



Department of Environmental Protection

Lawton Chiles
Governor

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

Virginia B. Wetherell
Secretary

CONSOLIDATED JOINT COASTAL PERMIT AND SOVEREIGN SUBMERGED LANDS AUTHORIZATION

PERMITTEE/AUTHORIZED ENTITY:	Permit/Authorization No.: 0129031-001-JC
City of Key West	(Formerly 44-296396-9)
604 Simonton Street	Date of Issue: July 6, 1998
Key West, Florida 33040	Expiration Date: July 6, 2011
	County: Monroe
	Project: Smathers Beach

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.). The activity is not exempt from the requirement to obtain a Joint Coastal Permit. Pursuant to Operating Agreements executed between the 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 involves the periodic placement of sand along 3000 feet of Smathers Beach located along south Roosevelt Boulevard on the southern coast of Key West Island. A final determination of the source of sand for the proposed project has not been made. A beach profile of elevation +6.0 feet NGVD, construction berm width of 85 feet, and construction slope of 1 vertical to 10 horizontal will be constructed. The initial restoration will involve the placement of 36,000 cubic yards of sand. The project will also involve the repair of three groins in the beach fill area. The applicant shall restore 5.2 acres of habitat colonized by seagrass as mitigation for impacts caused by the initial restoration activity.

ACTIVITY LOCATION:

The activity is located in Section 5, Township 68 South, Range 25 East; in Monroe County, within the Atlantic Ocean, Class III Waters, Outstanding Florida Waters.

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 404 of the Clean Water Act, 33 U.S.C. 1344.

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This activity also requires a proprietary authorization, as the activity is located on sovereign submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 and 253.77, F.S. The activity is not exempt from the need to obtain a proprietary authorization. The Department has 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, this proprietary authorization has been reviewed in accordance with Chapter 253 F.S., Chapter 18-21, Section 62-312.065, F.A.C., and the policies of the Board of Trustees.

As staff to the Board of Trustees, the Department has reviewed the activity described below, and has determined that the activity qualifies for a 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, pursuant to Chapter 253.77, F.S., to perform the activity on the specified sovereign submerged lands.

The above named permittee is hereby authorized to construct the work shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof. **This permit and authorization to use sovereign submerged lands is subject to the limits, conditions, and locations of work shown in the attached drawings, and is also subject to the attached General and Specific Conditions, which are a binding part of this permit and authorization.** You are advised to read and understand these drawings and conditions prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these drawings and conditions prior to commencing the authorized activities. Failure to comply with all drawings and conditions shall constitute grounds for revocation of the permit and appropriate enforcement action.

GENERAL CONDITIONS:

1. All activities authorized by this permit shall be implemented as set forth in the plans and specifications approved as a part of this permit, and all conditions and requirements of this permit. The permittee shall notify the Department in writing of any anticipated deviation from the permit prior to implementation so that the Department can determine whether a modification of the permit is required.
2. If, for any reason, the permittee does not comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Bureau of Beaches and Coastal Systems (Bureau) and the appropriate District office of the Department with a written report containing the following information: a description of and cause of noncompliance; and

the period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

3. This permit does not eliminate the necessity to obtain any other applicable licenses or permits which may be required by federal, state, local or special district laws and regulations. This permit is not a waiver or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit.

4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of sovereignty land of Florida seaward of the mean high-water line, or, if established, the 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. The permittee is responsible for obtaining any necessary authorizations from the Board of Trustees of the Internal Improvement Trust Fund prior to commencing activity on sovereign lands or other state-owned lands.

5. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under section 373.421(2), F.S., provides otherwise.

6. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee. The issuance of this permit does not convey any vested rights or any exclusive privileges.

7. This permit or a copy thereof, complete with all conditions, attachments, plans and specifications, modifications, and time extensions shall be kept at the work site of the permitted activity. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

8. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel with proper identification and at reasonable times, access to the premises where the permitted activity is located or conducted for the purpose of ascertaining compliance with the terms of the permit and with the rules of the Department and to have access to and copy any records that must be kept under conditions of the permit; to inspect the facility, equipment, practices, or operations regulated or required under this permit; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules. Reasonable time may depend on the nature of the concern being investigated.

