



# Florida Department of Environmental Protection

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

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Mimi A. Drew  
Secretary

## **CERTIFIED - RETURN RECEIPT REQUESTED**

December 9, 2010

U.S. Army Corps of Engineers  
Mobile District  
c/o Curtis Flakes  
109 St. Joseph Street  
Mobile, AL 36602

NOTICE OF PERMIT and VARIANCE ISSUANCE  
JCP File Numbers: 0295379-001-JC and 002-BV  
Applicant Name: U.S. Army Corps of Engineers  
Project Name: Lower Pensacola Harbor Maintenance Dredging

Dear Mr. Flakes:

Your request for a Joint Coastal Permit, issued pursuant to Chapters 161 and 373, Florida Statutes, and Title 62, Florida Administrative Code, has been approved by the Department. Please read the enclosed joint coastal permit and permit conditions closely before starting construction. Particularly note the permit conditions pertaining to written reports which must be submitted to the Department at specified times.

If you have any additional questions, please contact me by phone at (850) 414-7796, or by e-mail at [Lainie.edwards@dep.state.fl.us](mailto:Lainie.edwards@dep.state.fl.us).

Sincerely,

Lainie Edwards, Ph.D.  
Environmental Manager  
Bureau of Beaches and Coastal Systems

Enclosures: Final Order  
Variance

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Copies furnished to:

Larry Parson, ACOE – Mobile  
Jennifer Jacobson, ACOE – Mobile  
Terry Jangula, ACOE – Mobile  
Kenneth Bradley, ACOE – Mobile  
Clyde Mathis, Port Director, Port of Pensacola (local sponsor)  
Lorna Patrick, USFWS  
Gregory K. Worley, U.S. Navy  
Capt. R. Turpin, Escambia County Environmental Dept.  
Tim Day, ECED  
Rick Clark, Chief of Science and Natural Resources, GUIIS, NPS  
Mark Nicholas, GUIIS, NPS  
Daniel Brown, GUIIS, NPS  
Robbin Trindell, FWC  
Shelley Alexander, CAMA  
Andrew Joslyn (E.A. SLERP), DEP, NW District  
Marty Seeling, BBBS  
Bob Brantly, BBBS  
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Jennifer Koch, BBBS  
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Alex Reed, BBBS  
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Charlotte Hand, BBBS  
Reginald Bradley, BBBS



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## CONSOLIDATED JOINT COASTAL PERMIT AND SOVEREIGN SUBMERGED LANDS AUTHORIZATION

### PERMITTEE:

U.S. Army Corps of Engineers  
Mobile District Office  
c/o Curtis Flakes  
109 St. Joseph Street  
Mobile, AL 36602

### PERMIT INFORMATION:

Permit Number: 0295379-001-JC

Project Name: Lower Pensacola Harbor  
Maintenance Dredging

County: Escambia

Issuance Date: December 9, 2010

Expiration Date: December 9, 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 is to periodically conduct maintenance dredging of the Lower Pensacola Harbor Federal Channel, which includes Reach B (lower Pensacola Bay and Pensacola Pass) and Reaches C and D (entrance channel into Pensacola Pass). The dredging will maintain a bottom width of 500 feet at a depth of -39 feet Mean Lower Low Water (MLLW). This maximum allowed dredge depth includes a design depth of -35 feet MLLW, plus 2 feet of advanced maintenance and 2 feet of allowable overdepth. Most of the dredged material will be placed in the Perdido Key swash zone (Disposal Area #3), seaward of the +3-foot NADV88 contour, and not to exceed an elevation of +3 feet NADV88. Some of the dredged material may also be placed just seaward of the primary sand bar system and landward of the -12-foot NADV88 contour (prior to adjustment). This latter placement area is referenced in the drawings as Nearshore Disposal Area #4.

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The requested variance (File No. 0295379-002-BV) from Rule 62-4.244(5)(c), F.A.C., would temporarily establish expanded mixing zones that extend 1,500 meters downcurrent from the dredge and 3,000 meters downcurrent from the point where water discharged from the dredge pipeline (at the swash zone or nearshore placement sites) reenters the Gulf of Mexico. The requested variance from the antidegradation provisions in Rule 62-4.242(2)(a)2.b., F.A.C., would establish a maximum allowable turbidity level of 3.5 NTUs above background for work within Fort Pickens Aquatic Preserve, and Gulf Islands National Seashore, OFWs.

**ACTIVITY LOCATION:**

The authorized maintenance dredging extends from lower Pensacola Bay, through Pensacola Pass and into the Gulf of Mexico. The nearshore and swash placement areas are located along Perdido Key, between DEP Monuments R-32 and R-64. The overall project is located in Escambia County, Sections 33 and 34, Township 3 South, Ranges 30 and 31 West, Class III Waters, Fort Pickens Aquatic Preserve and Gulf Islands National Seashore, Outstanding Florida Waters.

**PROPRIETARY AUTHORIZATION:**

The placement of dredged material in the swash zone and nearshore also requires a proprietary authorization, as the activity is 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. The activity is not exempt from the need to obtain a 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. This proprietary authorization has been reviewed in accordance with Chapter 253 and Chapter 258, F.S., Chapter 18-20, Chapter 18-21 and 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 project described above, and has determined that the 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 the City of Pensacola, the project's local sponsor, pursuant to Chapter 253.77, F.S., to perform the activity on the specified sovereign submerged lands.

The Department acknowledges that the maintenance dredging 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.

**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

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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.

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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. 0295379-002-BV) from Rule 62-4.244(5)(c), F.A.C. to establish an expanded mixing zone and Rules 62-4.242(2)(a)2.b., F.A.C., to establish a maximum allowable turbidity level above background for work within Outstanding Florida Waters (OFW) for this project.
2. All reports or notices relating to this permit shall be sent to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, JCP Compliance Officer, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000 (e-mail address: [JCP.Compliance@dep.state.fl.us](mailto:JCP.Compliance@dep.state.fl.us)).

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3. There are two cultural resource sites in the nearshore disposal area extending from 500 feet to 5,700 feet south of Perdido Key, involving an historic shipwreck (Concrete Ballast Wreck 8ES2995) and an unrecorded historic barge wreck. A protective buffer zone, with a 1,000-foot radius, shall be established around these sites.
  
4. **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 alternate) prior to each construction event. 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:

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 NW District Office  
Submerged Lands & Environmental Resources  
160 Governmental Center  
Pensacola, Florida 32502-5794  
phone: (850) 595-8300

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)

Ft. Pickens Aquatic Preserve  
Shelley Alexander, Aquatic Preserve Manager  
1600 Garcon Point Road  
Milton, FL 32583  
phone: (850) 983-5359

Gulf Islands National Seashore  
Daniel R. Brown  
1801 Gulf Breeze Parkway



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Gulf Breeze, Florida 32563  
phone: (850) 934-2604

The Permittee is also advised to schedule the pre-construction conference at least a 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.

5. **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 names and qualifications of the individuals who will conduct the turbidity monitoring shall be submitted to the Department. These individuals must be independent of the dredging contractor and must have experience collecting and measuring turbidity for navigational dredging and beach placement projects.

6. Sediment quality will be assessed as outlined in the approved Sediment QA/AC Plan, dated April 2009 (attached). Any occurrences of unacceptable material will be handled according to the protocols set forth in the approved Sediment QA/QC Plan. The sediment testing results will be submitted to FDEP within 90 days following the completion of dredging and sediment placement activities.
7. Pursuant to Section 161.142(2), F. S., the Department shall maintain a current estimate of the quantities of beach-compatible sand from maintenance dredging of inlet systems for purposes of prioritizing, planning and permitting of inlet management activities. As provided for in General Permit Condition No. 12, the Corps shall submit to the Department a written statement of completion that includes a description of the actual work completed. For the maintenance dredging activities authorized by this permit, the

Corps shall describe the location (entrance channel, advance maintenance area(s), intracoastal waterway) and estimated volume of material dredged from each location; and the location (beach with specific FDEP reference monuments; nearshore zone) and estimated volume of material placed within each location.

8. The National Parks Service (NPS) will conduct all necessary marine turtle and shorebird protection and monitoring requirements of this permit on behalf of the Permittee. In the event that the NPS does not conduct all necessary marine turtle and shorebird protection and monitoring requirements, the Permittee is still responsible for those measures specified by the applicable U. S. Fish and Wildlife Service Biological Opinion through the end of the Corps' fiscal year.
9. 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.

#### **Wildlife Protection Conditions**

10. Swash zone placement shall be started after October 31 and be completed before May 1.
11. For dredged material placement in the swash zone (at or below the +3 foot contour) or submerged littoral zone, monthly wildlife protection surveys shall be conducted (by the NPS on behalf of the Corps) for as long as the dredged material remains on the beach, but not past the end of the Corps' fiscal year.
12. All derelict concrete, metal, and coastal armoring geotextile material and other debris shall be removed from the beach prior to any sand placement to the maximum extent possible. Debris removal shall be conducted during daylight hours only.
13. The permittee shall develop plans for transporting people, equipment, fuel, etc, along the Gulf of Mexico beachfront between Gulf Islands National Seashore (GUIS)-Perdido Key paved roads and parking areas and the work site. The goal will be to use UTVs as much as possible minimizing the need for standard 4-wheel drive vehicles usage.
14. All Perdido Key Beach mouse habitat will be identified and marked for avoidance during construction. Existing beach access points on GUIS shall be used and marked appropriately including the beachfront travel corridor to the work site for transport of equipment and personnel along the beachfront. Vegetative areas shall be marked and delineated for avoidance as needed.

