

DEPARTMENT OF THE ARMY PERMIT

Permittee: Escambia Board of County Commissioners
c/o: Robert Turpin
223 Palafox Place
Pensacola, Florida 32501

Permit No: SAJ-2007-04277 (SP-SWA)

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The applicant seeks the reauthorization of Nearshore East and Nearshore West artificial reef sites, to provide habitat and recreational fishing and diving opportunities. Each of the artificial reef sites are rectangular in shape and measure 1 nautical mile by 2 nautical miles. Both reef sites shall maintain a deployment buffer of 0.10 nautical mile on each side. Material to be deployed shall consist of clean concrete or rock, heavy gauge steel products $\frac{1}{4}$ inch or more in thickness, military surplus items, prefabricated structures that are a mixture of clean concrete and heavy gauge steel and chicken transport devices. A minimum authorized depth of -26 feet shall be maintained from the highest point of any deployed material to the Mean Lower Low Water (MLLW) line in both Nearshore East and Nearshore West.

Project Location: The project location is two existing artificial reef sites in the Gulf of Mexico, south of Escambia County Florida. Nearshore East is located approximately 1 nautical mile south of the southern shoreline of Santa Rosa Island, 3.65 nautical miles southeast of Pensacola Pass, 2.83 nautical miles north of the east/west safety fairway and 3.38 nautical miles east of the Pensacola Harbor Navigation Channel. Nearshore West is located approximately 2.70 nautical miles south of the southern shoreline Perdido Key, 3.42 nautical miles southwest of Pensacola Pass, 2.24 nautical miles north of the east/west safety fairway and 2.09 nautical miles west of the Pensacola Harbor Navigation Channel.

Approximate Coordinates:

Nearshore East		
Corner	Latitude	Longitude
Northeast	30.306015°	-87.201117°
Northwest	30.299652°	-87.239007°
Southeast	30.289439°	-87.199379°
Southwest	30.283156°	-87.237200°

Nearshore West		
Corner	Latitude	Longitude
Northeast	30.267724°	-87.325778°
Northwest	30.267763°	-87.364298°
Southeast	30.251004°	-87.325802°
Southwest	30.251042°	-87.364278°

Permit Conditions

General Conditions:

1. The time limit for completing the work authorized ends on **March 4, 2031**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this

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office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Reporting Addresses: The Permittee shall reference this permit number, SAJ-2007-04277, on all correspondence. Unless specifically notified to the contrary, the Permittee shall use the following addresses for transmitting correspondence to the referenced agencies:

- a. U.S. Army Corps of Engineers
415 Richard Jackson Boulevard, Suite 411
Panama City Beach, Florida 32407
or by email at: SAJ-RD-Enforcement@usace.army.mil

- b. National Oceanic and Atmospheric Administration
Marine Chart Division
Office of Coast Survey, N/CS26, Sta. 7317
1315 East-West Highway
Silver Springs, MD 20910-3282
or email at: ocs.ndb@noaa.gov

- c. Commander, U.S. Coast Guard (USCG)
8th Coast Guard District
Hale Boggs Federal Building
500 Poydras Street
New Orleans, LA 70130

d. Florida Fish and Wildlife Conservation Commission
Artificial Reef Program
620 S. Meridian Street, Box 4B2
Tallahassee, Florida 32399
or email at: artificialreefdeployments@MyFWC.com

2. Initial Agency Notification: The Permittee shall provide to the U.S. Army Corps of Engineers (Corps), National Oceanic and Atmospheric Administration (NOAA), and U.S. Coast Guard (USCG) written notification of the planned deployment start date at least 2 weeks prior to the initial deployment on the authorized artificial reef site.

3. Authorized Reef Materials: No reef materials or module will weigh less than 500 pounds. Reef materials shall be clean and free from asphalt, petroleum, other hydrocarbons and toxic residues, loose free floating material or other deleterious substances. All artificial reef materials and/or structures will be selected, designed, constructed, and deployed to create stable and durable marine habitat. The Permittee shall deploy only the following authorized reef materials:

a. Prefabricated artificial reef modules composed of ferrous and/or aluminum-alloy metals, ¼ inch or more in thickness, concrete, rock, or a combination of these materials.

b. Natural rock boulders and other pre-cast concrete material such as culverts, stormwater junction boxes, power poles, railroad ties, jersey barriers, or other similar concrete material.

c. Clean steel and concrete bridge or large building demolition materials such as slabs or pilings with all steel reinforcement rods severed as close to the concrete surface as possible but not to extend more than 6 inches to ensure the rod will not create a fishing tackle or diver ensnaring hazard.

d. Heavy gauge ferrous & aluminum alloy metal material components or structures, ¼ inch or more in thickness, such as utility poles, antenna towers and chicken transport devices.

4. Reef Construction: Reef structures, materials, and installation methods shall be designed and deployed to prevent entanglement and entrapment of listed species. Open-bottom prefabricated reef modules may not be used unless the module also has a top opening sufficiently large to allow a turtle to escape. Approved open-bottom modules include:

- a. Three-sided modules where each side of the top opening is at least 36-in in length along its edge.
- b. Four or more sided modules where each side of the top opening is at least 40-in in length along its edge.
- c. Modules with a round opening with a diameter of at least 40-in (oval openings are not allowed unless a 40-in diameter circle space can fit within the oval).
- d. Modules that are approved by the FWS Artificial Reef Program as being turtle friendly (FWS is currently working on developing this list).
- e. No open-bottom modules are allowed that include additional modules, discs, or other materials stacked or placed on or immediately adjacent to the top opening, as they may prevent turtles from easily escaping.