9. At least forty-eight (48) hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Bureau and the appropriate District office of the Department a written notice of commencement of construction indicating the actual start date and the expected completion date.

10. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the State Historic Preservation Officer and the Bureau.

11. Within 30 days after completion of construction or completion of a subsequent maintenance event authorized by this permit, the permittee shall submit to the Bureau of Beaches and Coastal Systems and the appropriate District office of the Department a written statement of completion and certification by a licensed professional engineer registered in the state of Florida. This certification shall state that: all locations and elevations specified by the permit have been verified; the activities authorized by the permit have been performed in compliance with the plans and specifications approved as a part of the permit, and all conditions of the permit; or shall describe any deviations from the plans and specifications, and all conditions of the permit. When the completed activity differs substantially from the permitted plans, any substantial deviations shall be noted and explained on two copies of as-built drawings submitted to the Department.

SPECIFIC CONDITIONS:

1. A final determination of the source of sand for the proposed project has not been made. If fill material is to be hydraulically dredged from an offshore borrow area or fill material is to be hydraulically placed on the beach, then the permittee shall obtain a major modification to this permit for authorization to conduct this activity.

2. Prior to commencement of construction of each beach nourishment event or groin repair activity, the permittee shall comply with the following requirements:

a. The permittee shall submit two copies of detailed final construction plans and specifications for all authorized activities, certified by an engineer duly registered pursuant to Chapter 471, Florida Statutes, or other appropriate individual. The plans shall include details of construction, including general construction procedures and equipment to be used.

b. The permittee shall submit detailed geotechnical information on the material to be placed on the beach, including sediment grain size analyses from representative points throughout the borrow area(s) to be used. Fill material placed on the beach shall be sand that is similar to that already existing at the beach site in both coloration and grain size. All such fill material shall be free of construction debris, rocks, other foreign matter and shall not contain, on average, greater than 10 percent fines (i.e. silt and clay) passing a No. 200 sieve and shall not

contain coarse gravel or cobbles, exclusive of shell material retained by a No. 4 sieve.

c. The permittee shall conduct a preconstruction conference with all contractors, the engineer of record, the marine turtle permit holder, and a staff representative of the Department to establish an understanding among the parties as to the items specified in the special and standard conditions of the permit. The permittee shall provide a minimum of 10 days advance written notification to the Bureau of Beaches and Coastal Systems, the Bureau of Protected Species Management, the South District Branch Office in Marathon, and the Florida Keys National Marine Sanctuary - Lower Keys Regional Office of the date, time, and location of the pre-construction conference.

d. At least 48 hours prior to commencement of work authorized by this permit, the permittee shall provide written notification of the date of the commencement and proposed schedule of construction. All documents relating to the permit shall be sent to the DEP South District Branch Office in Marathon, 2796 Overseas Highway, Suite 221, Marathon, Florida 33050, phone no. (305) 289-2310, the Florida Keys National Marine Sanctuary - Lower Keys Regional Office, 216 Ann Street, Key West, Florida 33040, phone no. (305) 292-0311 and the DEP Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 310, Tallahassee, Florida 32399-3000, phone no. (850) 487-4471.

3. Prior to commencement of construction of the beach restoration project, the permittee shall submit a detailed mitigation plan. Upon approval of the mitigation plan by the Department, the permittee may commence with construction of the beach restoration project. Implementation of the mitigation shall precede or be conducted concurrently with the construction of the beach restoration project.

a. The plan shall include maps of the restored blimp pad and/or other suitable sites with transplantation areas clearly delineated. The plan shall include a narrative that describes the methods, monitoring and performance standards that will be used to determine success.