15. New or expanded beach accesses that impact vegetated dunes shall be replanted within 3 months following project completion. The habitat restoration shall consist of restoring the dune topography and planting with at least three species of appropriate native dune vegetation (i.e., native to coastal dunes in the respective county and grown from plant stock from that region of Florida). Seedlings shall be at least 1 inch by 1 inch with a 2.5-inch pot. Planting shall be on 18-inch centers throughout the created dune; however, 24-inch centers may be acceptable depending on the area to be planted. Vegetation shall be planted with an appropriate amount of fertilizer and anti-desiccant material, as appropriate, for the plant size. No sand stabilizer material (coconut matting or other material) shall be used in the dune restoration. The plants may be watered without installing an irrigation system. In order for the restoration to be considered successful, 80 percent of the total planted vegetation shall be documented to survive six months following planting of vegetation. If the habitat restoration is unsuccessful, the area shall be replanted following coordination with the U.S. Fish & Wildlife Service, and written confirmation provided to the JCP Compliance Officer.
16. A daily marine turtle nest survey of the nesting beach in the vicinity of the project (including areas of beach access) shall be conducted (by the NPS on behalf of the Corps) starting May 1 and continue until September 1, in accordance with the following protocols:
  - a. Nests deposited within the construction area shall be marked and left in place unless other factors threaten the success of the nest. Such nests will be marked and the actual location of the clutch determined.
  - b. 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.
17. It is the responsibility of the Permittee to ensure that the project area and access sites are surveyed for marine turtle nesting activity. All nesting surveys, nest relocations screening or caging activities etc. shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Fish and Wildlife Conservation Commission (FWC), pursuant to Florida Administrative Code 68E-1.
18. Visual surveys for escarpments along the beach fill area shall be made immediately after completion of project construction and throughout the Corps' physical monitoring of the project, if the mechanically placed sand still remains on the beach. It is the Corps' responsibility to coordinate with the NPS for any scarps that should be leveled. In addition, weekly surveys of the project area shall be conducted during the two nesting seasons following completion of fill placement as follows:

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- 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. The Permittee shall arrange a meeting between the Department, the FWC, FWS and the person with the NPS who is responsible for marine turtle nest monitoring prior to the marine turtle nesting season following construction. At least 15 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.
20. Reports on all nesting activity shall be provided for the initial nesting season for as long as sand remains in the nearshore or on the beach, for up to the end of the Corps' fiscal year. Monitoring of nesting activity in the seasons following construction shall include daily surveys and any additional measures authorized by the FWC. Reports submitted 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 should be reported separately for the nourished areas and for an equal length of adjacent beach that is not nourished in accordance with the attached Table. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted 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.

21. 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.

22. In the event a hopper dredge is utilized, the following requirements shall be met in addition to the Terms and Conditions of the NMFS Regional Biological Opinion for Hopper Dredging in the Gulf of Mexico:
- a. Handling of sea turtles captured during hopper dredging projects shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Florida Fish and Wildlife Conservation Commission (FWC), pursuant to Florida Administrative Code 68E-1.
  - b. *Dredging Pumps*: Standard operating procedure shall be that dredging pumps shall be disengaged by the operator when the dragheads are not firmly on the bottom, to prevent impingement or entrainment of sea turtles within the water column. This precaution is especially important during the cleanup phase of dredging operations.
  - c. *Sea Turtle Deflecting Draghead*: A state-of-the-art rigid deflector draghead must be used on all hopper dredges in all Gulf of Mexico channels at all times of the year.
  - d. The Sea Turtle Stranding and Salvage Network (STSSN) Coordinator, Dr. Allen Foley, shall be notified at (904) 573-3930 of the start-up and completion of hopper dredging operations.
  - e. Relocation trawling shall be undertaken at all projects where any of the following conditions are met; however, other ongoing projects not meeting these conditions are not required to conduct relocation trawling:
    - i. Two or more turtles are taken in a 24-hour period in the project.
    - ii. Four or more turtles are taken in the project.
  - f. The Permittee shall fax (850-921-6988) or e-mail ([Meghan.koperski@MyFWC.com](mailto:Meghan.koperski@MyFWC.com)) weekly reports to the Imperiled Species Management section on Friday each week that relocation trawling is conducted in Florida water. These faxes shall include: the species and number of turtles captured in Florida waters, general health, and release information. A summary of all turtles captured in Florida waters, including all measurements, the latitude and longitude (in decimal degrees) of captures and tow start-stop points, and times for the start-stop points of the tows, including those tows on which no turtles are captured shall be submitted to the ISM by January 15 of the following year.
23. *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 for review and approval. Shorebird Monitors will use the following survey protocols.

24. *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.
  - a. 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.
  - b. Nesting season surveys shall begin on April 1 (or February 15 in snowy plover habitat) 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.
  - c. 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.
  - d. 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.
  - e. 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.
  - f. 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.
25. 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 (561) 648-3205 within 24 hours.

- a. All breeding activity will be reported to the Beach-Nesting Bird website within one week of data collection.
  - b. Observations of non-breeding shorebirds should be reported to the Shorebird-Seabird Occurrence Database, as described below.
26. *Non-Breeding Shorebird Surveys.* Data collected on non-breeding shorebirds should be compatible with, and reported to, the Shorebird-Seabird Occurrence Database (<http://myfwc.com/shorebirds/BNB/> ).
- a. Surveys for non-breeding shorebirds should begin 14 days prior to construction commencement and be conducted in accordance with the survey protocol outlined by the NPS until the end of the Corps' fiscal year. Data collected during these surveys will provide valuable information on the use of nourished beaches to shorebirds.
  - b. Survey for non-breeding shorebirds will include all potential shorebird habitat within the project boundary.
  - c. Data should be entered into the database within one month of collection.
27. *Buffer Zones and Travel Corridors.* 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 birds appear agitated or disturbed by construction or other activities in adjacent areas.
  - 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



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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.
28. 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 USFWS-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.
29. *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".
30. *Beach Contours.* All scarp removal should be done outside the shorebird nesting season. 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.
31. *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.

**Manatee Protection Conditions**

32. 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.
33. 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.
34. 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.
35. 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.
36. 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 Jacksonville (1-904-731-3336).
37. 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 Florida Fish and Wildlife Conservation Commission (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 shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

**MONITORING REQUIRED:**

38. **Water Quality - Turbidity - Nephelometric Turbidity Units (NTUs)**

**Dredging areas**

**Frequency:** For hopper dredge: During each hopper dredge cycle during daylight hours, after the plume reaches the edge of the mixing zone.

For hydraulic pipeline dredge: Every four hours during daylight hours, beginning at least two hours after dredging begins.

**Location:** **Background:** Five samples measured at least 5 meters apart (pooled to determine the mean background level for the sampling event), at mid-depth, at least 150 meters up-current from the point of excavation, clearly outside of any turbidity plume.

**Compliance:** At the point where the densest portion of the turbidity plume intersects the periphery of the mixing zone (1,500 meters down-current from the dredge), at mid-depth.

Additional samples will be collected in the densest portion of the turbidity plume, at intermediate distances within the mixing zone (150, 500, and 1,000 meters from the dredge), at mid-depth. These measurements will be used to calibrate the size of the mixing zone for future events.

**Disposal areas**

**Frequency:** At least once during each hopper discharge cycle during daylight hours, while the densest part of the turbidity plume crosses the edge of the mixing zone. When using a hydraulic pipeline dredge, every four hours during daylight hours, beginning approximately an hour after the turbidity plume passes the edge of the mixing zone.

**Location:** **Background:** Five samples measured at least 5 meters apart (pooled to determine the mean background level for the sampling event), at mid-depth, at least 150 meters up-drift from the entire approved placement area, clearly outside of any turbidity plume, taken at a distance offshore to correspond with the distance of the compliance sample.

**Compliance:** At the point where the densest portion of the turbidity plume intersects the periphery of the mixing zone (3,000 meters down-current from the point where return water from the discharge pipe enters the Gulf of Mexico), at mid-depth.

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Additional samples shall be collected in the densest portion of the plume, at intermediate distances within the mixing zone (150, 500, 1,000, 1,500, 2,000, and 2,500 meters from the point where return water from the discharge pipe enters the Gulf of Mexico), at mid-depth. These measurements will be used to calibrate the size of the mixing zone for future events.

All monitoring data shall be submitted within one week of analysis with documents containing the following information: (1) permit number; (2) dates of sampling and analysis; (3) a statement describing the methods used in collection, handling, storage and analysis of the samples; (4) a map indicating the sampling locations; (5) a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data.

Monitoring reports shall also include the following information for each sample that is taken:

- (a) time of day samples taken;
- (b) depth of water body;
- (c) depth of sample;
- (d) antecedent weather conditions;
- (e) tidal stage and direction of flow; and
- (f) wind direction and velocity.

**Determination of Compliance within Fort Pickens Aquatic Preserve and Gulf Islands National Seashore:** The compliance locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. If monitoring within the Fort Pickens Aquatic Preserve or Gulf Islands National Seashore reveals the turbidity level at the compliance site is greater than 3.5 NTUs above the mean of the associated background turbidity levels for that sampling event, the associated activity (dredging or filling) 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](mailto:JCPCCompliance@dep.state.fl.us) and the Department's Northwest District office in Pensacola at (850) 595-8300. The monitoring reports shall indicate each exceedance, the duration of the shut-down, and the corrective actions.

Any project-associated discharge other than dredging, placement in the swash zone or placement in the nearshore disposal site (e.g., scow leakage or runoff from temporary containment area) should be monitored as close to the source as possible every hour until compliance turbidity levels return to 3.5 NTUs above the mean of the associated background turbidity levels 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



**PENSACOLA HARBOR FEDERAL NAVIGATION CHANNEL  
ESCAMBIA COUNTY  
SEDIMENT QUALITY ASSURANCE / QUALITY CONTROL PLAN  
APRIL 2009**

**I. Introduction**

The purpose of the Sand Quality Control (QC) and Quality Assurance (QA) Plan, required by paragraph 62B-41.008 (1) (k) (4b) F.A.C., is to ensure that the sediment dredged from the Pensacola Harbor Federal Navigation channel and placed on the adjacent beaches of the Perdido Key beach and nearshore disposal areas within the Gulf Islands National Seashore (GUIS) will meet the standards contained in the permit. Geotechnical investigations indicate that the sediment located within the reaches specified for beach and littoral disposal meets State requirements in paragraph 62B-41.007 (2) (j). This plan addresses the sand currently present on the beach, as well as the material within the identified dredging reaches of the Pensacola Harbor channel. A set of sediment quality criteria is provided for the dredged material with a range of acceptable sand quality values which must be met for final beach and littoral placement of dredged material. The sediment quality criteria take into account the consistency of material within the proposed areas to be dredged and represent values which may reasonably be attained given what is known about the dredge material. In addition to the sediment quality criteria, an overview of required project inspection and reporting is provided.