5. Explosives: Use of explosive to construct projects to deploy reef material are not authorized.

6. Reef Parameters: The Permittee shall deploy all reef materials within the established limits and 0.10 nautical mile deployment buffers of the Nearshore East and Nearshore West artificial reef sites, as defined on the attached permit drawings. A minimum clearance of -26 feet between the top of reef structures and the MLLW within Nearshore East and Nearshore West shall be maintained.

7. Violation of Reef Parameters Notification: In the event reef material is deployed in a location or manner contrary to the Reef Parameters Special Condition, the Permittee shall immediately notify the 8th USCG District listed in Special Condition 1 and provide information as requested by the station. The Permittee shall notify NOAA, USCG and Corps in writing within 24 hours of the occurrence. At a minimum the written notification shall explain how the deployed material exceeds the authorized reef parameters, a description of the material, a description of the vessel traffic in the area, the deployment location in nautical miles at compass bearing from obvious landmarks, the location of the unauthorized material in latitude and longitude coordinates (degree, minute, decimal minute format to the third decimal place), and the water depth above the material from MLLW. The document will list the information provided by telephone to the USCG, as noted above, and include the time of the call and the name of the USCG personnel receiving the information.

8. Protection of Existing Resources: The Permittee shall not deploy artificial reef materials until an assessment of the bottom conditions has been accomplished by diver,

submersible video camera, fathometer, depth/bottom sounder (e.g. "fish finder"), or side-scan sonar. The inspection of the deployment area may occur at the time of deployment, but no more than 1 year prior to deployment. The Permittee shall maintain a deployment buffer of at least 200 feet from any submerged beds of sea grasses, coral reefs, live bottom, areas supporting growth of sponges, sea fans, soft corals, and other sessile macroinvertebrates generally associated with rock outcrops, oyster reefs, scallop beds, clam beds, or areas where there are unique or unusual concentrations of bottom-dwelling marine organisms. Should the assessment find any evidence of cultural/archaeological resources such as sunken vessels, ballast, historic refuse piles, or careenage areas, the Permittee shall also maintain a deployment buffer of at least 200 feet from those resources.

The Permittee shall provide information obtained from the assessment to the Corps no less than 14 days prior to deployment of material on an artificial reef in conjunction with the pre-deployment notification.

9. Pre-Deployment Notification: No less than 14 days prior to deployment of material on an artificial reef, the Permittee shall transmit by electronic mail ("email") a complete and signed "Florida Artificial Reef Materials Cargo Manifest and Pre-Deployment Notification" form (Attached), to the Corps and Florida Fish and Wildlife Conservation Commission (FWC) to allow inspection of the proposed reef materials, as deemed necessary by the agencies. Inspection is allowable at the staging area. By signing the Pre-Deployment Notification the Permittee certifies all materials are free from asphalt, petroleum, other hydrocarbons and toxic residues. The Permittee shall not deploy material if notified by the Corps or FWC that the material is questionable. The material needs to be evaluated before it is released for deployment. Any material deemed unacceptable for reef material will be disposed in an approved upland disposal site.

Deployment of the material shall not occur until after the end of the 14-day inspection period. The Permittee shall ensure both a copy of this permit and the signed "Florida Artificial Reef Materials Cargo Manifest and Pre-Deployment Notification" form are maintained aboard the deployment vessel at all times during loading, transit, and deployment.

10. Post-Deployment Placement Report: No more than 30 days after deployment at the reef site, the Permittee shall transmit by email to the Corps, FWC, and NOAA a complete and signed "Florida Artificial Reef Materials Placement Report and Post-Deployment Notification" form (Attached). Please note, the Corps requires the latitude and longitude to be accurate within 5 meters horizontal distance on the post-deployment report. Upon request from the Corps, the Permittee shall provide a sketch containing the approximate deployment configurations and the height of the material after

placement. Depth shall be verified utilizing fathometer, depth sounder, or similar device accurate to within 1 meter. Also, the report must include information on the condition of the material at the time of deployment. The report and drawing shall be limited to a few pages per deployment. Representative photographs and/or video, if available, should be submitted.

11. Ownership/Maintenance/Liability: By signing this permit, the Permittee certifies and acknowledges ownership of all artificial reef materials deployed on the reef, accepts responsibility for maintenance of the artificial reef, and possesses the ability to assume liability for all damages that may arise with respect to the artificial reef.

12. Assurance of Navigation and Maintenance: The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

13. Jacksonville District Programmatic Biological Opinion (JAXBO), November 2017, Project Design Criteria (PDCs): Structures authorized under this permit must comply with all applicable PDCs, based on the permitted activity, as required by JAXBO. Please note that failure to comply with the applicable PDCs, where a take of listed species occurs, would constitute an unauthorized take, and noncompliance with this permit. The NMFS is the appropriate authority to enforce the terms and conditions of JAXBO. The most current version of JAXBO can be accessed at the Jacksonville District Regulatory Division internet webpage in the Endangered Species section of the Sourcebook located at:

<http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

Note - JAXBO may be subject to revision at any time. The most recent version of these conditions must be utilized during the design and construction of the permitted work. In accordance with the Endangered Species Act, and for those projects which do not comply with JAXBO, the Corps will seek individual consultation with the NMFS.

Note - some authorized activities may deviate from the PDCs. In cases, where the activity (i.e., structure dimensions, length, etc.) deviates from the PDCs, the permit drawings shall supersede the PDCs.

