation site.

### **Shorebird Protection Conditions**

21. ***Shorebird Surveys.*** Shorebird surveys should be conducted by trained, dedicated individuals (Shorebird Monitor) with proven shorebird identification skills and avian survey experience. Credentials of the Shorebird Monitor will be submitted to the FWC Regional Biologist (863- 648-3200) for review and approval. Shorebird Monitors will use the following survey protocols:
  - a) ***Nesting Season Surveys.*** Shorebird Monitors should review and become familiar with the general information and data collection protocols outlined on the FWC's Beach-Nesting Bird Website (<http://myfwc.com/shorebirds/>). An outline of what data should be collected, including downloadable field data sheets, is available on the website.
    - i. The nesting season is generally 1 April – 1 September, but some nesting may occur through September. In addition, the imperiled snowy plover (*Charadrius alexandrinus*) may nest as early as February along the west coast and panhandle of Florida.
    - ii. Nesting season surveys shall begin on February 15 or 10 days prior to project commencement (including surveying activities and other pre-construction presence on the beach), whichever is later, and be conducted daily throughout the construction period or through August, whichever is earlier. Weekly surveys of the project site shall continue through August or through fledgling or loss of identified nests or hatchlings, whichever is later.
    - iii. Nesting season surveys shall be conducted in all potential beach-nesting bird habitat within the project boundaries that may be impacted by construction or pre-construction activities during the nesting season. Portions of the project in which there is no potential for project-related activity during the nesting season may be excluded.

- iv. Surveys for detecting new nesting activity will be completed on a daily basis prior to movement of equipment, operation of vehicles, or other activities that could potentially disrupt nesting behavior or cause harm to the birds or their eggs or young.
  - v. Surveys should be conducted by traversing the length of the project area and visually inspecting, using binoculars or spotting scope, for the presence of shorebirds exhibiting breeding behavior.
  - vi. If an ATV or other vehicle is needed to cover large project areas, the vehicle must be operated at a speed <6 mph, shall be run at or below the high-tide line, and the Shorebird Monitor will stop at no greater than 200 meter intervals to visually inspect for nesting activity.
  - vii. Once breeding is confirmed by the presence of a scrape, eggs, or young, the Bird Monitor will notify the Regional Nongame Biologist of the FWC at (863) 648-3200 within 24 hours.
  - viii. All breeding activity will be reported to the Beach-Nesting Bird website within one week of data collection.
  - ix. Observations of non-breeding shorebirds should be reported to the Shorebird-Seabird Occurrence Database, as described below.
22. **Buffer Zones.** Within the project area, the Permittee shall establish a 300 ft-wide buffer zone around any location where shorebirds have been engaged in nesting behavior, including territory defense. Any and all construction activities, including movement of vehicles, should be prohibited in the buffer zone.
- a) The width of the buffer zone shall be increased if construction or other activities in adjacent areas interfere with bird nesting behavior.
  - b) Site-specific buffers may be implemented upon approval by FWC as needed.
  - c) Reasonable and traditional pedestrian access should not be blocked where nesting birds will tolerate pedestrian traffic. This is generally the case with lateral movement of beach-goers walking parallel to the beach at or below the highest tide line. Pedestrian traffic may also be tolerated when nesting was initiated within 300 feet of an established beach access pathway. The Permittee shall work with FWC staff to determine if pedestrian access can be accommodated without compromising nesting success.