The goal of this plan is to ensure that the sand placed on the beach from maintenance dredging of the channel complies with all applicable standards. Additionally, this plan enables the project to provide a beneficial use of dredged material by returning beach quality sand to the littoral drift system that would otherwise be removed from the local system while remaining in the navigation channel. In addition to the specific quality control requirements contained herein, the Corps' Quality Assurance Representative (QAR), Area Engineer/Contracting Officer Representative (AE/COR) and/or Contractor will visually examine the beach at a minimum of once every four hours during material placement with the specific intent of assessing whether in fact the sand placed on the beach is acceptable. The QAR is the Corps field personnel responsible for monitoring contractor compliance with Project Specifications, which will include suitability of placement material. The QAR will visit on a regular and recurring basis during placement activities. The results of the visual observations will be recorded in the Contractor's Daily Report of Operations.

During the pre-construction meeting, the Area Engineer will emphasize the importance of sound sand quality control management and the necessity to avoid problems in the execution of the measures in this plan.

**II. Sediment Quality Specifications**

The sediment specifications and guidelines for the maintenance dredge material are provided in Table 1. The composite values for the overall placed material should approach the mean values. Individual material samples will likely vary from these values. The values provided in Table 1 represent the acceptable range (or maximum) of values for placed material that must be met for

acceptance of each representative sample and fill section. The specifications proposed take into account the natural variability observed within the channel as determined using the existing geotechnical information available for the project. Mixing of the material during the dredging process should result in observed material values within the range prescribed by the sediment quality specifications. In these specifications, silt is defined as any material passing the #230 sieve. Materials which fall outside of these ranges will be considered unacceptable materials. Unacceptable materials also include debris, trash, and rocks or rubble larger than three-fourths (3/4) inch in diameter which exceed the natural occurrence (approximately 0.2-inch diameter) of coarse material on the beach.

**Table 1: Sediment Quality Specification for Dredged Material**

<i>Sediment Parameter</i>	<i>Compliance Value</i>
Max. Silt Content	5% visual estimate
Mean Grain Size Range*	0.21 to 0.53 mm
Sand Color (Moist Munsell Values)	6 to 8
Allowable shell content	0-15% Visual estimate
Shell, clay balls, gravel, or other material >3/4"	Amounts no greater than 3 % over existing beach which exhibits a background level of ~1% <50% of surface background in any 10,000 square foot area

\*The range of acceptable values of the grain size was determined based on the statistical mean plus/minus one standard deviation.

### III. DEP Sand Rule—Preconstruction Compliance

#### A. FDEP Sand Rule

Permits for this project require that only beach-compatible fill shall be placed on the beach. Standards of compatibility are defined by the Department of Environmental Protection "Rules and Procedures for Application for Coastal Construction Permits" Chapter 62B-41.007(2) j. These rules and procedures are otherwise known as the "Sand Rule" and can be found on page 5 of this plan and on the DEP website:

<http://www.dep.state.fl.us/legal/Rules/beach/62b-41.pdf>

These rules and procedures are recognized as a standard of acceptance by which the fill material from dredge area of the specified reaches identified for beach disposal should be assessed. For the purposes of this project, non-compliant material is generally defined as material that significantly differs in character from the existing beach. These characteristics may include sand color, sand type (Unified Soils Classification System visual classification), coarseness, shell content, and silt content.

#### B. Existing Beach Sands

Recent native sand analysis of the beach disposal areas indicate that the beaches are composed of white medium to fine sand with a median grain size of 0.41 mm on Perdido Key. Escambia County performed color analyses for the Escambia County beaches just to the west of the

proposed disposal areas. Their analysis was conducted using the Munsell 10YR hue page and 10YR pages of the Munsell Nearly Whites Fan Deck™ (Munsell, 1998) and were found to agree with the Escambia County sand protection ordinance values of Value 9.25 and Chroma 0.5. It is believed that the sand color information established by Escambia County's analysis would also be representative of the sand color found within the beach disposal areas for this action. In general, the beach sands compare well to the dredge material grain sizes and color presented in the placement plan.

### **C. Maintenance Dredging Material**

The locations of the three channel segments to be dredged under this permit (segments B, C, and D) are illustrated in Figure 1. Materials from segments 'B', 'C', and 'D' are composed predominantly of unconsolidated littoral sand and will be beneficially disposed using direct beach or nearshore placement. Sand from 'B' and 'D' will be placed within the proposed beach areas on Perdido Key (defined by DEP Monuments R-32 and R-64) as described in the disposal plan and illustrated in Figure 2. The material dredged from segment 'C' is recommended for the nearshore site due to the slightly higher percentage of finer grained sediment content. The nearshore site is 5.1 miles in length located between DEP Monuments R-32 and R-58. This material was transported via littoral drift caused by wave action into the Pensacola Pass and navigation channel over time causing shoaling within the channel. This material exhibits similar characteristics as the sand present on the adjacent beaches. The principal sediment types in the segments designated for beach and nearshore placement are generally fine to medium grained; poorly sorted sand with little shell fragments and trace amounts of silt. Color descriptions from the boring logs indicate good compatibility of this material with the proposed beach disposal areas. It is expected that since the bulk of sand proposed to be removed is in areas previously dredged that very little shell hash would be contained in this segment. The mean composite grains sizes for the channel segments designated for beach placement ranges 0.30 mm to 0.34 mm with a low percentage of fines

## **IV. DEP Sand Rule—Compliance During Construction**

**A. Environmental Protection Plan** - The Contractor's *Environmental Protection Plan (EPP)* shall be submitted for review and acceptance by the USACE as required by Section 01355 Environmental Protection of the project specifications. At the direction of the Mobile District, this EPP may also address sediment quality assurance by including training to be received by contractor field personnel to visually recognize placement materials not in compliance with the sand rule. A "short-course" on identification of beach quality sand may be offered by the Corps or a Corps designee with appropriate expertise in coastal systems to the Contractor to enable compliance with the sand rule. The Corps shall provide prospective contractors with historical geotechnical information prior to activity commencement.

**B. Dredge Location Control** - The Contractor is required to have, in continuous operation on the dredge, electronic positioning equipment that will accurately compute and plot the position of the dredge. Differential Global Positioning System (DGPS), or equivalent, shall be used to maintain precise positioning of the dredge. The horizontal positioning equipment shall be installed on the dredge so as to monitor, as closely as possible the actual location of the dredge.



equipment. The excavation device depths shall be corrected for tide elevation and referenced to NVGD. Positioning of the excavation device will be measured to accuracies within +/- 10 feet horizontal and +/- 1.0 feet vertical. The vertical positioning of +/- 1.0 feet is required to account for sea condition variability, especially when dealing with hopper dredge equipment. Whenever dredging operations are underway, the location of the dredge shall be continuously monitored and its position within the authorized channel shall be recorded in State Plane Coordinates at intervals not to exceed five (5) minutes. No dredging shall take place outside of the authorized dredging limits (horizontal and vertical limits) as shown on the drawings. The contractor shall provide a daily record of the position of the dredge equipment which includes the dredge area limits with actual and maximum authorized dredge depth.

**C. Beach Inspections** - The Corps' Quality Assurance Representative (QAR), Area Engineer/Contracting Officer Representative (AE/COR) and/or Contractor will visually examine the beach at a minimum of once every four hours during construction with the specific intent of assessing whether in fact the sand placed on the beach is acceptable.

**D. Contingency Plan** - Contractor will be responsible for establishing such control as may be necessary to insure that the allowable excavation depths and spatial limits are not exceeded. If the Contractor encounters unacceptable materials during dredging, the Contractor will immediately cease dredging, relocate the dredge into acceptable material, and notify the USACE verbally, providing the time, location, and source of the unsatisfactory material. The Contractor will also report any encounters with trash, rock, rubble, silt, or debris in the QC Report, providing location in State Plane Coordinates of the area of said materials. The Contractor in cooperation with the USACE will use the dredge positioning records, plans, and geotech descriptions to determine where the Contractor may dredge to avoid additional placement of unacceptable materials on the beach. The Contractor will adjust the construction operation to avoid additional placement of the unacceptable material on the beach to the greatest extent practicable.

Particular attention will be directed toward the area being dredged near the boundary between Segments A and B (near station 132+00) which is the break between ODMS disposal and beach disposal. Although this area is not believed to contain unsuitable beach material, some uncertainty does exist because of the core spacing near the boundary resulting in a potential risk of placing unsuitable material on the beach. Should the dredge encounter unacceptable material in this location, the Contractor will immediately cease dredging, relocate the dredge into acceptable material, and follow the protocol described above. A decision will be made as to whether the material is suitable for placement in the nearshore site. If so, the nearshore site will be used for this material. If it is considered unsuitable, the material in this area will be avoided.

**E. Outcome and Action** - For minor quantities confirmed to be non-compliant, the Mobile District may place the material adjacent to the beach below mean low water within the designated limits of the dredged material placement site. For significant quantities of non-compliant material, the Mobile District--at their discretion, shall take one or more of the following actions to remove the non-compliant material: 1) under the ongoing contract, place the material adjacent to the beach below mean low water or at an offsite location or 2) terminate the ongoing contract. Any occurrence of non-compliance material being encountered shall be

recorded in the Daily Report of Operations. Information recorded shall include the GPS location of the dredge area that yielded the material and locations on the beach where the material was placed, then removed. To document material characteristics prior to removal, representative berm samples may be collected by the Corps according to the same sampling, analytical, and reporting protocol described in the Post-Construction Compliance Section of this document. DEP BBCS shall be furnished with this sediment information as well as be notified of all significant occurrences and actions taken as soon as practicable.

