



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING
3900 COMMONWEALTH BOULEVARD
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT
GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

September 23, 2013

U.S. Army Corps of Engineers
c/o Eric Summa, Chief
Environmental Branch
Jacksonville District
P.O. Box 4970
Jacksonville, Florida 32232-0019

**Permit Modification No. 0308009-005-JN
Permit No. 0308009-001-JC, Volusia County
Ponce de Leon Inlet Maintenance Dredging, Minor Modification**

Dear Mr. Summa:

Your request to modify Permit No. 0308009-001-JC was received on June 25, 2013, and has been reviewed by Department staff. The proposed permit modification is to allow any type dredging method necessary to accomplish the maintenance dredging of the channel, and to allow the placement of a dredged material disposal pipe.

Historical Background

Ponce de Leon Inlet is historically a natural passage from the Halifax River and Mosquito Lagoon to the Atlantic Ocean in Volusia County, and was known as Mosquito Inlet before 1926. In 1943 the U.S. Army Corps of Engineers (Corps) dredged the Inlet and adjacent waters to enhance navigation from the U.S. Coast Guard station on the interior south channel. Between 1968 and 1972, the Corps implemented a federal navigation and Inlet stabilization project to include the construction of a 4,018-foot south jetty, a 4,050-foot north jetty with weir section, a dredged impoundment basin, and a 14-foot deep navigation channel. In 1985, the weir section of the north jetty was closed in order to stabilize the severely eroding shoreline to the north of the Inlet. The Inlet stabilization work interrupted the net southern longshore transport of sand along the Atlantic shoreline, south of the Inlet, to the extent that beach erosion conditions now prevail along portions of New Smyrna Beach. According to the Department's 1997 Inlet Management Plan for Ponce de Leon Inlet, the area influenced by the Inlet, in its current configuration, extends approximately 17,000 feet to the north and approximately 14,500 feet to the south.

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The Corps' Navigation Study and Draft Feasibility Report for Ponce de Leon Inlet, dated September 1998, provides a summary of the historical changes and the maintenance problems associated with the Inlet since the original project construction was completed in July 1972. Continuously changing conditions in the Inlet have caused the Corps to expend extensive efforts over the last three decades to maintain the navigation channel, prevent scouring of the north jetty, and prevent a catastrophic landward breach of the north jetty. Historical maintenance activities included: extending the landward end of the north jetty (1977 and 1981); placing additional stone sections along the south side of the north jetty (1978, 1997); closure of the north jetty weir (1984); and maintenance dredge and fill efforts to realign the channel (1972 through 1992). Since the closure of the weir in 1984, the Inlet channel has drastically increased its migration to the north. The alignment of the entrance channel has shifted from 750 feet from the north jetty in 1986 (at a depth of -23 feet MLW), to within 75 feet from the north jetty in 1994 (at a depth of -27 feet MLW).

Permitting History

On November 22, 1999, the Department issued Permit No. **0129417-001-JC** to the Corps for maintenance dredging of the Ponce de Leon Inlet channels, with placement of the dredged material on the beach, both north and south of the Inlet, as well as in a nearshore disposal site located one mile south of the Inlet. The maintenance dredging work was intended to facilitate commercial and recreational vessel traffic in the Ponce de Leon Inlet area. That permit expired on November 22, 2009.

On March 10, 1997, the Department adopted an Inlet Management Plan for Ponce de Leon Inlet under the provisions of Section 161.161, F.S. A sediment budget developed as part of the Inlet Management Plan study estimated the need to bypass 43,000 cubic yards annually from the Inlet interior to offset the impacts of the Inlet.

On June 21, 1999, the Department issued Permit No. **0144920-001-JC** to the Corps for 5 years to construct a rock rubble extension to the landward end of the north jetty at Ponce De Leon Inlet. The jetty extension was composed of two sections, for a total length of 2,340 feet. The first section was 100 feet wide and extended 800 feet west of the landward end of the existing north jetty, at a crest elevation of +12 feet MLW, and consisted of the same armor stone found in the north jetty. The second section was 75 feet wide and extended an additional 1,540 feet west, at a crest elevation of +10 feet MLW. Jetty construction required excavation of approximately 100,000 cubic yards of fill in order to place the jetty bedding stone at an elevation -15 feet MLW. The project was constructed and the permit expired on June 21, 2004.