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For each of the following authorized activities subject of this permit, the permittee shall adhere to the following PDCs, which are attached to, and made part of, this authorization/verification letter:

Activity 7 - Aquatic Habitat Enhancement: (AP.1-11; A7.13-22)

14. Daylight Hours: All activities must be completed during daylight hours.

15. Manatee Conditions: The Permittee shall comply with the attached “*Standard Manatee Conditions for In-Water Work – 2011.*”

16. Marine Life Entrapment: Neither reef structure nor material or the method of design or deployment should pose more than minimal risk of entrapping fish, marine turtles, or marine mammals. The Permittee shall take all necessary action to minimize this risk. Any observation of entrapped marine turtles or marine mammals on this artificial reef site should be reported immediately to the Corps’ Enforcement Section by telephone at 850-285-9533 and the National Marine Fisheries Service by telephone at 727-824-5301. If unable to reach staff at either number, the applicant shall immediately notify the Corps and/or NMFS by e-mail at the addresses listed in the Reporting Addresses special condition of this permit.

17. Protected Species Guidance: The Permittee shall comply with the attached “*Vessel Strike Avoidance Measures and Injured or Dead Protected Species Reporting*”, for marine turtles and marine mammals.

18. Monitoring: The Permittee shall conduct yearly monitoring on the artificial reefs deployed during the previous 12 months to verify material location and condition and compare to the location specified in the Post-Deployment Report to distinguish changes in either. The monitoring report shall be submitted to the Corps annually and include a spreadsheet representation of the site inspected and data gained with a written narrative and submitted in accordance with Special Condition 1. The Permittee is responsible for maintenance associated with the site, including the removal of entanglement hazards and other such assessments to ensure safe operation.

19. Agency Changes/Approvals: Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee’s responsibility to request a modification of this permit from the Pensacola Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.

20. Cultural Resources/Historic Properties:

a. No structure or work shall adversely affect impact or disturb properties listed in the *National Register of Historic Places* (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Section 404 of the Clean Water Act (33 U.S.C. 1344)

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

**ESCAMBIA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Robert Bender

(PERMITTEE)

Robert Bender, Chairman

(PERMITTEE NAME-PRINTED)



This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Shayne Hayes

(DISTRICT ENGINEER)

FOR

JAMES L. BOOTH
Colonel, U.S. Army
District Commander

11 September 2023
(DATE)

Approved as to form and legal sufficiency.

By: *Matthew R. Shaud*
Title: Assistant County Attorney
Date: April 23, 2021

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

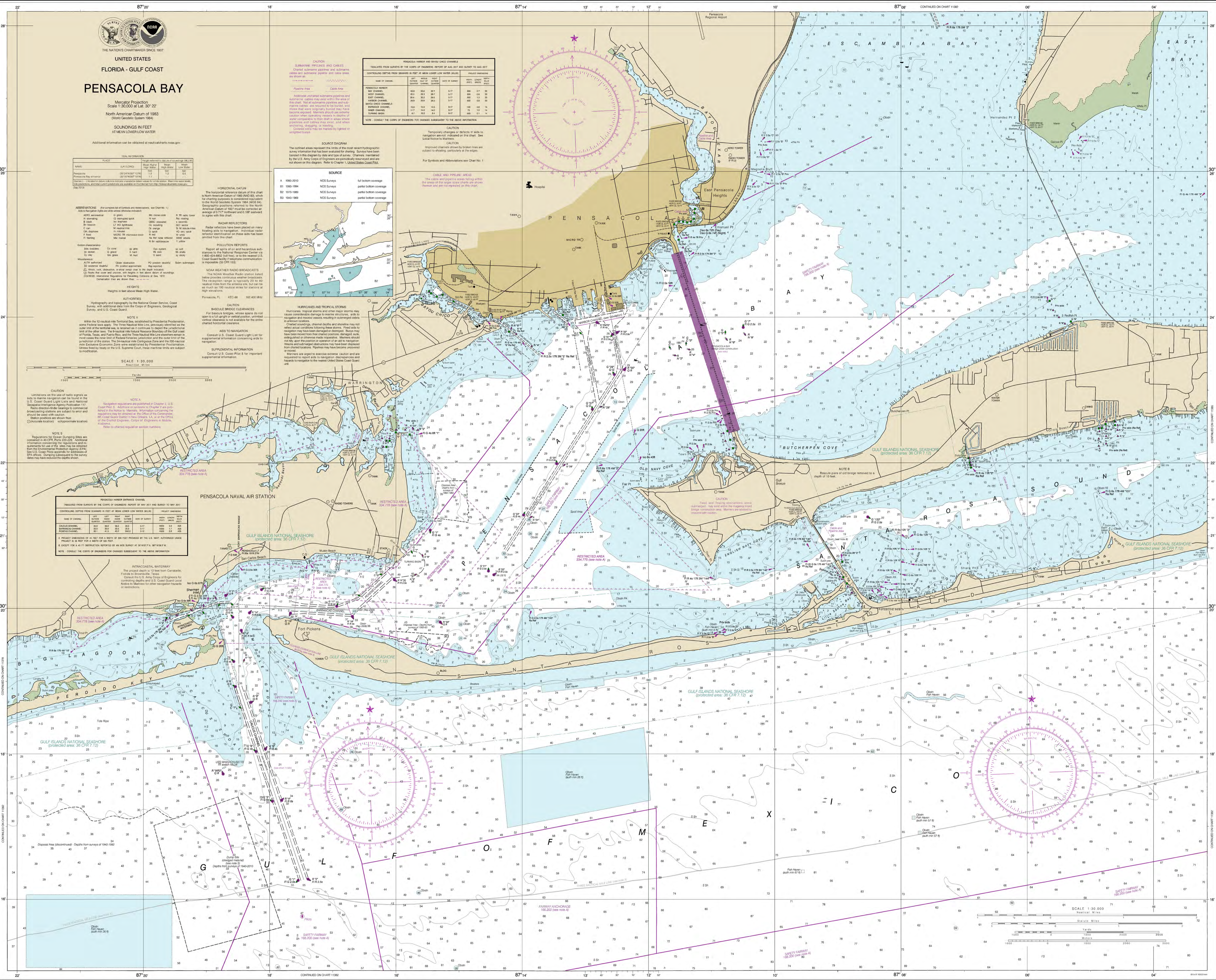
(ADDRESS)