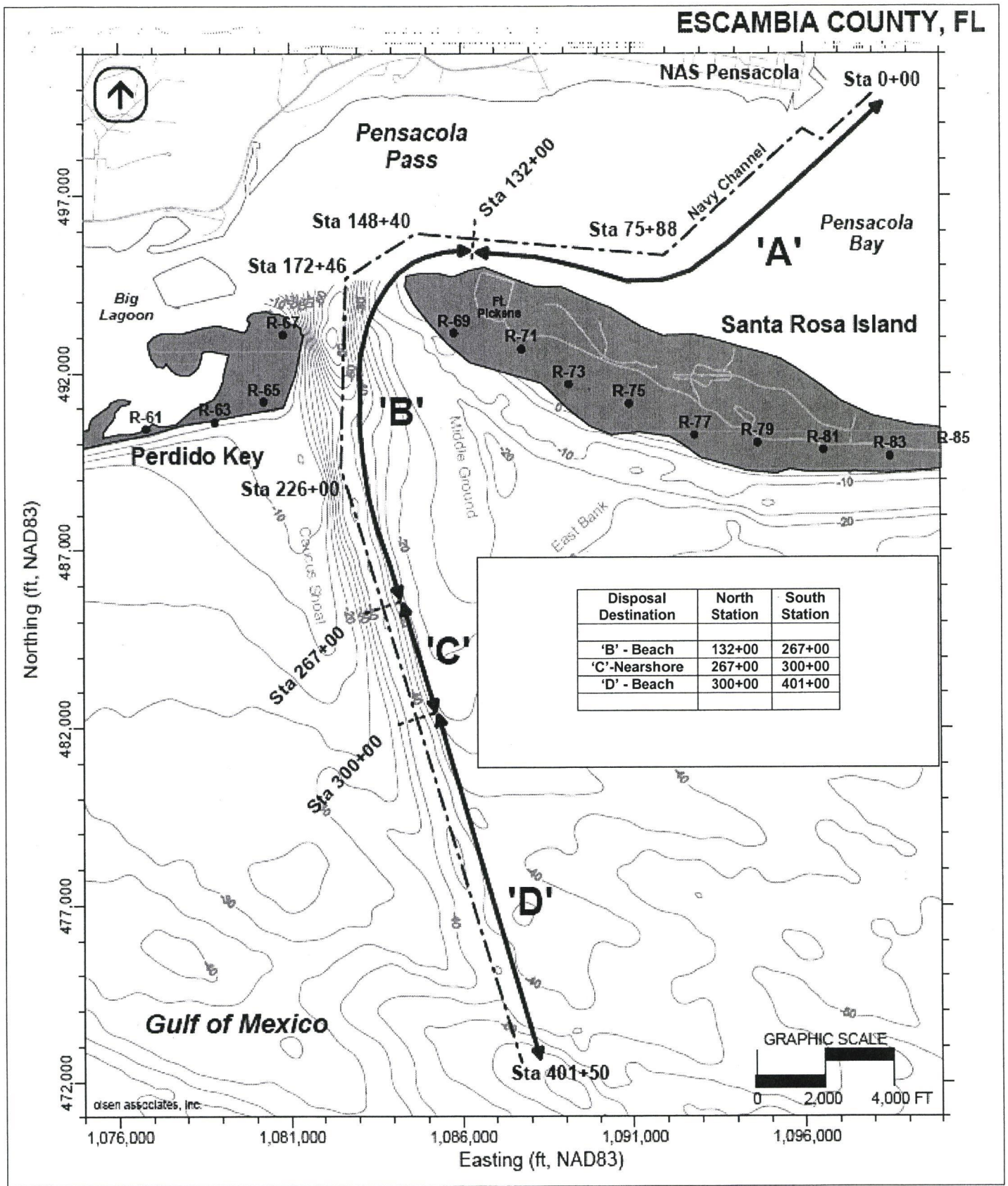


Figure 1. Locations of the channel segments (B,C,& D) to be dredged

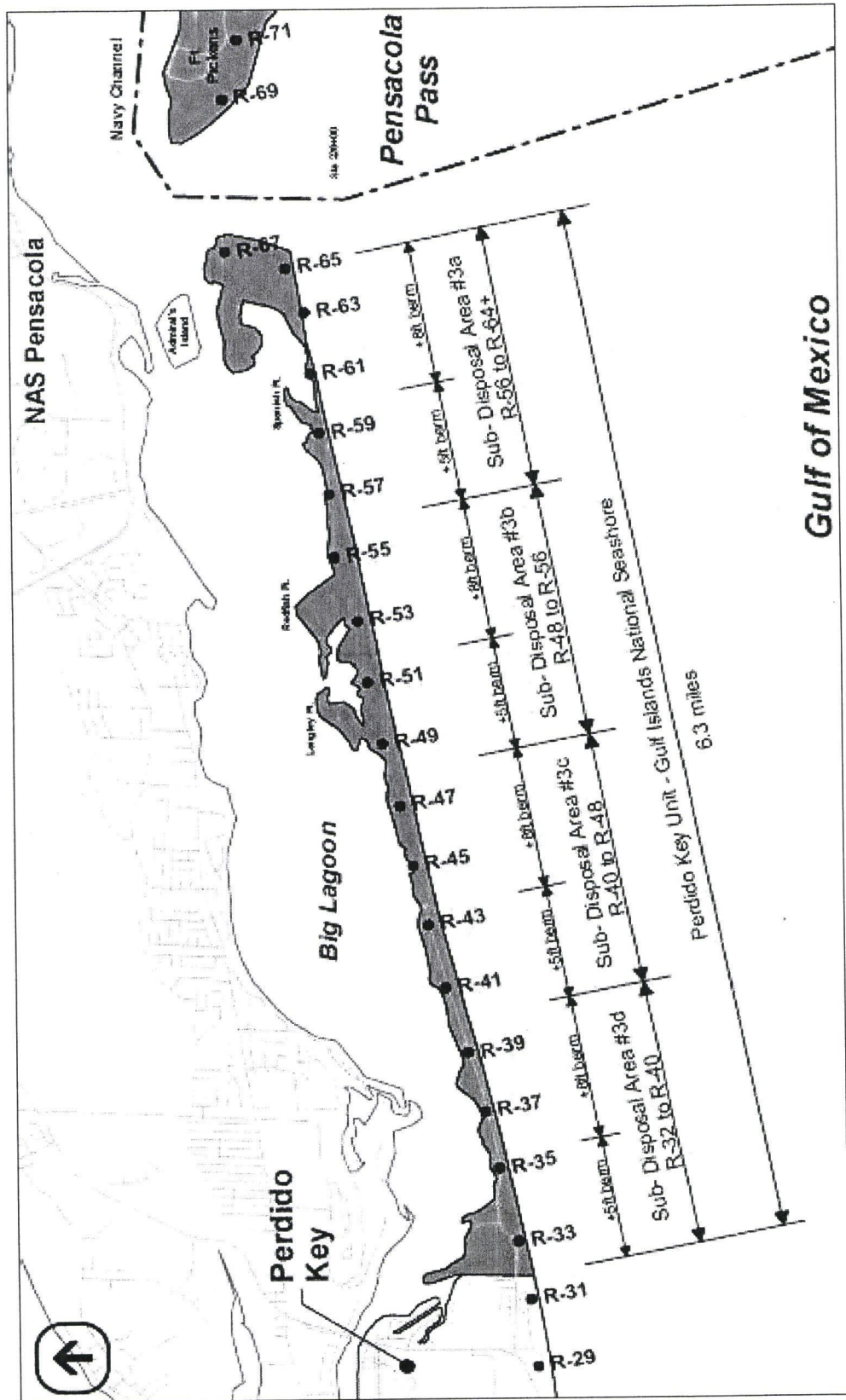


Figure 2. Perdido Key Sub-Disposal Areas

## **V. FDEP Sand Rule - Post-Construction Compliance**

**A. Sampling Methodology** - Within 60 days of project completion, sand rule compliance sampling shall be conducted by the Corps within the area that material was placed during the dredge event. One subsurface sample of fill shall be collected from mid-berm within the placement area at approximately 1,000' intervals (sample locations will be recorded in field notes).

**B. Laboratory Analyses** - Each sample will be characterized as to sand-type, moist color (Munsell), grain size distribution (sand grain frequency, median grain size, mean grain size, sorting coefficient), % shell, % fines (passing the #230 sieve), % fine gravel (retained on the #4 sieve), % coarse gravel, cobbles or material (retained on the 3/4 inch sieve). Sample granulometrics shall be quantified by performing a gradation analysis using nested mechanical sieves based upon ASTM D 422. Required sieve sizes shall include a sieve set consisting of 1/2 phi sieves ranging from -2 phi to 4 phi, including 3/4", 3/8", and #230 sieves as required by the Sand Rule. Means and standard deviations (sorting values) will be calculated using the moment method.

**C. Recording and Reporting Results** - The results of each sample analysis shall be submitted as follows: (a) a tabular summary of % shell, % fines, % fine gravel, % coarse gravel, % cobbles or other material (retained on the 3/4 inch sieve), Munsell color (moist sample), and presence of construction debris or other foreign matter; (b) grain-size cumulative frequency distribution curve (a.k.a. gradation curve), and (c) tabular summary of nested sieve sample granulometrics including mean grain size, median grain size, and sorting expressed as a numeric and verbal value. The sample submittal date to the laboratory shall be recorded by the laboratory on all reporting documents.

**D. Outcome and Action** - As verification of compliance with the Sand Rule, the information generated from the examination of the post-construction sediment analytical data for each incremental beach placement action shall be submitted to DEP within 90 days of completion. Such information will be included in future sediment QA/QC plans for this project.