b. The beach fill is expected to impact 2.6 acres of seagrass habitat within the project area. In order to offset these impacts, the permittee shall be required to perform mitigation at a 2:1 ratio (mitigation area: impact area). Therefore, the permittee shall perform the restoration of 5.2 acres of habitat colonized by seagrasses.

c. The 0.3 acres of successful seagrass colonization documented from the requirements of Specific Condition No. 7 of Permit No. 44-167075-9 is considered mitigation credit for the current project. Therefore, the remaining mitigation required by the permittee is the restoration of 4.9 acres of habitat colonized by seagrasses. The following mitigation and monitoring shall be performed to complete the restoration of 4.9 acres:

i. The permittee shall transplant the 2.6 acres of seagrass within the beach fill template to suitable locations at the restored blimp pad site.

ii. Monitor the restored blimp pad site to document and quantify the success of transplanted seagrasses and the colonization of new seagrasses.

iii. Monitor the White Street Pier Project study area to document and quantify the ongoing colonization of seagrasses.

d. The applicant shall monitor the mitigation sites for 4 years or until 4.9 acres of restored habitat has been colonized by seagrasses. If 4.9 acres cannot be documented within 4 years then the applicant shall be required to perform additional restoration of seagrass habitat as mitigation.

4. The permittee shall conduct a topographic monitoring program in accordance with the following requirements:

a. Topographic surveys of the project area shall be conducted immediately following completion of construction, approximately six months following completion of construction and annually thereafter for a period of four (4) years following the last beach nourishment event. These surveys shall include profiles at reference monuments 1 through 9 established in 1990, and reference monuments 4A, 5, 5A, and 9 established pre-1990. All profiles shall be measured along the same azimuths previously surveyed by the U. S. Army Corps of Engineers and commence at the reference monument and extend seaward at least 350 feet or to wading depth (approximately -4.0 feet MLW), whichever is further.

b. The permittee shall submit an engineering report and the monitoring data to the bureau within 90 days of completion of each survey. The survey data should be submitted on floppy disk in an ASCII format stored according to the department's standards for file structure (contact the bureau staff for additional information on specific requirements) and include all survey control information. The report should summarize the performance of the beach fill project, identify erosion and accretion patterns within the project limits and along the adjacent shorelines, verify the analyses that were conducted in the development of the design of the project, and identify any adverse impacts, which would be attributable to the project. Specifically, the report shall verify the direct impacts of seagrass burial by the project. Appendices should include plots of survey profiles and graphical presentations of volumetric and shoreline position changes for both the monitoring area and at each profile survey. Results should be analyzed for changes between annual surveys and cumulatively since project construction.

5. The following conditions are required to minimize impacts to marine turtles:

a. If the beach nourishment project will be conducted during the marine turtle nesting season (May 1 - October 31), daily early morning surveys for sea turtle nests shall occur from May 1 or 65 days prior to project initiation and through October 31 under the following mark and avoid conditions:

1) All nesting surveys shall be conducted only by persons with prior experience and training in these activities and duly authorized to conduct such activities through a valid permit issued by the Department, Division of Marine Resources, pursuant to Florida Administrative Code Rule 62R-1. Please contact Bureau of Protected Species Management at (850) 922-4330 for a list of available marine turtle permit holders.

2) Nest surveys shall be conducted daily between sunrise and 9a.m. during marine turtle nesting season (May 1 - October 31). All construction activity shall be confined to daylight hours and shall not occur in any location prior to completion of the necessary marine turtle protection measures.

3) It is the responsibility of the permittee to ensure that the project area and access sites are surveyed for marine turtle nesting activity. Nests deposited within the construction area shall be marked and left in place unless natural factors threaten the success of the nest. Any nests left in the active construction zone shall be clearly marked, and the actual location of the clutch determined. A circle with a radius of ten (10) feet, centered at the clutch, shall be marked by stake and survey tape or string. No construction activities shall enter this circle and no adjacent construction shall be allowed which might directly or indirectly disturb the area within the staked circle. No sand shall be placed seaward of the circle until the nest has successfully hatched.