- d) Designated buffer zones must be posted with clearly marked signs around the perimeter. If pedestrian pathways are approved within the 300-foot buffer zone, these should be clearly marked. These markings shall be maintained until nesting is completed or terminated. In the case of solitary nesters, nesting is not considered to be completed until all chicks have fledged.
  - e) No construction activities, movement of vehicles, or stockpiling of equipment shall be allowed within the buffer area.
23. ***Travel Corridors.*** FWC-approved travel corridors should be designated and marked outside the buffer areas. Heavy equipment, other vehicles, or pedestrians may transit past nesting areas in these corridors. However, other activities such as stopping or turning shall be prohibited within the designated travel corridors adjacent to the nesting site.
- a) Where such a travel corridor must be established within the project area, it should avoid critical areas for shorebirds (known nesting sites, wintering grounds, FWC-designated Critical Wildlife Areas, and U.S. Fish and Wildlife Service -designated critical piping plover habitat) as much as possible, and be marked with signs clearly delineating the travel corridor from the shorebird buffer areas described above.
  - b) To the degree possible, the Permittee should maintain some activity within these corridors on a daily basis, without directly disturbing any shorebirds documented on site or interfering with sea turtle nesting, especially when those corridors are established prior to commencement of construction. Passive methods to modify nesting site suitability must be approved by FWC Regional Biologist for that region.
24. ***Placement of Equipment and Sand.*** 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 should be placed landward of the site before birds are active in that area. No pipe or sand shall be placed seaward of a known shorebird nesting site during the shorebird nesting season.
25. ***Notification.*** If shorebird nesting occurs within the project area, a bulletin board will be placed and maintained in the construction area with the location map of the construction site showing the bird nesting areas and a warning, clearly visible, stating that “BIRD NESTING AREAS ARE PROTECTED BY THE FLORIDA THREATENED AND ENDANGERED SPECIES ACT AND THE STATE AND FEDERAL MIGRATORY BIRD ACTS”.
26. ***Beach Contours.*** Shorebird surveys must be conducted at least ten (10) days prior to any tilling or scarp removal that occurs during shorebird nesting season, starting February 15. It is the responsibility of the contractors to avoid tilling or scarp removal in areas where nesting birds are present.

- a) A relatively even surface, with no deep ruts or furrows, shall be created during tilling. To do this, chain-linked fencing or other material shall be dragged over those areas as necessary after tilling.
- b) The slope between the mean high water line and the mean low water line must be maintained in such a manner as to approximate natural slopes.

### **Manatee Conditions**

- 27. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. 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.
- 28. 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 will follow routes of deep water whenever possible.
- 29. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- 30. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- 31. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Vero Beach (1-772-562-3909).
- 32. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the Permittee upon completion of the project. Awareness signs that have already been approved for this use by the FWC must be used (see MyFWC.com). One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle

Speed/No Wake” and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

**MONITORING REQUIRED:**

**33. Water Quality**

Units: Nephelometric Turbidity Units (NTUs).

Frequency: Twice daily at least four hours apart during all dredging and sand placement operations.

Location: Background: At mid-depth clearly outside the influence of any artificially generated turbidity plume.

**Dredge Site:** approximately 300 meters in the opposite direction of the prevailing current flow.

**Beach Site:** approximately 300 - 500 meters upcurrent of the point where the return water from the dredged discharge reenters the Gulf of Mexico, and the same distance offshore as the associated compliance sample, but not within the channel or the area influenced by channel currents.

Compliance: At mid-depth, within the densest portion of any visible turbidity plume generated by this project.

**Dredge Site:** Samples shall be collected 1,500 meters downcurrent from the dredge head, or at the edge of the closest seagrass bed (if it is located less than 1,500 meters downcurrent from the dredge head), in the densest portion of any visible turbidity plume.

**Beach Site:** Samples shall be collected where the densest portion of the turbidity plume crosses the edge of the mixing zone, which measures 1,500 meters downcurrent from the point where the return water from the dredged discharge reenters the Gulf of Mexico.

**Intermediate Monitoring:** Mid-depth, at points approximately 150, 500, 750 and 1000 meters downcurrent from the discharge location and the dredge site location, within the densest portion of any visible turbidity plume. These measurements are not for compliance purposes and will be used to calibrate the size of the mixing zone for future events.

The **compliance** locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. If monitoring reveals turbidity levels at the **compliance** sites that are greater than **0 NTUs** above the corresponding background turbidity levels, construction activities shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence shall also be immediately reported to the Department's Bureau of Beaches and Coastal Systems (BBCS) in Tallahassee at (850) 414-7716 (attn: JCP Compliance Officer).

**Turbidity Reports.** All turbidity monitoring data shall be submitted within one week of analysis, along with documents containing the following information:

- a. time of day samples were taken;
- b. dates of sampling and analysis;
- c. depth of water body;
- d. depth of each sample;
- e. antecedent weather conditions, including wind direction and velocity;
- f. tidal stage and direction of flow;
- g. water temperature;
- h. a map indicating the sampling locations;
- i. a statement describing the methods used in collection, handling, storage and analysis of the samples;
- j. a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection, calibration of the meter and accuracy of the data.