**FDEP "Sand Rule"**  
**F.A.C. 62B-41.007**  
**Design, Siting and Other Requirements**

(j) To protect the environmental functions of Florida's beaches, only beach compatible fill shall be placed on the beach or in any associated dune system. Beach compatible fill is material that maintains the general character and functionality of the material occurring on the beach and in the adjacent dune and coastal system. Such material shall be predominately of carbonate, quartz or similar material with a particle size distribution ranging between 0.062mm (4.0  $\phi$ ) and 4.76mm (-2.25  $\phi$ ) (classified as sand by either the Unified Soils or the Wentworth classification), shall be similar in color and grain size distribution (sand grain frequency, mean and median grain size and sorting coefficient) to the material in the existing coastal system at the disposal site and shall not contain:

1. Greater than 5 percent, by weight, silt, clay or colloids passing the #230 sieve (4.0  $\phi$ );
2. Greater than 5 percent, by weight, fine gravel retained on the #4 sieve (-2.25  $\phi$ );
3. Coarse gravel, cobbles or material retained on the 3/4 inch sieve in a percentage or size greater than found on the native beach;
4. Construction debris, toxic material or other foreign matter; and
5. Not result in cementation of the beach.

If rocks or other non-specified materials appear on the surface of the filled beach in excess of 50% of background in any 10,000 square foot area, then surface rock should be removed from those areas. These areas shall also be tested for subsurface rock percentage and remediated as required. If the natural beach exceeds any of the limiting parameters listed above, then the fill material shall not exceed the naturally occurring level for that parameter.

(k) Pursuant to subsection 62B-41.005(15), F.A.C., sandy sediment derived from the maintenance of coastal navigation channels shall be deemed suitable for beach placement with up to 10% fine material passing the #230 sieve, provided that it meets the criteria contained in (j) 2. through 5. above and water quality standards. If this material contains between 10% and 20% fine material passing the #230 sieve by weight, and it meets all other sediment and water quality standards, it shall be considered suitable for placement in the nearshore portion of the beach.



# Florida Department of Environmental Protection

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

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Mimi A. Drew  
Secretary

In the matter of a  
Petition for Variance by:

**GRANTEE:**

U.S. Army Corps of Engineers  
Mobile District Office  
c/o Curtis Flakes  
109 St. Joseph Street  
Mobile, AL 36602

**PROJECT INFORMATION:**

Variance No. 0295379-002-BV  
Date of Issue: December 9, 2010  
Expiration Date: Same as expiration date of  
Permit No. 0295379-001-JC  
County: Escambia  
Project: Lower Pensacola Harbor Maintenance  
Dredging

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## FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby gives notice to grant, to the U.S. Army Corps of Engineers (Corps), a variance from the requirements of Rules 62-110.104, Florida Administrative Code (F.A.C.), and section 403. 201(1), Florida Statutes (F.S.), for turbidity associated with the Lower Pensacola Harbor Maintenance Dredging Project in Escambia County, Florida.

On April 23, 2009, the Department received a Petition for Variance from the Corps, pursuant to Section 403.201(1), F.S., and Section 62-110.104, F.A.C. The Petitioner requested relief from Rule 62-4.244(5)(c), F.A.C., to establish a temporary mixing zone greater than 150 meters and the antidegradation provisions of Rule 62-4.242(2)(a)2.b., F.A.C., to establish a maximum allowable turbidity level above background at the edge of the expanded mixing zones. The grantee shall not exceed 3.5 Nephelometric Turbidity Units (NTUs) above background at the edge of the expanded mixing zones, which measure 1,500 meters at the dredge site and 3,000 meters downdrift of the placement site. This temporary variance shall only be valid during the construction activities authorized in Permit No. 0295379-001-JC and shall expire when the permit expires on December 9, 2020, unless the permit is modified to grant a time extension.

The associated joint coastal permit (Permit No. 0295379-001-JC) is to periodically conduct maintenance dredging of the Lower Pensacola Harbor Federal Channel, which includes Reach B (lower Pensacola Bay and Pensacola Pass) and Reaches C and D (entrance channel into Pensacola Pass). The dredging will maintain a bottom width of 500 feet at a depth of -39 feet Mean Lower Low Water (MLLW). This maximum allowed dredge depth includes a design depth of -35 feet MLLW, plus 2 feet of advanced maintenance and 2 feet of allowable overdepth. Most of the dredged material will be placed in the Perdido Key swash zone (Disposal Area #3), seaward of the +3-foot NADV88 contour, and not to exceed an elevation of +3 feet NADV88.



Some of the dredged material may also be placed just seaward of the primary sand bar system and landward of the -12-foot NADV88 contour (prior to adjustment). This latter placement area is referenced in the drawings as Nearshore Disposal Area #4.

The requested variance (File No. 0295379-002-BV) from Rule 62-4.244(5)(c), F.A.C., would temporarily establish expanded mixing zones that extend 1,500 meters downcurrent from the dredge and 3,000 meters downcurrent from the point where water discharged from the dredge pipeline (at the swash zone or nearshore placement sites) reenters the Gulf of Mexico. The requested variance from the antidegradation provisions in Rule 62-4.242(2)(a)2.b., F.A.C., would establish a maximum allowable turbidity level of 3.5 NTUs above background for work within Fort Pickens Aquatic Preserve, and Gulf Islands National Seashore, OFWs.

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

The *Consolidated Notice of Intent to Issue Joint Coastal Permit, Variance and Authorization to Use Sovereign Submerged Lands* notified the Petitioner of the Department's proposed agency action and advised it of its right to a hearing pursuant to Sections 120.569 and 120.57, F.S. On November 19, 2010, notice was given in *The Pensacola News Journal* and on November 24, 2010, notice was given in the Florida Administrative Weekly informing the public of the Department's intended action and offering an opportunity for hearing pursuant to Sections 120.569 and 120.57, F.S. A copy of the notice is attached as Exhibit A.

The Petitioner and interested parties having been advised of their rights under Chapter 120, F.S., and having failed or declined to file a Petition pursuant to Sections 120.569 and 120.57, F.S., are hereby deemed to have waived those rights. Acceptance of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof. It is therefore:

**ORDERED** by the State of Florida, Department of Environmental Protection, that the Petition of the U.S. Army Corps of Engineers requesting a variance be and is hereby granted, subject to the conditions specified by the Department in Permit No. 0295379-001-JC.

The variance shall be subject to the following conditions:

1. The variance shall be valid for a period of 180 days for dredging of segments B and D, and 60 days for dredging of segment C, and only during maintenance dredging and nearshore placement work authorized under Permit No. 0295379-001-JC.
2. The variance shall be subject to all monitoring conditions required by Permit No. 0295379-001-JC.



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

**DONE AND ORDERED** this 9<sup>th</sup> day of December, 2010, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



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

Attachment: Exhibit A (Variance Notices)

Copies furnished to:

Larry Parson, ACOE- Mobile  
Jennifer Jacobson, ACOE – Mobile  
Terry Jangula, ACOE – Mobile  
Kenneth Bradley, ACOE – Mobile  
Clyde Mathis, Port Director, Port of Pensacola (local sponsor)  
Lorna Patrick, USFWS  
Gregory K. Worley, U.S. Navy  
Capt. R. Turpin, Escambia County Environmental Dept.  
Tim Day, ECED  
Rick Clark, Chief of Science and Natural Resources, GUIIS, NPS  
Mark Nicholas, GUIIS, NPS  
Daniel Brown, GUIIS, NPS  
Robbin Trindell, FWC  
Shelley Alexander, CAMA  
Andrew Joslyn (E.A. SLERP), DEP, NW District  
Marty Seeling, BBCS  
Bob Brantly, BBCS  
Ralph Clark, BBCS  
Jennifer Koch, BBCS



Published Daily-Pensacola, Escambia County, FL.

**PROOF OF PUBLICATION**

State of Florida

County of Escambia:

Before the undersigned authority personally appeared **Claudia Wysocki** who on oath, says that she is a personal representative of the Pensacola News Journal, a daily newspaper published in Escambia County, Florida; that the attached copy of advertisement, being a legal advertisement in the matter of:

**Public Notice**

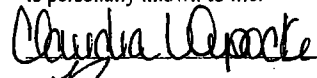

Was published in said newspaper in the issue(s) of:

November 19, 2010

\*The date shown in the ad copy is November 22, 2010, however it did run on Friday, November 19, 2010.

Affiant further says that the said Pensacola News Journal is a newspaper published in said Escambia County and Santa Rosa County, Florida, and that the said newspaper has heretofore been published in said Escambia County and Santa Rosa County, Florida, and has been entered as second class matter at the Post Office in said Escambia County and Santa Rosa County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me 22<sup>nd</sup> Day of November, 2010, by Claudia Wysocki who is personally known to me.

 Affiant  
 Notary Public

GRANT PAQUIN  
 Notary Public, State of Florida  
 My Commission Expires May 31, 2014  
 Commission No. DD996828

**PUBLIC NOTICE**

**STATE OF FLORIDA  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 CONSOLIDATED NOTICE OF INTENT TO ISSUE PERMIT, VARIANCE AND AUTHORIZATION TO USE SOVEREIGN SUBMERGED LANDS**

The Department of Environmental Protection gives notice of its intent to issue a joint coastal permit (File No. 0295379-001-JC) and grant a letter of consent to use sovereign submerged lands to the U.S. Army Corps of Engineers, Mobile District Office, 109 St. Joseph Street, Mobile, AL 36602, to periodically conduct maintenance dredging of the Lower Pensacola Harbor Federal Channel. The maintenance dredging includes Reach B (lower Pensacola Bay and Pensacola Pass) and Reaches C and D (entrance channel into Pensacola Pass). The dredging will maintain a bottom width of 500 feet at a depth of -39 feet Mean Lower Low Water (MLLW). This maximum allowed dredge depth includes a design depth of 35 feet (MLLW) plus 2 feet of advanced maintenance and 2 feet of allowable overdepth. Most of the dredged material will be placed in the Perdido Key swash zone (Disposal Area #3), seaward of the +3-foot NADV88 contour, and not to exceed an elevation of +3 feet NADV88. Some of the dredged material may also be placed just seaward of the primary sand bar system and landward of the -12-foot NADV88 contour (prior to adjustment). This latter placement area is referenced in the drawings as Nearshore Disposal Area #4.