On July 27, 2001, the Department issued Permit No. **0168748-001-JC** to the Corps to construct a 1,000-foot seaward extension of the south jetty at Ponce de Leon Inlet. The jetty was parallel to the north jetty. The work also included construction of a new walkway over portions of the jetty. The project featured construction of a 1000-foot seaward extension of the south jetty to the east. The extension tied into the existing south jetty. The extension crest elevation was +7 feet MLW, and the crest width was 15 feet, with a front and back slope of 1:1.5 (vertical:horizontal). Armor

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stone thickness was 10 feet, with core layer thickness dependent upon existing ground elevation. A 30-foot wide scour apron existed over the toe of the extension on the inside (north side) of the jetty, varying in thickness depending upon bottom elevation. The project also featured a concrete walkway over approximately 650 feet of the existing south jetty and over approximately 550 feet of the new 1000-foot jetty extension. The project was constructed and the permit expired on July 27, 2006.

On August 6, 2001, the Department issued Permit No. **0177220-001-JC** to the Florida Inland Navigation District (FIND) to transfer approximately 1,200,000 cubic yards of beach-quality dredged material from a Dredged Material Management Area (MSA 434/434C) to the beach south of Ponce de Leon Inlet, from R-158 to R-175. Later, that permit was superseded by Permit No. 0177220-004-JC.

On January 18, 2005, the Department issued Permit No. **0183817-001-JC** to the Corps to maintain the AIWW, from Mosquito Lagoon to north of Ponce de Leon Inlet. The Permit authorized the disposal of 400,000 to 800,000 cubic yards of dredged material into an upland disposal area (D/A), which had been previously reviewed and approved by the St. Johns River Water Management District (Permit No. 4-127-65055-1), and also into a nearshore D/A approved under JCP Permit No. 0177220-001-JC, which had been issued to FIND.

On December 20, 2002, the Department issued Permit Modification No. **0177220-002-JC** to FIND to place approximately 1,200,000 cubic yards of stockpiled dredged material from the FIND MSA-434/434C dredged material management area into the nearshore, rather than on the dry beach. Later, the permit, as modified, was superseded by Permit No. 0177220-004-JC.

On August 5, 2003, the Department issued Variance No. **0177220-003-EV** to FIND to temporarily establish an expanded turbidity mixing zone for the work authorized under Permit No. 0177220-001-JC. The expiration date of the variance was originally August 5, 2005, but was later extended to October 3, 2008, under Variance No. **0177220-008-EV**.

On July 31, 2002, the Corps requested Permit Modification No. **0183817-002-EV** to expand the mixing zone for the work authorized under Permit No. 0183817-001-JC. That application was withdrawn on February 25, 2004, because of the lack of supporting sediment characteristic data.

On October 3, 2003, the Department issued Permit No. **0177220-004-JC** to FIND. This was a major modification to Permit No. 0177220-001-JC, as previously revised under Modification No. 0177220-002-JC. The major modification reauthorized the nearshore placement of approximately 1,200,000 cubic yards of material authorized in Permit No. 0177220-002-JC, and added a beach placement site. The reauthorization allowed the placement of dredged material and material from MSA 434/434C to be placed in the nearshore area and on the beach, from R-158 to R-175, beginning approximately 1.5 miles south of the Inlet. That permit expired on October 3, 2008.

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On May 26, 2004, the Department issued Minor Modification No. **0177220-005-JC** to FIND to revise Permit No. 0177220-004-JC. The modification allowed 400,000 to 800,000 cubic yards of material dredged from the Inlet (under Permit No. 0183817-001-JC) to be placed in the nearshore D/A.

On August 23, 2005, the Department issued Minor Modification No. **0177220-006-JC** to FIND to revise Permit No. 0177220-004-JC. The modification allowed dredged material from cuts V-22 to V-31, in the AIWW, to be placed on the beach south of the Inlet, from R-160 to R-175. This was in addition to the previously approved MSA and Inlet dredged material placement. There was no addition to the originally permitted volume of approximately 1,200,000 cubic yards of dredged material.