(CITY, STATE, AND ZIP CODE)

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***Attachments to Department of the Army
Permit Number SAJ-2007-04277***

1. PERMIT DRAWINGS: Five (5) pages.
2. JAXBO PROJECT DESIGN CRITERIA (PDCs) FOR ALL ACTIVITIES, AP.1 – AP.6: One (1) page.
3. JAXBO PROJECT DESIGN CRITERIA (PDCs) FOR IN-WATER ACTIVITIES AP.7 – AP.11: Three (3) pages.
4. JAXBO PROJECT DESIGN CRITERIA (PDCs) FOR AQUATIC HABITAT ENHANCEMENT ACTIVITIES, A7.13 – A7.22: Four (4) pages.
5. MANATEE CONDITIONS: One (1) page.
6. FLORIDA ARTIFICIAL REEF MATERIALS CARGO MANIFEST AND PRE-DEPLOYMENT NOTIFICATION FORM: Two (2) pages.
7. FLORIDA ARTIFICIAL REEF MATERIALS PLACEMENT REPORT AND POST-DEPLOYMENT NOTIFICATION FORM: One (1) page.
8. VESSEL STRIKE AVOIDANCE MEASURES: Two (2) pages.
9. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 3 of this DA permit. Twenty (20) pages.



UNITED STATES
 FLORIDA - GULF COAST
PENSACOLA BAY
 Mercator Projection
 Scale 1:30,000 (Lat. 30° 22'
 North American Datum of 1983
 World Geodetic System 1984)
 SOUNDINGS IN FEET
 AT MEAN LOWER LOW WATER

Additional information can be obtained at naucharts.noaa.gov

TOTAL INFORMATION		PLACE		HEIGHT (above or below MLLW)	
NAME	CHARACTER	LATITUDE	LONGITUDE	High Water	Low Water
Pensacola Bay Entrance	Channel	30° 19' 10" N	87° 18' 10" W	11	8
Pensacola Bay Entrance	Channel	30° 19' 10" N	87° 18' 10" W	11	8

ABBREVIATIONS For complete list of symbols and abbreviations, see Chart No. 1

ADDITIONAL INFORMATION

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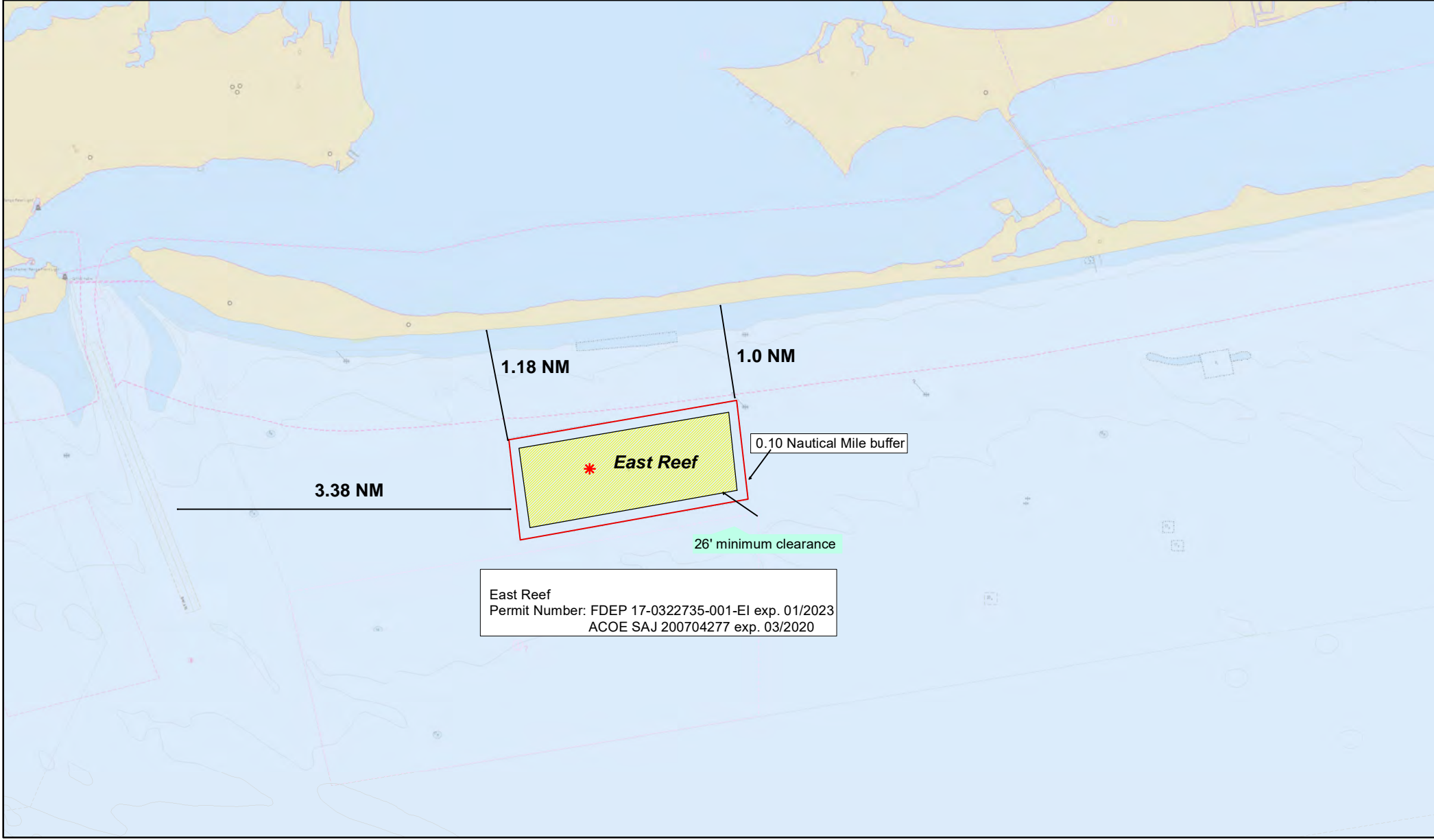
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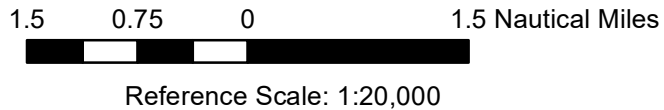
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East Nearshore Reef