Monitoring reports shall be submitted to the BBCS in Tallahassee (attn: JCP Compliance Officer). Failure to submit reports in a timely manner constitutes grounds for revocation of the permit. When submitting this information to the Department, on the cover page to the submittal and at the top of each page, please state: "This information is provided in partial fulfillment of the monitoring requirements in Permit No. 0270453-001-JC, for the John's Pass Maintenance Dredging Project."

**Calibration:** The instruments used to measure turbidity shall be fully calibrated within one month of the commencement of the project, and at least once a month throughout the project. Calibration shall be verified each morning prior to use, and after each time the instrument is turned on, using a turbidity "standard" that is different from the one used during calibration.

The monitoring requirements for the type of activity and location of the sampling site must be reflected on the monitoring report forms.

**34. Turbidity Above Background Procedures:**

The following measures shall be taken when turbidity levels at the compliance location exceed the standard stated above:

- a. If compliance turbidity level exceeds the background level by 2 NTUs or less, the Permittee shall retest the compliance measurement 15 minutes after the initial measurement that indicated non-compliance. If the turbidity level from the first retest continues to be elevated by 2 NTUs or less above background, the Permittee shall retest again 30 minutes after the initial measurement. If neither of the two subsequent compliance measurements are LESS than the background measurement, the Permittee shall adhere to the additional protocol in this condition.
- b. If turbidity exceeds 2 NTUs above background (at any time), or if a series of three 15-minute samples (described above in section a.) continue to be elevated above the background turbidity level, then the Permittee shall immediately cease all dredge operations that may be contributing to the water quality violation.
- c. Modify the work procedures that were responsible for the violation such as reducing the dredge rate and/or installing additional BMPs or repairing any non-functioning turbidity control devices;
- d. Notify the JCP Compliance Officer, at [JCPcompliance@dep.state.fl.us](mailto:JCPcompliance@dep.state.fl.us), within 24 hours of the time the violation is first detected. The violation report shall include the description of the corrective actions taken or proposed to be taken and the turbidity values (background, compliance and the difference) of the violation;
- e. Any cessation of dredging operations shall continue until monitoring (at intervals not less than every 15 minutes) indicates that turbidity levels at the Compliance location are lower than turbidity levels at the Background location.
- f. Provide a copy of all monitoring data sheets to the JCP Compliance Officer within 24 hours of the time when any suspended dredge or discharge operations resume (e-mail acceptable).

**35. Hydrographic and Other Miscellaneous**

A Physical Monitoring Plan is required to be submitted to the Department for approval prior to construction. Pursuant to 62B-41.005(16), F.A.C., physical monitoring of the project is required through acquisition of project-specific data to include, at a minimum, topographic and bathymetric surveys of the beach, offshore, and borrow site areas, and

engineering analysis. The monitoring data is necessary in order for both the project sponsor and the Department to regularly observe and assess, with quantitative measurements, the performance of the project, any adverse effects which have occurred, and the need for any adjustments, modifications, or mitigative response to the project. The scientific monitoring process also provides the project sponsor and the Department, information necessary to plan, design, and optimize subsequent follow-up projects, potentially reducing the need for and costs of unnecessary work, as well as potentially reducing any environmental impacts that may have occurred or be expected.

The Physical Monitoring Plan shall indicate the project's predicted design life.

The approved Monitoring Plan can be revised at any later time by written request of the Permittee and with the written approval of the Department. If subsequent to approval of the Monitoring Plan there is a request for modification of the permit, the Department may require revised or additional monitoring requirements as a condition of approval of the permit modification.