4) Reports on all nesting activity and marine turtle protection measures taken during construction shall be provided. Monitoring shall include daily surveys and any additional measures for turtle protection authorized by the Department. Reports shall be submitted to the Department monthly, and shall include daily report sheets noting all activity, nesting success rates, hatching success of all nests, dates of construction, and names of all personnel involved in nest surveys. All such personnel shall be qualified as in (1) above.

b. Reports on all nesting activity and marine turtle protection measures taken during construction shall be provided for the initial nesting season following the completion of construction, and for a minimum of two additional nesting seasons. Monitoring shall include daily surveys and any additional measures for turtle protection authorized by the Department. Reports shall be submitted to the Department no later than 30 days after the completion of all monitoring activities, and shall include daily report sheets noting all activity, nesting success rates, hatching success of all relocated nests, hatching success of a statistically valid sample of

nests left in place, dates of construction, and names of all personnel involved in nest surveys and relocation activities. All such personnel shall be qualified as in 5.a.(1) above.

c. Immediately after the completion of the beach nourishment project the renourished area shall be tilled to a depth of 36 inches, or as close as practicable to the rock core, whichever is deeper.

d. Additional compaction monitoring and tilling prior to May 1 for three subsequent years may be required if fill material is deemed to be unsuitable for marine turtle nesting by BPSM due to compaction. The permittee shall contact BPSM by April 1 to determine if sand compaction monitoring or tilling is required in the area of restoration. At a minimum, the protocol provided under (1) & (2) below shall be followed. If required, the area shall be tilled to a depth of 36 inches. All tilling activity must be completed prior to May 1. A report on the results of compaction monitoring (if required) shall be faxed to the Bureau of Protected Species Management, (850) 921-4369, prior to any tilling actions being taken. An annual summary of compaction surveys and the actions taken shall be submitted to the FDEP.

1) 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); one station shall be midway between the dune line and the high water line (normal wrack line); and one station shall be located just landward of the high water line. 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 could cover 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 27 values for each transect line, and the final nine averaged compaction values.

2) If the final averaged compaction value for any depth (as defined above) exceeds 500 psi for any two or more adjacent stations, then that area shall be tilled to a depth of 36 inches prior to May 1. If the final averaged compaction value for any depth (as defined above) exceeds 500 psi for any two or more non-adjacent stations, then consultation with FDEP, Bureau of Protected Species Management, shall be required to determine if tilling is required.

f. Visual surveys for escarpments along the project area shall be made immediately after completion of the project and prior to May 1 for three subsequent years. Results of the surveys shall be faxed to the Bureau of Protected Species Management, (850) 921-4369, prior to any action being taken. 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 May 1. The Department shall be contacted immediately if subsequent reformation of escarpments that can interfere with sea turtle nesting or that exceed 18 inches in height for a distance of 100 feet occurs during the nesting and hatching season to determine the appropriate action to be taken. An annual summary of escarpment surveys and actions taken shall be submitted to the Department.

g. A pre-work conference shall be held between the representatives of the contractor (initial construction year only), the permittee, the marine turtle permit holder, and the Department at least 30 days prior to commencement of work or surveys. At least 10 days advance notice shall be provided prior to conducting this meeting. This will provide an opportunity for explanation and/or clarification of the sea turtle protection measures.

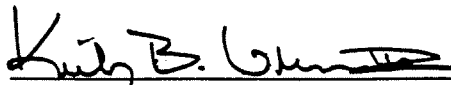
h. During marine turtle nesting season (May 1 - October 31), staging and storage areas for construction equipment shall be located offsite to minimize disturbance to marine turtle nesting and hatching activities.

i. All safety or security lighting equipment shall be low-pressure sodium vapor lamps only. No permanent lighting is authorized.

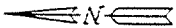
j. In the event an unmarked marine turtle nest or a dead, injured, or sick marine turtle is discovered during construction activities, the marine turtle permit holder and the Bureau of Protected Species Management shall be notified immediately such that appropriate conservation measures can be taken.

Executed in Tallahassee, Florida.