East Reef
Permit Number: FDEP 17-0322735-001-EI exp. 01/2023
ACOE SAJ 200704277 exp. 03/2020

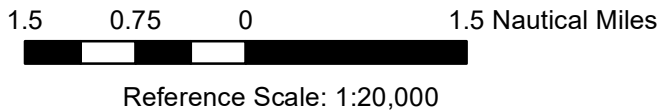
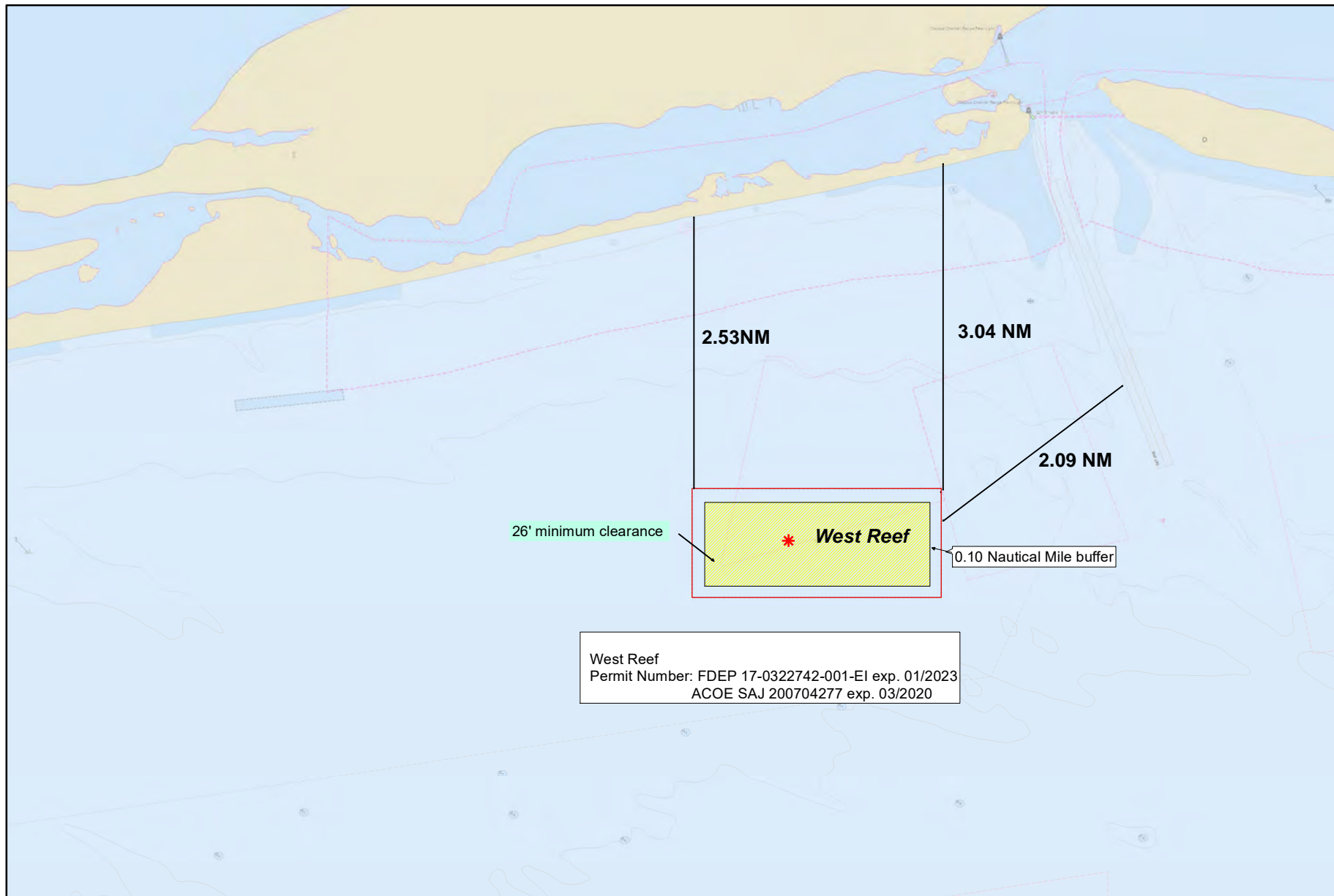