On February 26, 2005, FIND applied for a modification of Permit No. 0177220-004-JC to include the construction of the dune system within the permitted beach placement area (between R-161 and R-175). Shortly after that application was logged in as File No. **0177220-007-JC**, on March 3, 2005, the Department received another application to modify the same permit in order to extend the dune construction template southward (522 feet south of R-189). The two modification requests were subsequently combined into one application (No. 0177220-007-JC) to help alleviate repetitious reviews and paperwork. Although the second application was originally logged in as File No. 0177220-008-JC, that number was re-assigned as an expiration extension request for the variance (see above). The permit modification allowed offloading of approximately 742,900 cubic yards of dredged material from site MSA 434/434C (out of the 830,000 cubic yards that were available) for a dune restoration project. The dune restoration area began 178 feet north of R-161 (approximately two miles south of the Ponce de Leon Inlet) and extended southward to a point 522 feet south of R-189. Permit Modification No. 0177220-007-JC was issued on July 1, 2005.

On June 20, 2006, the Department issued Modification No. **0177220-009-EM** to FIND to revise Permit No. 0177220-004-JC. The modification allowed turbidity monitoring at the beach placement area and nearshore D/A to occur every 12 hours instead of every 4 hours.

On April 3, 2007, the Department issued Modification No. **0183817-003-EM** to the Corps to revise Permit No. 0183817-001-JC. The modification authorized the use of an additional upland disposal site. The upland disposal site was DMMA 434C, and was anticipated to receive less than 300,000 cubic yards of dredged material.

On April 26, 2006, FIND requested a modification of Permit No. 0177220-004-JC to allow the deposition of 6,500 cubic yards of dredged material from the North Venesia Canal to the dune restoration project south of the Inlet. That application (File No. **0177220-010-EM**) was withdrawn on April 26, 2006, because the sediment characteristics of the dredged material prohibited the proposed method of disposal.

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On August 30, 2007, the Department issued Modification No. **0177220-011-EM** to FIND to revise Permit No. 0177220-004-JC. The modification allowed dredged material from AIWW Cuts V-32 to V-35 to be placed on the beach, in addition to the previously authorized dredged material placement. The total dredged material volume of the project remained at approximately 1,200,000 cubic yards. The subject dredge areas were previously authorized for nearshore placement; however, subsequent sediment characterization showed that the material was beach compatible.

On August 8, 2008, the Corps requested two modifications (File Nos. **0183817-004-JM** and **0183817-005-JN**) to revise Permit No. 0183817-001-JC. The first modification was to add maintenance dredging of the north and south channels leading from the Inlet to the AIWW. The second modification was to transfer the permit to Volusia County. Both of these applications were withdrawn on September 18, 2008, because of time constraints associated with the required ecological assessment.

Permit No. 0183817-001-JC, for AIWW maintenance dredging, was originally due to expire on January 18, 2010. On April 29, 2009, the Corps requested permit Modification No. **0183817-006-BN** to extend the expiration date of the original permit. That modification was issued on July 27, 2009, so the new expiration date is January 18, 2015.

On August 3, 2012, the Department issued Joint Coastal Permit No. **0308009-001-JC** to the Corps for maintenance dredging of Ponce de Leon Inlet access channel, Inlet throat, and the north and south navigation channels. The permit authorized the Corps to place the dredge material in the nearshore disposal area, located approximately 1 mile south of the Inlet, but for one time only. Following the initial maintenance dredging event, beach-quality sand would be placed on the downdrift beach during subsequent events, as specified in the Inlet Management Plan for Ponce de Leon Inlet. However, the project scope was modified to address restrictions in the Biological Opinion by deleting beach placement of dredged material, and thereby avoid the issues of the piping plover and the southeastern beach mouse. Therefore, beach placement would require a permit modification in order to allow review and approval of the placement activity and sites.