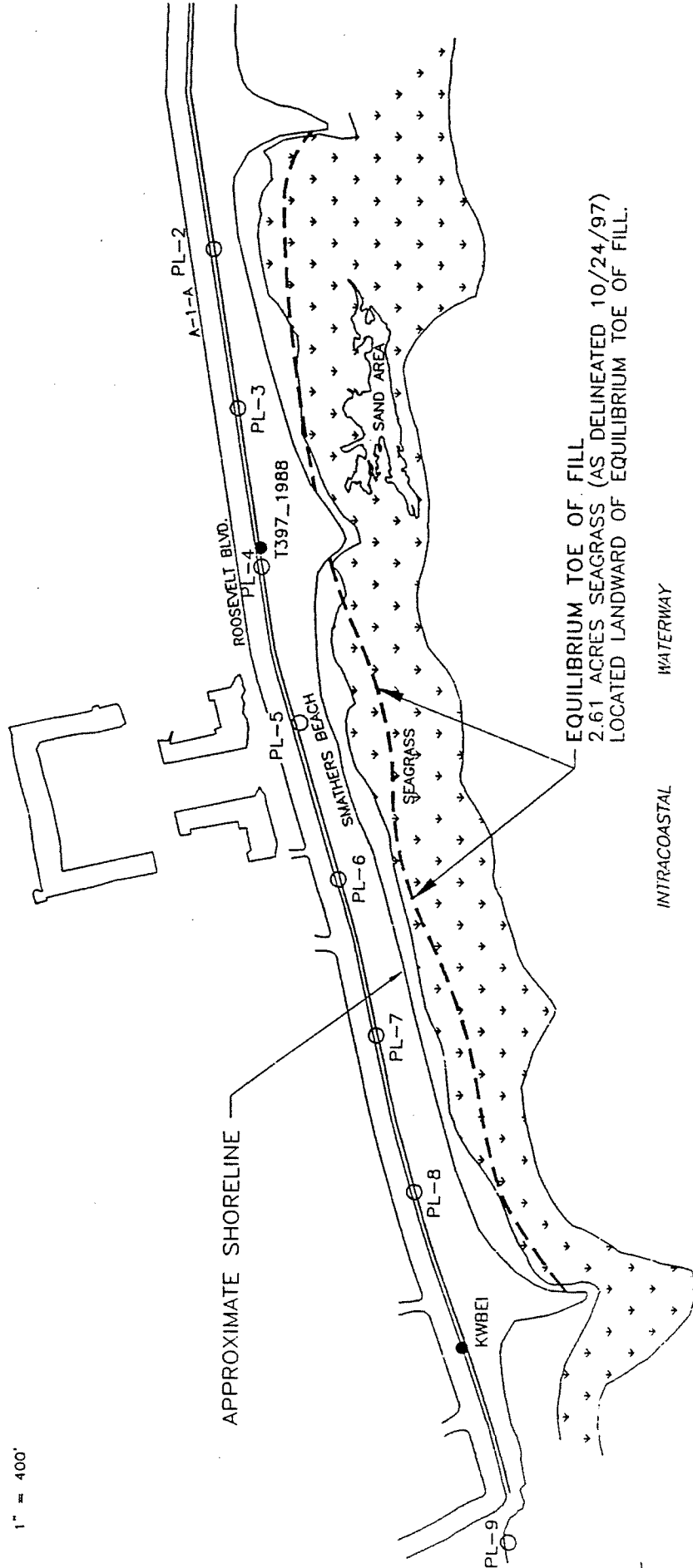
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Kirby B. Green, III, Deputy Secretary



1" = 400'



EQUILIBRIUM TOE OF FILL
 2.61 ACRES SEAGRASS (AS DELINEATED 10/24/97)
 LOCATED LANDWARD OF EQUILIBRIUM TOE OF FILL.