The requested variance (File No. 0295379-002-BV) from Rule 62-4.244(5)(c), F.A.C., would temporarily establish expanded mixing zones that extend 1,500 meters downcurrent from the dredge and 3,000 meters downcurrent from the point where water discharged from the dredge pipeline (at the swash zone or nearshore placement sites) reenters the Gulf of Mexico. The requested variance from the anti-degradation provisions in Rule 62-4.242(2)(a)2.b., F.A.C., would establish a maximum allowable turbidity level of 3.6 NTUs above background for work within Fort Pickens Aquatic Preserve, and Gulf Islands National Seashore, OPWS.

The Department also gives notice of its intent to grant a variance (File No. 0295379-002-BV) from Rule 62-4.244(5)(d), Florida Administrative Code (F.A.C.), to allow a temporary mixing zone greater than 150 meters for turbidity within an area of Class III Waters of the Gulf of Mexico, and from the anti-degradation provisions of Rule 62-4.242(2)(a)2.b., F.A.C., to establish a maximum allowable turbidity level above background at the edge of the expanded mixing zone.

The project site is located Escambia County, Sections 33 and 34, Township 3 South, Ranges 30 and 31 West, Class III Waters, Fort Pickens Aquatic Preserve and Gulf Islands National Seashore, Outstanding Florida Waters.

A person whose substantial interests are affected by the Department's action may petition for an administrative hearing in accordance with sections 120.569 and 120.57, Florida Statutes (F.S.). The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

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

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

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

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 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, including an explanation of how the alleged facts relate to the specific rules or statutes; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

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

This intent to issue constitutes an order of the Department. The applicant has the right to seek judicial review of the order under section 120.68, F.S., by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; 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 application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the DEP Office of Beaches and Coastal Systems, 5050 West Tennessee Street, Building B, Tallahassee, Florida 32310-3201. The "CONSOLIDATED NOTICE OF INTENT TO ISSUE JOINT COASTAL PERMIT, VARIANCE AND AUTHORIZATION TO USE SOVEREIGN SUBMERGED LANDS" and the "DRAFT CONSOLIDATED JOINT COASTAL PERMIT VARIANCE AND INTENT TO GRANT SOVEREIGN SUBMERGED LANDS AUTHORIZATION" can be viewed at the Department's Internet Web site at: [www.dep.state.fl.us/beaches/permitting/permits.htm](http://www.dep.state.fl.us/beaches/permitting/permits.htm)

The name and address of the dealer operator(s) and principal investor(s) of Wallace J 2755 S. E. Federal Highway, LLC, are dealer operator(s): William Wallace, 3801 Southeast Highway, Stuart, Florida 34997, David L. Smith, 2755 Southeast Federal Highway, Stuart, Florida 34994, principal investor(s): William Wallace, 3801 Southeast Highway, Stuart, Florida 34997, Wallace Automotive Management Corporation, Inc., 3801 Southeast Federal Highway, Stuart, Florida 34997.

The notice indicates intent to establish the new point location in a county of less than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS #65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: P. R. Langley, Chrysler Group Carco, LLC, 10300 Boggy Creek Road, Orlando, Florida 32824.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

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#### **BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

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#### **DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

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The Department of Environmental Protection gives notice of its intent to grant a variance under Section 403.201, F.S., from the provisions of paragraph 62-4.244(5)(c), F.A.C., to the U.S. Army Corps of Engineers, Mobile District, 109 St. Joseph Street, Mobile, AL 36602; File No.: 0295379-002-BV, to allow a temporary mixing zone greater than 150 meters within the Gulf Islands National Seashore and Ft. Pickens Aquatic Preserve, OFW. The variance is in conjunction with the Corps application to maintenance dredge the lower portion of Pensacola Harbor (File No.: 0295379-001-JC). Additionally at the placement site, the Petitioner requested a variance from the antidegradation provisions in sub-subparagraph 62-4.242(2)(a)2.b., F.A.C., which would establish a maximum allowable turbidity level above background for work within OFW. Therefore, the grantee shall not exceed 3.5 Nephelometric Turbidity Units (NTUs) above background at the edge of the expanded mixing zones, which measure 1,500 meters at the dredge site and 3,000 meters downdrift of the placement site. The Petitioner also requested relief from sub-subparagraph 62-4.242(2)(a)2.b., F.A.C., to allow water quality degradation within an OFW to extend beyond a period of thirty (30) days to ninety (90) days, in order to complete the project. The Department's file on this matter is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 5050 West Tennessee Street, Building B, Tallahassee, Florida 32304-9201, (850)488-7708.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the: Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Mediation under Section 120.573 of the Florida Statutes is not available.

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

activities in accordance with this variance until the deadlines noted below for filing a petition for an administrative hearing, or request for an extension of time has expired.

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

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

In accordance with subsection 28-106.111(2) and paragraph 62-110.106(3)(a), (4), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first.

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

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

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

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.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 variance constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, Florida Statutes, by the filing of a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable

filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

#### FLORIDA STATE CLEARINGHOUSE

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

#### DEPARTMENT OF HEALTH

On November 9, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Jacqueline Renee Ayala, L.P.N., License #PN 5152462. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On November 10, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Jeffrey David St. Denis, R.N., License #RN 9252252. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On November 5, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Lorene Y. Francisco, C.N.A., License #CNA 99074. This Emergency

Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On November 9, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Adela Quintero, L.P.N., License #PN 1501312. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On November 9, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Tanya Monae Stephens, R.N., License #RN 9221738. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On November 10, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the registration of Bridgette Marie Mitchell, R.P.T., Registration #RPT 3343. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State

DESIGN AUTHENTICATION

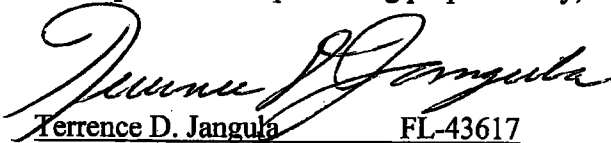
PROJECT: Pensacola Harbor Entrance Channel Maintenance Dredging and Disposal

ATTACHED PLAN SHEETS: 1-6 of 6

The attached plans were prepared by the Mobile District, U.S. Army Corps of Engineers (USACE). The initials or signatures and registrations designations of the signatory below or that appear on these project documents are within the scope of employment as required by USACE Engineering Regulation 1110-8152, PROFESSIONAL REGISTRATION, 8 Aug 1995, and are not made in the individual capacity of the signatories.

USACE employee signatures are provided in support of the "Interagency Coordination Agreement for Civil Works Projects", signed 28 Feb 2006 by the Florida Department of Environmental Protection, the USACE Jacksonville District, and USACE Mobile District.

These plans are for permitting purposes only, and are not for construction.