For additional background, please see the *Consolidated Notice Of Intent To Issue Joint Coastal Permit And Authorization To Use Sovereign Submerged Lands* for Permit No. 0308009-001-JC at the following website:

<http://bcs.dep.state.fl.us/env-prmt/volusia/issued/>

On August 8, 2012, the Corps applied for a modification to Permit No. 0308009-001-JC to remove the one-time-only restriction on nearshore placement; allow near beach-quality material to be placed in the nearshore disposal area; and add a contingency to allow additional nearshore disposal events if beach-quality material was not available, or if economic constraints mandated nearshore disposal. The application for Modification No. **0308009-002-JN** was withdrawn on

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August 15, 2012.

On November 14, 2012, the Department issued Permit Modification No. **0308009-003-JN** to the Corps to revise Permit No. 0308009-001-JC. The modification revised the language of SC 1 to be consistent with the Interagency Coordination Agreement for Civil Works Projects (2006); revised the language of SC 7 to adhere to the recommendations of the Florida Fish & Wildlife Conservation Commission; and corrected the project name and permit number in the document 'header' of the Final Order on pages 3, 5, 7, 9, 11, 13 and 15.

On January 23, 2013, the Department issued Modification No. **0308009-004-JN** to the Corps to revise Permit No. 0308009-001-JC. The modification changed the configuration of the nearshore disposal area and to allowed nearshore placement more than one time.

Justification

The proposed changes are largely in response to physical and economic limitations of the Permittee. The need to perform maintenance dredging activities at the site occurs sporadically. This unpredictability makes it impossible for the Permittee to assure that a hopper dredge will be available for the necessary work. In the event that a hydraulic dredge is used instead of a hopper dredge, the modification also includes an authorized pipeline corridor between the dredge site and the nearshore placement area.

Staff Assessment

The nearshore placement area has been used for the disposal maintenance dredged material for many years. Although the adopted Inlet Management Plan for Ponce de Leon Inlet requires the placement of beach-quality dredged material on the beach to the greatest extent possible, physical and economic constraints require that the Permittee have discretion in the dredging method and disposal location. Additionally, the U.S. Fish and Wildlife Service issued a Biological Opinion in 2009 with a prohibition on beach placement during certain times of year due to concerns over potential adverse impact to the piping plover and southeastern beach mouse. The specific conditions in the permit address elimination and minimization of potential adverse impacts to wildlife. The material to be dredged from the channel is coarse, and is not anticipated to produce substantial turbidity in either the dredging or disposal of the dredged material. The turbidity monitoring conditions of the permit have been modified to address any potential turbid discharges from all possible dredging methods. The proposed alignment of the pipeline corridor has been evaluated to confirm that there are no seagrass or hardbottom communities in the vicinity that could be adversely affected by placing the pipeline on the sea floor or by leaks from the pipe.

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

PROJECT DESCRIPTION

The project is to conduct maintenance dredging of the Ponce de Leon Inlet entrance channel, Inlet throat, and Inlet channels leading to the Atlantic Intracoastal Waterway (AIWW). Approximately 200,000 cubic yards of shoal material are expected to be removed every 4 years to maintain the federal channel depths. The channels will be maintained to the following maximum depths, which include the design depths, plus 2 feet of allowable overdepth: -17 feet mean lower low water (MLLW) for the entrance channel across the ocean bar; -14 feet MLLW for the Inlet throat; -14 feet MLLW for the southward channel to the AIWW; -14 feet MLLW for Cut-3N, Cut-4N and Cut-5N in the northward channel to the AIWW; and -9 feet MLLW for the remaining northward channel to the AIWW (Cut-6N through Cut-13N). Dredged material will be placed in a nearshore disposal area (D/A) located 1.41 miles south of the south jetty, between R-158 and R-161, and from the -10-foot to -8-foot MLW bathymetric contours. The material will be placed within the permitted nearshore disposal area by any dredging operations method without significantly disturbing the bottom. The landward portion of the D/A will be filled first, and disposal will proceed waterward only as the landward portion reaches capacity. Dredged material from subsequent maintenance dredging events will be placed on the beach to the maximum extent practicable when sufficient beach-quality material and funding are available. A permit modification will be required to place beach-quality dredge material on the beach in order to complete that evaluation.