Map Source: US4FL71M
Title: Pensacola Bay and approaches
RNC: 11382 Scale: 1:80,000
Edition: 20.0 NOAA
Published: 7/12/2018

Drawn by: Heather Reed
www.ecologicalconsultingservices.com
850-417-7004 Date: March 15, 2019



West Reef Nearshore Reef

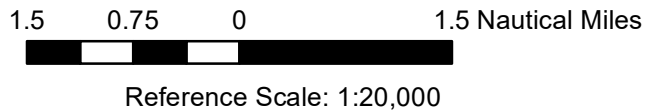
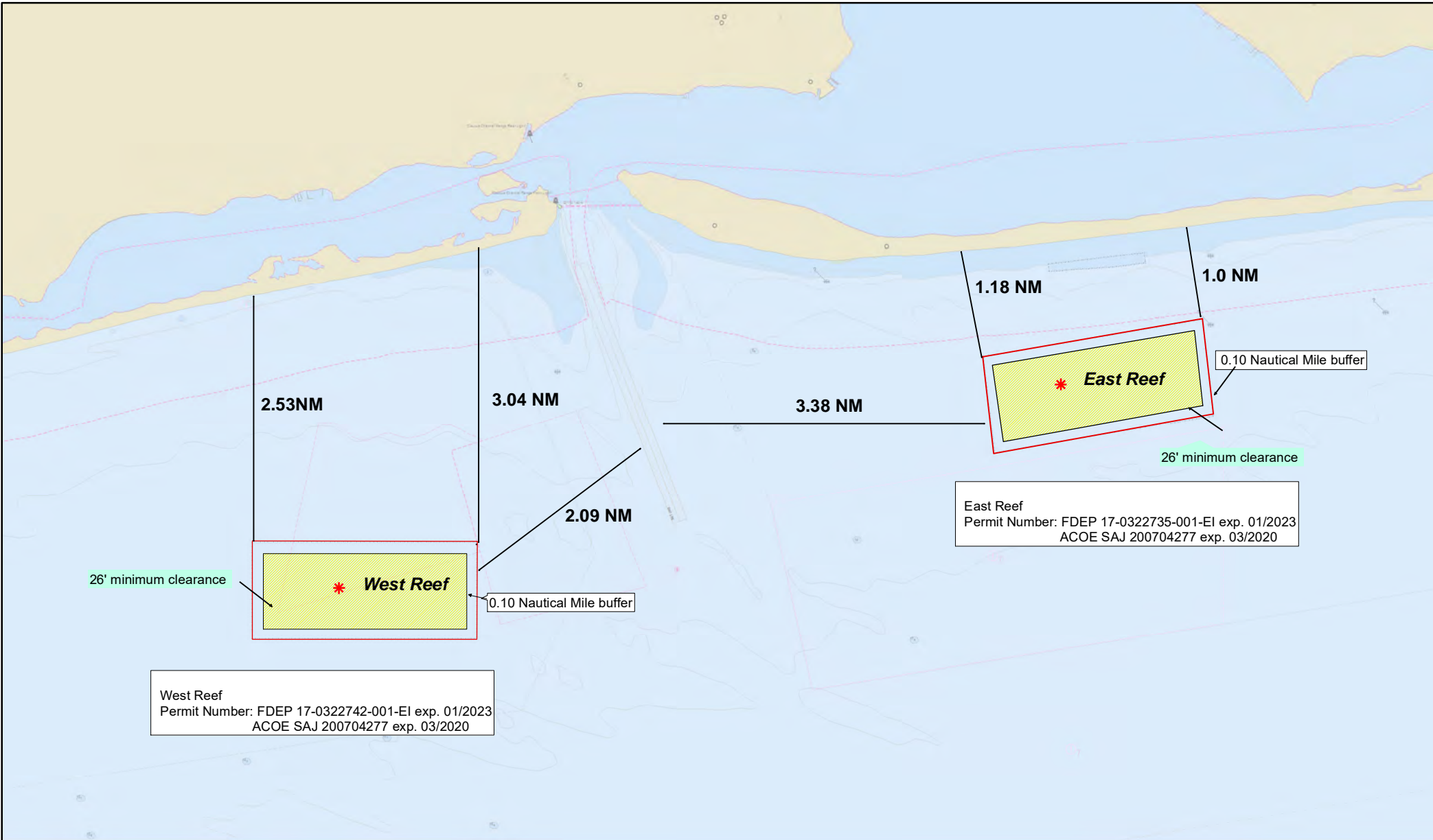


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Drawn by: Heather Reed
www.ecologicalconsultingservices.com
850-417-7004 Date: March 15, 2019