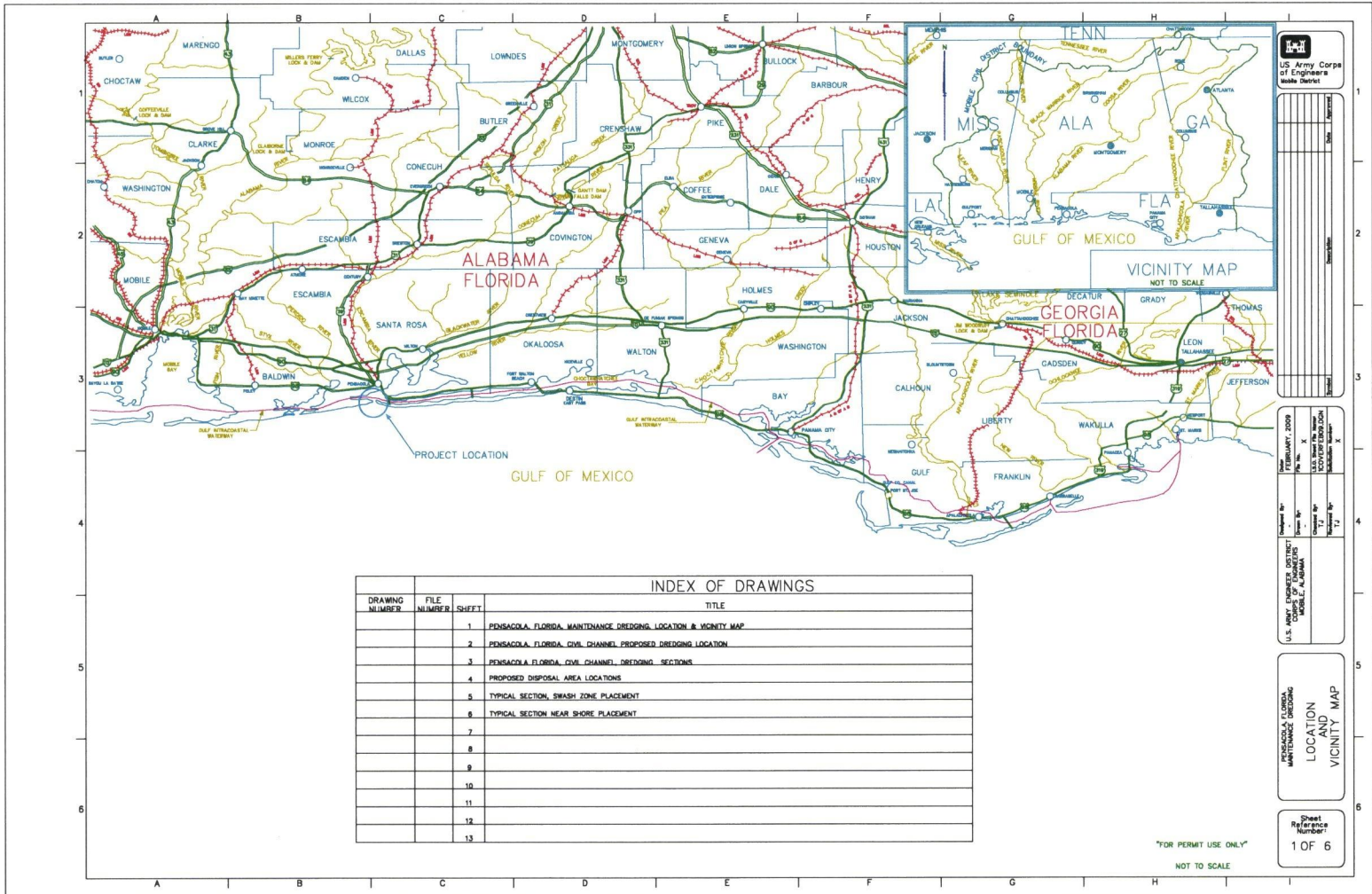


Terrence D. Jangula      FL-43617  
NAME                              P.E.#

10/19/10  
DATE

Panama City Site Manager  
TITLE

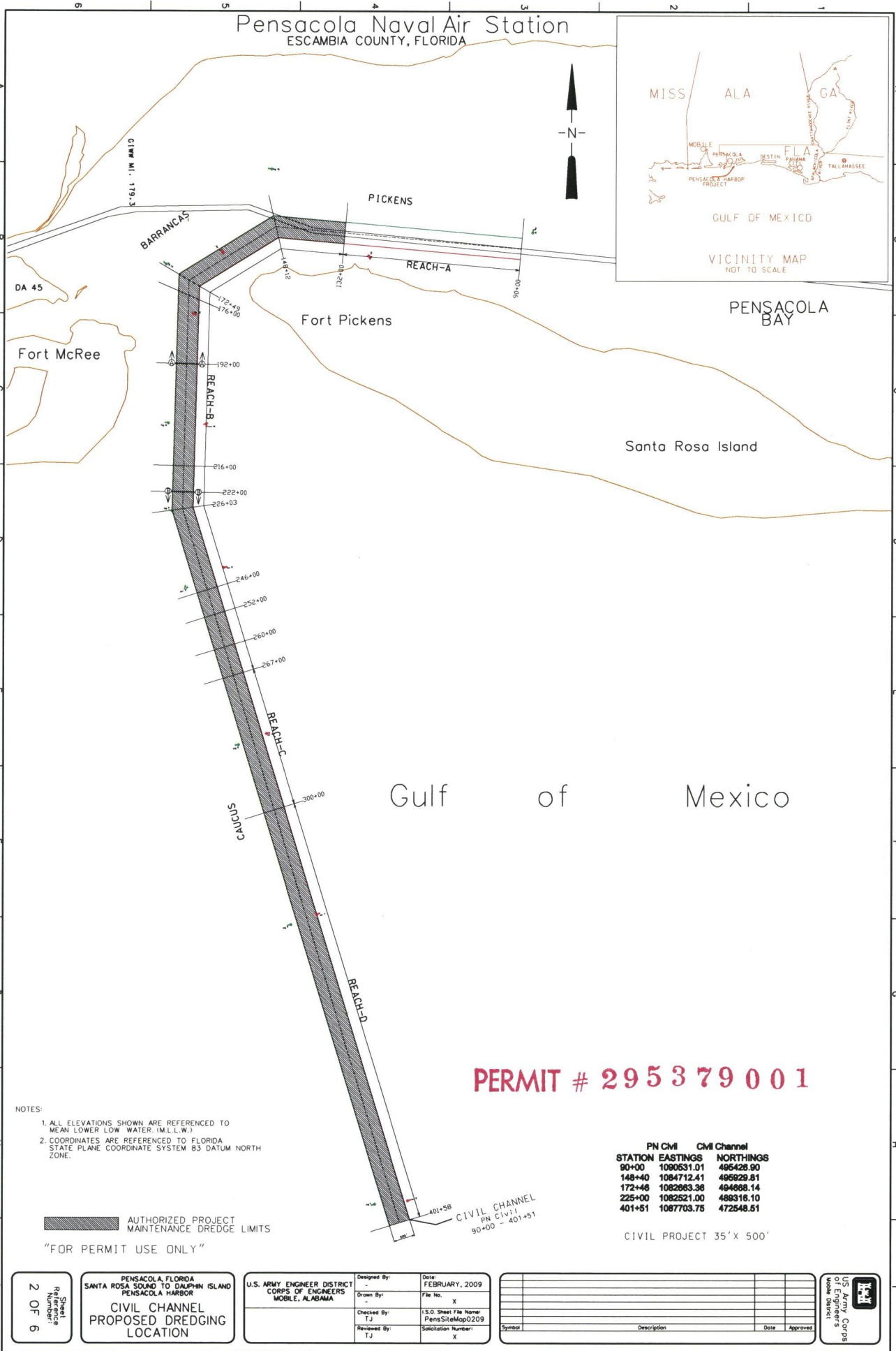
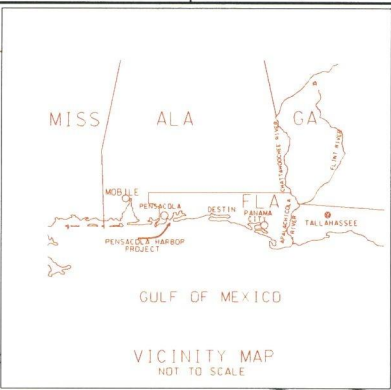
Mobile District, Panama City Site Office  
OFFICE



PERMIT # 295379001



Pensacola Naval Air Station  
 ESCAMBA COUNTY, FLORIDA



**PERMIT # 295379001**

- NOTES:
1. ALL ELEVATIONS SHOWN ARE REFERENCED TO MEAN LOWER LOW WATER (M.L.L.W.)
  2. COORDINATES ARE REFERENCED TO FLORIDA STATE PLANE COORDINATE SYSTEM 83 DATUM NORTH ZONE.

STATION	PN CIVIL EASTINGS	CIVIL CHANNEL NORTHINGS
90+00	1090631.01	495426.90
148+40	1084712.41	495929.81
172+48	1082863.38	494688.14
226+00	1082521.00	489316.10
401+51	1067703.75	472548.51

AUTHORIZED PROJECT MAINTENANCE DREDGE LIMITS  
 "FOR PERMIT USE ONLY"

CIVIL CHANNEL  
 PN CIVIL  
 90+00 - 401+51

CIVIL PROJECT 35' X 500'

Sheet Reference Number  
**2 OF 6**

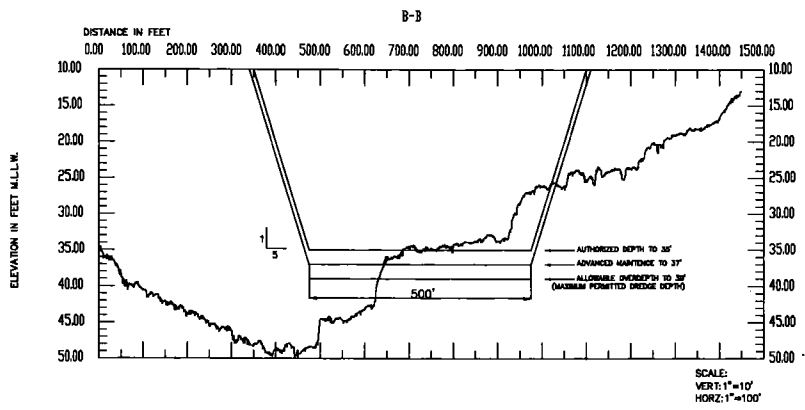
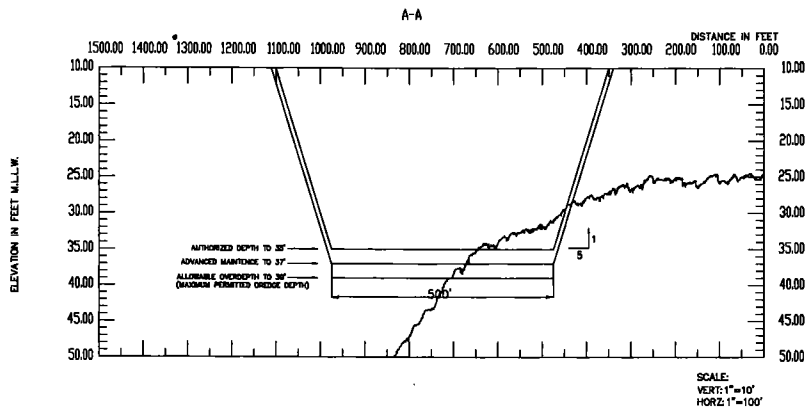
PENSACOLA, FLORIDA  
 SANTA ROSA SOUND TO DAUPHIN ISLAND  
 PENSACOLA HARBOR  
**CIVIL CHANNEL  
 PROPOSED DREDGING  
 LOCATION**

U.S. ARMY ENGINEER DISTRICT CORPS OF ENGINEERS MOBILE, ALABAMA	Designed By: - Drawn By: - Checked By: T.J. Reviewed By: T.J.	Date: FEBRUARY, 2009 File No. X I.S.O. Sheet File Name: PensSiteMap2009 Solicitation Number: X
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Symbol	Description	Date	Approved



TYPICAL CHANNEL SECTIONS (2009)