As guidance for obtaining Department approval, the Physical Monitoring Plan shall generally contain the following items:

- a. Topographic and bathymetric profile surveys of the beach and offshore shall be conducted within 90 days prior to commencement of construction, and within 60 days following completion of construction of the project. Thereafter, monitoring surveys shall be conducted annually for a period of three (3) years, and then biennially until the next beach nourishment event or the expiration of the project design life, whichever occurs first. The monitoring surveys shall be conducted during a spring or summer month and repeated as close as practicable during that same month of the year. If the time period between the immediate post-construction survey and the first annual monitoring survey is less than six months, then the Permittee may request a postponement of the first monitoring survey until the following spring/summer. The request should be submitted as part of the cover letter for the post-construction report. A prior design survey of the beach and offshore may be submitted for the pre-construction survey if consistent with the other requirements of this condition.

The monitoring area shall include profile surveys at each of the Department of Environmental Protection's DNR reference monuments within the bounds of the beach fill area and along at least 5,000 feet of the adjacent shoreline on both sides of the beach fill area. For those project areas that contain erosion control structures, such as groins or breakwaters, additional profile lines shall be surveyed at a sufficient number of intermediate locations to accurately identify patterns of erosion and accretion within this subarea. All work activities and deliverables shall be conducted in accordance with the latest update of the Bureau of Beaches

and Coastal Systems (BBCS) *Monitoring Standards for Beach Erosion Control Projects, Sections 01000 and 01100.*

- b. Bathymetric surveys of the borrow area(s) shall be conducted within 90 days prior to commencement of construction, and within 60 days following completion of construction of the project concurrently with the beach and offshore surveys required above. Thereafter, monitoring surveys of the borrow areas shall be dependent on their location. Borrow sites located in tidal inlet shoals or in nearshore waters above the depth of closure for littoral transport processes shall be at two (2) year intervals concurrently with the beach and offshore surveys required above. These biennially monitoring surveys are not required for borrow sites located below the depth of closure for littoral transport processes. A prior design survey of the borrow area may be submitted for the pre-construction survey if consistent with the other requirements of this condition.

Survey grid lines across the borrow area(s) shall be spaced to provide sufficient detail for accurate volumetric calculations but spaced not more than a maximum of 500 feet apart, and shall extend a minimum of 500 feet beyond the boundaries of the borrow site. For borrow sites located in tidal inlet shoals, bathymetric surveys of the entire shoal complex, including any attachment bars, shall be conducted unless otherwise specified by the Department based upon the size of the shoal and the potential effects of the dredging on inlet processes. In all other aspects, work activities and deliverables shall be consistent with the BBCS *Monitoring Standards for Beach Erosion Control Projects, Section 01200.*

- c. The Permittee shall submit an engineering report and the monitoring data to the BBCS within 90 days following completion of the post-construction survey and each annual or biennial monitoring survey.

The report shall summarize and discuss the data, the performance of the beach fill project, and identify erosion and accretion patterns within the monitored area. In addition, the report shall include a comparative review of project performance to performance expectations and identification of adverse impacts attributable to the project.

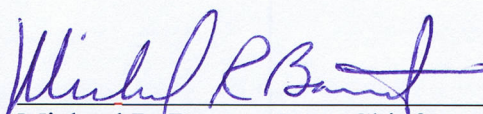
Appendices shall include plots of survey profiles and graphical representations of volumetric and shoreline position changes for the monitoring area. Results shall be analyzed for patterns, trends, or changes between annual surveys and cumulatively since project construction.



- d. Two paper copies and one electronic copy of the monitoring report, and one electronic copy of the survey data shall be submitted to the Bureau of Beaches and Coastal Systems in Tallahassee. Failure to submit reports and data in a timely manner constitutes grounds for revocation of the permit. When submitting any monitoring information to the Bureau, please include a transmittal cover letter clearly labeled with the following at the top of each page: **"This monitoring information is submitted in accordance with Item No. [XX] of the approved Monitoring Plan for Permit No. 0270453-001-JC for the monitoring period [XX]."**

Executed in Tallahassee, Florida.

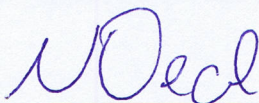
STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Michael R. Barnett, P.E., Chief  
Bureau of Beaches and Coastal Systems

**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

3/29/2010

Date

Prepared by Molly Edson and Lainie Edwards, Ph.D.

Attachments: Approved Permit Drawings (25 pages)  
QA/QC Plan (October 22, 2009)  
Local Sponsor Agreement