West and East Nearshore Reef



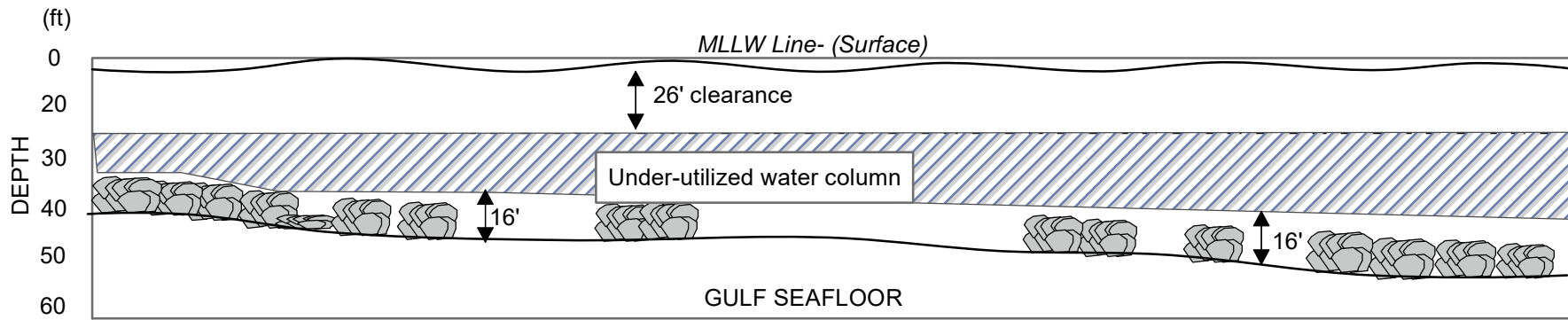
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Drawn by: Heather Reed
www.ecologicalconsultingservices.com
850-417-7004 Date: March 15, 2019

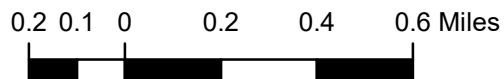
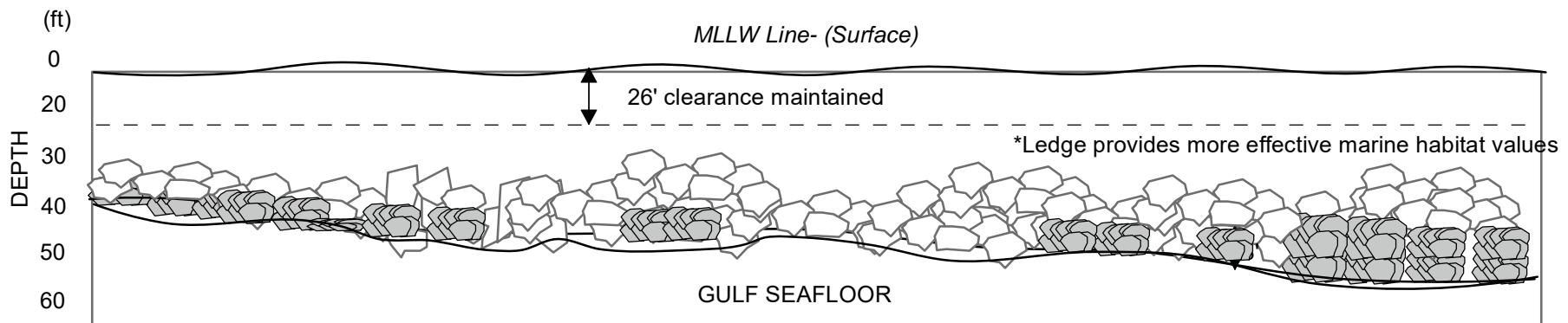


PROFILE: BEFORE AND AFTER REEF HEIGHT RESTRICTIONS ARE REMOVED

Reef height previously authorized for Nearshore East Reef



After-Reef height restriction removed at nearshore East Reef



Coordinate System: Elevation:NAVD 88

Drawn by: Heather Reed
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850-417-7004
Revision:02



Project Design Criteria (PDCs) Applicable to All Projects

NOTE - You are required to comply with the following PDCs, which serve to address requirements pursuant to Section 7, Endangered Species Act (ESA) for those listed species and designated critical habitat under purview of the National Marine Fisheries Service Protected, Resources Division. These PDCs are taken from the Programmatic Biological Opinion (PBO) referred to as JaxBO. These criteria serve to address ESA requirements only, and additional conditions may be required to address other Federal laws, including the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. Authorization under this permit is conditional upon your compliance with all applicable PDCs, which are made part of this permit. You are reminded that you must complete the attached self-certification statement of compliance following completion of the authorized work. Your statement of compliance does not obviate the need to satisfy all PDCs, including those requirements (e.g., such as structural dimensions and educational signs) that are observable post-construction, and those requirements (e.g., construction methods or procedures to be followed) that are not observable post-construction. Please note that failure to comply with the applicable PDCs of this PBO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with this permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of this PBO.

AP.1. The applicant must agree to adhere to PDCs for *In-Water Activities* (provided below).

AP.2. All projects involving the installation of piles or sheet piles shall follow the PDCs for *In-Water Noise from Pile and Sheet Pile Installation* (Section 2.2). This Opinion does not cover projects that use seismic surveys, low frequency sonar, explosions, and seismic air guns.

AP.3. All projects proposed in or near areas with mangroves, seagrasses, corals, or hard bottom habitat must refer to PDCs for *Mangroves, Seagrasses, Corals, and Hard Bottom for All Projects* (provided below) to determine whether the project is covered under the Opinion and, if it is covered, to ensure it is sited, designated, and implemented following all of the PDCs in that section.