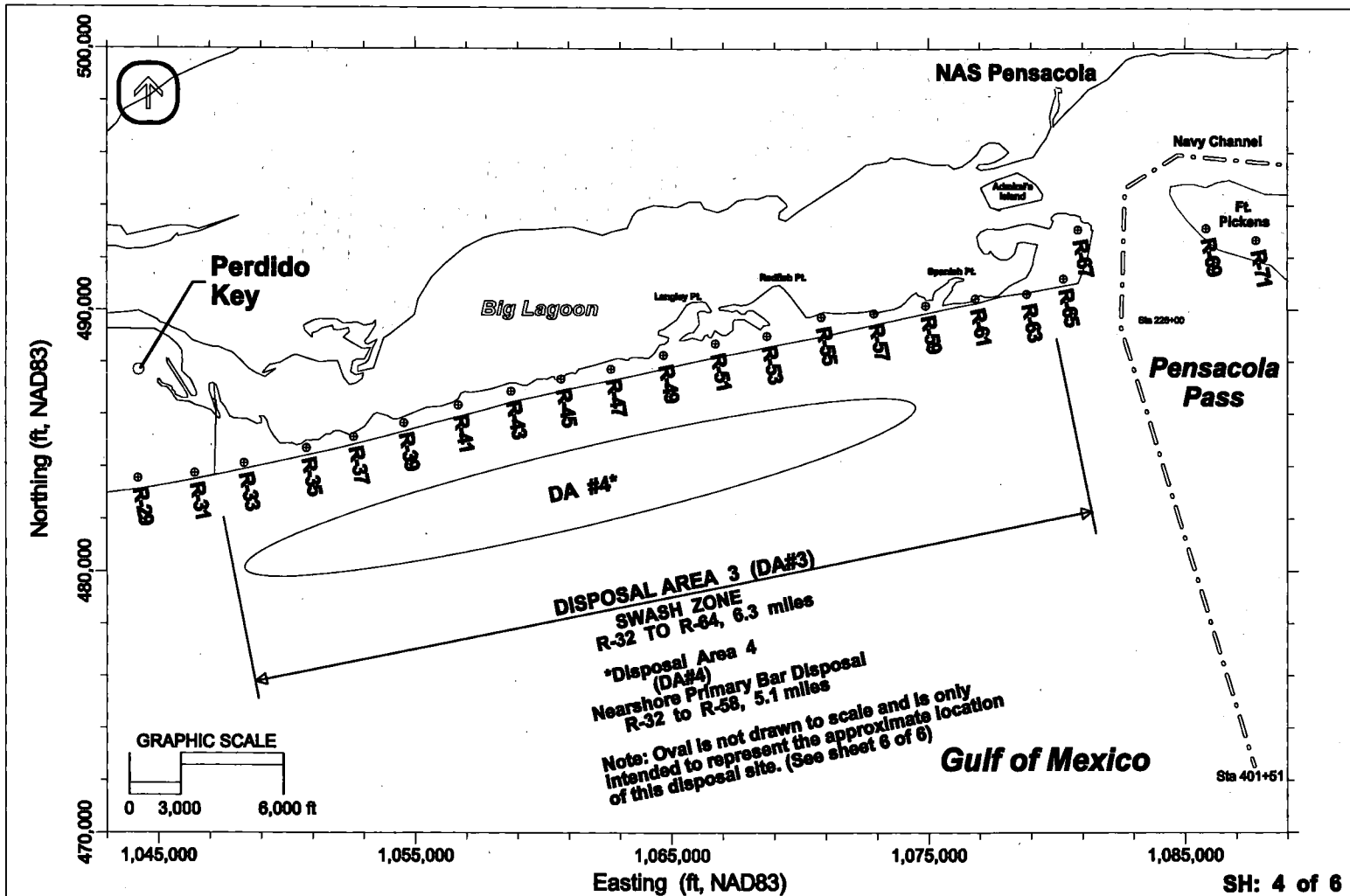


.33 MLLW = 0.0 NAVD 88  
 1.23 MLLW = MHW  
 SURVEYED: JAN. 13-15, 2009

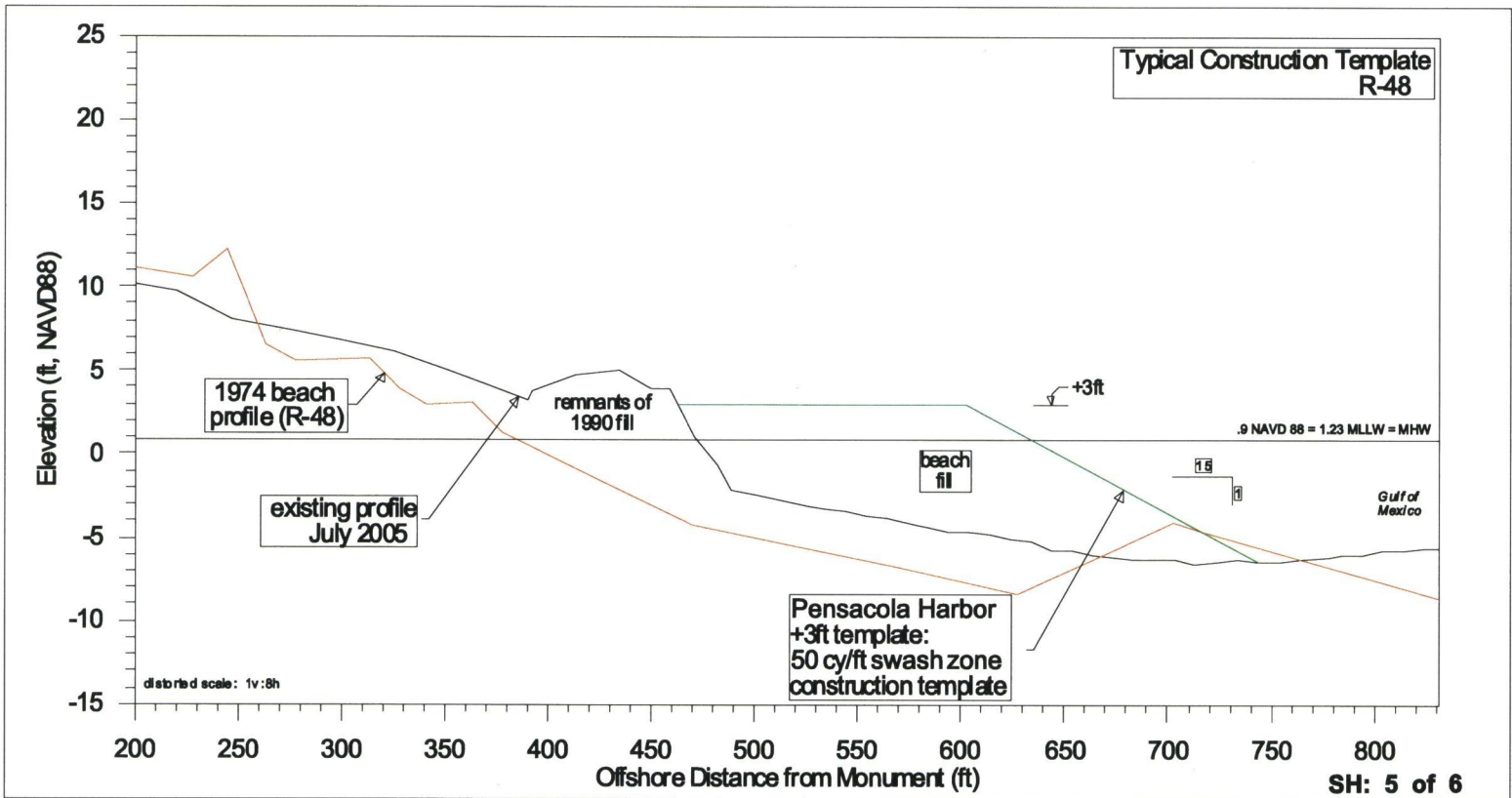
"FOR PERMIT USE ONLY"  
 NOT TO SCALE

<p>US Army Corps of Engineers                  Mobile District</p>	
Date: FEBRUARY, 2009 Drawn by: [blank] Checked by: [blank]	Project No.: [blank] Sheet No.: [blank] Revision No.: [blank]
U.S. Army Engineer District Mobile, AL 36616	
PROJECT NO. 10-00000-00-000 CIVIL CHANNEL SECTIONS	
Sheet Reference Number: 3 OF 6	

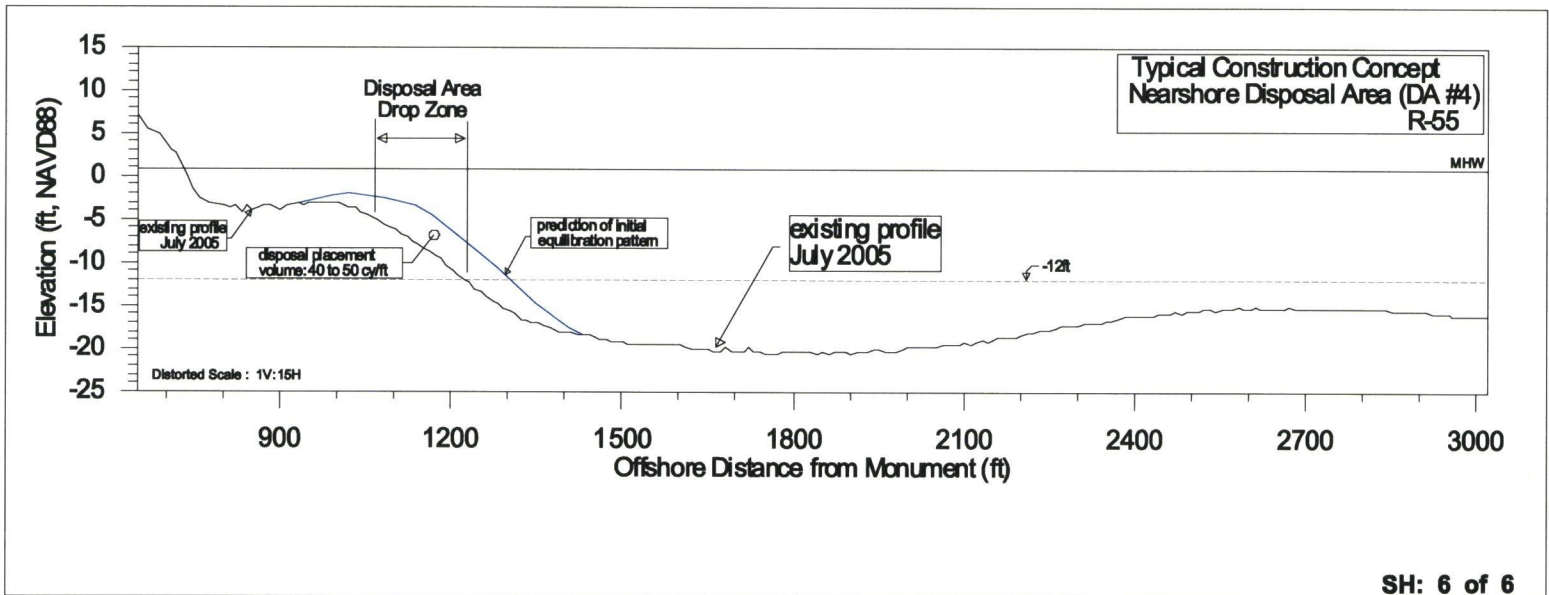
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