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

1. 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. and other beneficial uses criteria as may be specified by the Department and applicable federal standards. The authorized activity includes placement of dredged beach-quality material in the nearshore disposal area. The material shall be placed within the permitted nearshore disposal area, by any dredging operations method, without significantly disturbing the bottom. If dredged material will be conveyed to the nearshore disposal site by a pipeline, the pipeline shall follow the approved pipeline corridor, as shown on Plate 23. Future maintenance dredging events will be required to place beach-quality dredged material on the beach per the Ponce de Leon Inlet Management Plan of 1997 to the maximum extent practicable when sufficient beach-quality material and funding are available. A permit modification will be required to place beach-quality dredge material on the beach in order to complete that evaluation.
10. **Equipment Storage and Placement:** ~~Staging areas for construction equipment shall be located off the beach, if off beach staging areas are available, during the sea turtle nesting season. Nighttime storage of construction equipment not in use shall be off the beach. In addition, all construction pipes that are placed on the beach shall be located~~

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~~as far landward as possible without compromising the integrity of the existing or reconstructed dune system. Pipes placed parallel to the vegetation line shall be 5 to 10 feet away from the toe of the vegetation line. Temporary storage of pipes shall be off the beach to the maximum extent possible. If the pipes shall be on the beach, they shall be placed in a manner that will minimize the impact to nesting habitat and shall not compromise the integrity of the dune systems. If it will be necessary to extend construction pipes past a known migratory bird 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 within or seaward of a migratory bird nesting site during the migratory bird nesting season.~~

No operation, transportation or storage of equipment or materials, including construction pipes or pipelines, are authorized within potential marine turtle nesting habitat during the marine turtle nesting season or within migratory bird nesting habitat during the migratory bird nesting season. The marine turtle nesting season in Volusia County is May 1 through October 31 and the migratory bird nesting season in Volusia County is March 15 through September 1. Potential marine turtle nesting habitat is defined as the dry beach landward of the swash zone (approximately one-foot above mean high water). Placement or operation of construction pipes or pipelines across the jetty during the marine turtle and migratory bird nesting season shall be allowed if pipes are located seaward of the swash zone (approximately one-foot below mean low water) and are placed as far seaward as possible. The parallel placement along the shoreline shall be placed as far seaward as possible and such that beach access of nesting and hatchling sea turtles is not impeded.

14. Water Quality - Turbidity shall be monitored as follows:

Monitoring for turbidity shall be conducted by an individual with professional experience conducting turbidity monitoring for coastal dredging projects. The monitoring shall continue for the duration of the dredging and filling activities. ~~This monitoring is designed for a hopper dredge and nearshore placement. A permit modification would be required to adjust the turbidity monitoring if a pipeline dredge will be used or beach placement is proposed.~~

Units: Nephelometric Turbidity Units (NTUs).

Frequency: Twice daily, during separate hopper dredge loads (if a hopper dredge is used), at least 4 hours apart during all dredging and disposal operations.

Dredge Site: While the maximum turbidity plume, ~~generated by overflow from the hopper,~~ extends to the edge of the mixing zone.

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Nearshore Disposal Site: During flood tide, while the maximum turbidity plume, ~~generated by discharge of sediment from the hopper,~~ extends to the edge of the mixing zone.

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

Dredge Site: approximately 300 meters upcurrent from the dredge.

Nearshore Disposal Site: approximately 300 meters upcurrent of the dredged material placement template, and the same distance offshore as the associated compliance sample.

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

Dredge Site: Samples shall be collected 150 meters downcurrent from the greatest turbidity source at the overflowing hopper dredge (e.g., cutterhead, overflowing hopper, etc.), in the densest portion of the turbidity plume.

Nearshore Disposal Site: Samples shall be collected where the densest portion of the turbidity plume extends; (no more than) 150 meters from the point where the dredged material is discharged into the Atlantic Ocean.

Turbidity Reports. All turbidity monitoring data shall be submitted within one week of collection, 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;

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- h. a map indicating the sampling (compliance and background) 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 emailed to the JCP Compliance Officer at JCPCCompliance@dep.state.fl.us. Failure to submit reports in a timely manner constitutes grounds for revocation of the permit. When submitting this information to the Department, on the submittal cover page and at the top of each page of the report, please state: "This information is provided in partial fulfillment of the monitoring requirements in Permit No. 0308009-0045-JC, Ponce de Leon Inlet Maintenance Dredging."