APPROXIMATE SHORELINE

ATLANTIC OCEAN

TITLE :

SMATHERS BEACH
 MONROE COUNTY SHORE PROTECTION PROJECT
 EQUILIBRIUM TOE OF FILL

2481 N.W. BOCA RATON BLVD.
 BOCA RATON, FL. 33431

COASTAL PLANNING &
 ENGINEERING, INC.

DATE:

2/16/98

BY:

AMB

COMM. NO.

5500.02

SHEET:

1 OF 1

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.

Suzanne 7/16/98
Deputy Clerk Date



Jeb Bush
Governor

Department of Environmental Protection

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

David B. Struhs
Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 26, 1999

Ms. Annalise Mannix-Lachner
City of Key West
604 Simonton Street
Key West, Florida 33040

Dear Ms. Mannix:

Permit No. 0129031-001-JC Monroe County
Smathers Beach Shore Protection Project

Your request to modify this permit has been received and reviewed by Department staff. The proposed modification is to revise the mitigation plan.

The above referenced permit indicates that 2.6 acres of habitat colonized by seagrass would be directly impacted by the beach fill. This assessment was based on a sand source utilizing a mean grain size of approximately 0.25 mm. The permittee has since modified the beach design to minimize impacts by utilizing sand with an average grain size of 0.35 mm or greater. Use of the coarser grain size material will result in an equilibrium toe profile closer to shore and will result in only 0.70 acres of seagrass impact.

As mitigation, the permittee is required to transplant seagrasses from the beach fill template to the restored blimp pad site. Monitoring of the site is required until a 2:1 ratio (mitigation area: impact area) of transplanted or newly colonized seagrass habitat has been documented. The original mitigation plan requires that 4.9 acres of transplanted and/or newly colonized seagrass habitat be documented within 4 years. This acreage was determined based upon the 2:1 ratio for 2.6 acres of impact (5.2 acres) minus 0.3 acres of seagrass mitigation credit documented from the requirements of the White Street Pier project. In accordance with the revised beach fill design, the permittee has proposed the restoration of 1.4 acres of seagrass habitat (2:1 ratio for 0.7 acres) at the Blimp Pad Site. In addition, the permittee has requested to use the 0.3 acres of successful colonization at White Street Pier to offset any impacts which may exceed the projected 0.7 acres of impact from the equilibration of the beach fill.

A De minimus Exemption (File No. 44-302896-5) for the blimp pad restoration project was issued by the Department on June 6, 1997 to remove 6.5 acres of fill and restore elevations and substrate conditions to suitable levels for colonization of seagrasses and mangroves. The

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permittee has proposed to excavate the western 2.0 acres of the Blimp Pad site to -3.0 feet NGVD with the replacement of 1 foot of sediment layer over any exposed rock. The -3.0 feet excavation for the western portion of the blimp pad is needed in order to enhance the success of the mitigation by reducing thermal stress on the seagrasses. The sediment for replacement will be excavated from the Smathers Beach seagrass site. Excavation of the remaining 4.5 acres will involve the removal of the surface fill material in order to establish elevations that existed at the blimp pad site prior to its filling.

In addition to the excavation of the blimp pad site, the permittee has requested to excavate a channel between Riviera Canal and the blimp pad salt pond to increase water exchange. This is anticipated to increase the viability of the transplanted seagrass and increase the productivity of the habitat within the salt pond system through enhanced tidal circulation. The channel shall be located northwest of blimp pad site and adjacent to the former navy missile base. The channel dimensions will be 300 feet long, 30 feet wide and 4 feet deep.

The project description shall be revised as follows:

The project involves the periodic placement of sand along 3000 feet of Smathers Beach located along south Roosevelt Boulevard on the southern coast of Key West Island. A final determination of the source of sand for the proposed project has not been made but the material will have a mean grain size of 0.35 mm or greater. A beach profile of elevation +6.0 feet NGVD, construction berm width of 85 feet, and construction slope of 1 vertical to 10 horizontal will be constructed. The initial restoration will involve the placement of 36,000 cubic yards of sand. The project will also involve the repair of three groins in the beach fill area. The applicant shall restore ~~5.2~~ 1.4 acres of habitat colonized by seagrass as mitigation for impacts caused by the initial restoration activity.