Calibration: The instruments used to measure turbidity shall be fully calibrated prior to, but within one month of, the commencement of the current dredging and filling activities, and at least once a month throughout those activities. 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 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 compliance sites that are greater than 29 NTUs above background levels, construction activities shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence shall also be immediately reported to the JCP Compliance Officer in Tallahassee at (850) 414-7716 or JCPCCompliance@dep.state.fl.us and the Department's Central District office in Orlando, Florida, at (407) 894-7555.

Any project-associated discharge other than dredging or authorized placement (e.g., scow leakage) shall also be monitored as close to the source as possible every hour until background turbidity levels return or until otherwise directed by the Department. The Permittee shall notify the Department, by separate email to the JCP Compliance Officer, of such an event within 24 hours of the time the Permittee first becomes aware of the discharge. The subject line of the email shall state "PROJECT-ASSOCIATED DISCHARGE-OTHER", and include the Project Name and the Permit Number.

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

Plate 23 (dated February 2012) shall be replaced with the attached Plate 23 (dated June 2013), which shows the approved pipeline corridor.

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After thorough review of your application, staff finds that the proposed modification is not expected to adversely affect water quality or be contrary to the public interest. Staff has also determined that the proposed alteration does not increase the potential for adverse impact on the coastal system, public beach access seaward of the mean high water line or nesting sea turtles and hatchlings and their habitat, and that the proposed alteration does not reduce the design adequacy of the project. Since the proposed modification is not expected to result in any adverse environmental impact or water quality degradation, the **permit is hereby modified** as stated above. By copy of this letter and the attached drawing, we are notifying all necessary parties of the modification.

This letter of approval does not alter the August 3, 2022 expiration date of the permit. This letter and the attached drawing must be attached to the original permit.

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

NOTICE OF RIGHTS

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. 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 further modification of the permit 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 permit modification 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 under this permit modification until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time has expired.

Under Rule 62-110.106(4), Florida Administrative Code (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

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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 Rule 62-110.106(3), 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.

In accordance with Rule 28-106.201, F.A.C., 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;

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- (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 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 permit modification 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; 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.

When there has been no publication of notice of agency action or notice of proposed agency action as prescribed in Rule 62-110.106, F.A.C., a person may request a copy of the agency action. The Department shall upon receipt of such a request, if agency action has occurred, promptly provide the person with notice. The Department does not require notice of this agency action to be published. However, the applicant may elect to publish notice as prescribed in Rule 62-110.106, F.A.C., which constitutes notice to the public and establishes a time period for submittal of any petition.

If you have any questions regarding this matter, please contact Tom Jacobs by email at Thomas.jacobs@dep.state.fl.us, or by telephone at (850) 413-7785.

Sincerely,



Martin K. Seeling, Administrator
Beaches, Inlets & Ports Program

Notice of Permit Modification
Permit Modification No. 0308009-005-JN
Ponce de Leon Inlet Maintenance Dredging, Minor Modification
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MKS/tj

Attachments: 1 drawing

cc: Russ Jones, USACE	Vladimir Kosmynin, DWRM
Cheryl Grieb, ECFRPC	Dave Herbster, DEP, Central District Office
Joie Alexander, Volusia County	David Kriger, CCCL Processor
Patricia Northey, Volusia County	Alex Reed, DWRM
Joyce Cusak, Volusia County	Guy Weeks, BECP Project Manager, DWRM
Daniel Irwin, DWRM	Wesley Cich, Field Inspector
Roxane Dow, DWRM	Robbin Trindell, FWC, ISMS
Martin Seeling, DWRM	Laura DiGruttlo, FWC, CPS
Robert Brantly, DWRM	MarineTurtle@MyFWC.com
Jen Coor, DWRM	FWCConservationPlanningServices@myfwc.com
Irene Sadowski, USACE	JCP Compliance Officer
	DWRM 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

9/23/2013

Date