The specific conditions shall be revised as follows:

3. Prior to commencement of construction of the beach restoration project, the permittee shall submit a detailed mitigation plan. Upon approval of the mitigation plan by the Department, the permittee may commence with construction of the beach restoration project. Implementation of the mitigation shall precede or be conducted concurrently with the construction of the beach restoration project .

a. The plan shall include maps of the restored blimp pad and/or other suitable sites with transplantation areas clearly delineated. The plan shall include a narrative that describes the methods, monitoring and performance standards that will be used to determine success.

b. The beach fill is expected to impact ~~2.6~~ 0.7 acres of seagrass habitat within the project area. In order to offset these impacts, the permittee shall be required to perform

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mitigation at a 2:1 ratio (mitigation area: impact area). Therefore, the permittee shall perform the restoration of ~~5.2~~ 1.4 acres of habitat colonized by seagrasses.

c. The 0.3 acres of successful seagrass colonization documented from the requirements of Specific Condition No. 7 of Permit No. 44-167075-9 is considered mitigation credit for the impacts exceeding the projected impact of 0.7 acres of seagrass habitat within the equilibrium toe of fill current project. ~~Therefore, the remaining mitigation required by the permittee is the restoration of 4.9 acres of habitat colonized by seagrasses.~~ The following mitigation and monitoring shall be performed to complete the restoration of ~~4.9~~ 1.4 acres:

- i. The permittee shall transplant the ~~2.6~~ 0.7 acres of seagrass within the beach fill template to suitable locations at the restored blimp pad site.
- ii. Monitor the restored blimp pad site to document and quantify the success of transplanted seagrasses and the colonization of new seagrasses.
- iii. Monitor the White Street Pier Project study area to document and quantify the ongoing colonization of seagrasses.

d. The applicant shall monitor the mitigation sites for 4 years or until ~~4.9~~ 1.4 acres of restored habitat has been colonized by seagrasses. If ~~4.9~~ 1.4 acres cannot be documented within 4 years then the ~~applicant~~ permittee shall be required to perform additional restoration of seagrass habitat as mitigation.

Since the proposed modification is not expected to result in any water quality degradation or environmental resource impacts, the permit is hereby modified as requested. By copy of this letter we are notifying all necessary parties of the modification.

This letter of approval does not alter the July 6, 2011 expiration date, other Specific or General Conditions, or monitoring requirements of the permit. This letter and accompanying drawings must be attached to the original permit.

This permit is hereby modified unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57, Florida Statutes, 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.

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

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

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

In accordance with rules 28-106.111(2) and 62-110.106(3)(a)(4), F.A.C., petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first.

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 21 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

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the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57, F.S.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; 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,

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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. The applicant, or any party within the meaning of section 373.114(1)(a), F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under section 373.114(1), F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when 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 62-103.150, F.A.C., a person who has actual knowledge of the agency action or has knowledge which would lead a reasonable person to conclude that the Department has taken final agency action, has a duty to make further inquiry within 21 days of obtaining such knowledge by contacting the Department to ascertain whether action has occurred. The Department shall upon receipt of such an inquiry, if agency action has occurred, promptly provide the person with notice as prescribed by rule 62-103.150, F.A.C. 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 62-103.150, 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 me at the letterhead address or by telephone at (850) 487-4471, ext. 122.

Sincerely,



Alfred B. Devereaux, Jr., Chief
Bureau of Beaches and Coastal Systems

ABD/rvl

cc:

Corps of Engineers, Jacksonville - CESAJ-RD-A
Lauri MacGlaughlin, DEP, National Marine Sanctuary
Randy Grau, DEP, South Florida District Branch Office
Robin Trindell, DEP, BPSM
Mark Thompson, National Marine Fisheries Service
Rick Spadoni, Coastal Planning and Engineering

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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.

Debra W. Mann 5/26/99
Deputy Clerk Date