AP.4. For every project, the USACE must determine if the project is located within:

- a) Smalltooth sawfish critical habitat limited exclusion zones (Section 2.1.1.1)
- b) Gulf sturgeon critical habitat migratory restriction zones (Section 2.1.1.2)
- c) Atlantic sturgeon critical habitat exclusion zone (St. Marys River) (Section 2.1.1.3)
- d) North Atlantic right whale educational sign zones (Section 2.1.1.4)
- e) U.S. Caribbean sea turtle critical habitat restriction zones (Section 2.1.1.5)
- f) Bryde's whale exclusion zone (Section 2.1.1.6)

Where the activity is excluded from the Opinion within a particular zone, the application must be processed under a separate consultation. Where additional restrictions apply to activities within that zone, the USACE or other authorizing entity must ensure that the project meets the requirements for that zone.

AP.5. This Opinion only covers new construction (i.e., installation, repair, replacement) and does not apply to after-the-fact consultations or enforcement actions handled by the Corps.

AP.6. All activities must be completed during daylight hours.

U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion (JaxBO) Project Design Criteria (PDCs) for In-Water Activities

November 20, 2017

- 1) **(AP.7.) Education and Observation:** The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:
http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html
- 2) **(AP.8.) Reporting** of interactions with protected species:
 - a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to takereport.nmfs@noaa.gov and SAJ-RD-Enforcement@usace.army.mil.
 - b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email Sawfish@MyFWC.com
 - c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email nmfs.ser.sturgeonnetwork@noaa.gov
 - d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
 - e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.
- 3) **(AP.9.) Vessel Traffic and Construction Equipment:** All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:
 - a) *Construction Equipment:*
 - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
 - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
 - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of

construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.

b) *All Vessels:*

- i) Sea turtles: Maintain a minimum distance of 150 ft.
- ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
- iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
- iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
- v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
- vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
- vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

- 4) **(AP.10.) Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:

- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
- c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
- d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
- e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm

Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):

- i) Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
 - ii) The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cableline). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.
- 5) **(AP.11.) Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.
- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
 - b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

Project Design Criteria (PDCs) Specific to Activity 7 for Aquatic Habitat Enhancement, Establishment, and Restoration Activities

A7.1. Only native plant species can be planted.

Additional Conditions for living shoreline and oyster habitat on unvegetated bottom in tidal waters:

A7.2. Oyster reef materials shall be placed and constructed in a manner that ensures that materials will remain stable and that prevents movement of materials to surrounding areas (e.g., oysters will be contained in bags or attached to mats and loose cultch must be surrounded by contained bagged oysters or another stabilizing feature).

A7.3. Oyster reef materials must be placed in designated locations only (i.e., the materials shall not be indiscriminately or randomly dumped or allowed to spread outside of the reef structure).

A7.4. Living shorelines can only be constructed in unvegetated, nearshore water along shorelines to create tidal marshes or mangrove habitat for the purpose of shoreline erosion control or aquatic habitat enhancement. Native plants can be placed along the shoreline or between the shoreline and the living shoreline structure.

A7.5. Living shoreline structures and permanent wave attenuation structures can only be constructed out of the following materials: oyster breakwaters (described above in the project description and A7.2), clean limestone boulders or stone (sometimes contained in metal baskets or cages to contain the material), small mangrove islands, biologs, coir, rock sills, and pre-fabricated structures made of concrete and rebar that are designed in a manner so that they do not trap sea turtles, smalltooth sawfish, or sturgeon. Reef balls or similar structures that are not open on the bottom, open-bottom structures with a top opening of at least 4 ft, and reef discs stacked on a pile are pre-fabricated structures are designed in a manner so that they do not trap sea turtles. Other materials may be used for living shorelines if pre-approved by NMFS to ensure that they are stable and not an entanglement risk to listed species. The approval process to use other materials is described in the Section 2.3 (Project-Specific Review).

A7.6. Both living shoreline and oyster reefs must have 5 ft gaps at least every 75 ft in length, as measured parallel to the shoreline and at the sea floor, to allow for tidal flushing and species movement.

Additional Conditions for the establishment or restoration of submerged aquatic vegetation:

A7.7. The placement of loose or bagged sediment suitable for the project site in blowholes/dredge holes or in prop scars, and berm redistribution or sod replacement in excavations, must be to an elevation level with or otherwise consistent with the adjacent area.

- A7.8.** This Opinion covers leveling submerged spoil piles or berms if necessary to level the restoration area to match the elevation of adjacent seagrass beds.
- A7.9.** Exclusion cages may be used around seagrass restoration areas if necessary to allow the seagrass beds to establish themselves to the point where they are sustainable after the cages are removed. Exclusion cages can only be used on a temporary basis, for a period not to exceed 4 months. Each exclusion cage must be securely fastened to the substrate so that it does not become detached. All cages must be constructed of firm, taut materials and cannot include any loose mesh, thin twistable wire, or rope that could twist or become entangled or present an entanglement risk to species.
- A7.10.** Seagrass transplantation and harvesting from the donor site may occur only by hand. Donor sites could include (i) upland seagrass farms, (ii) areas with seagrasses that would be impacted by another project, or (iii) existing seagrass beds, as long as the seagrass is removed in a manner that is not detrimental to the existing seagrass bed. Transplantation methods may include, but are not limited to, plugging devices, manual transplant, peat pellets, peat pots, and coconut fiber mats. No in-water machinery (e.g., marsh buggies, track hoe) may be used in harvesting or transplanting the seagrasses.
The selection of and harvesting from seagrass donor sites shall be coordinated with NMFS Habitat Conservation Division. This Opinion does not cover transplantation of the invasive seagrasses (e.g., *Halophila stipulacea*).
- A7.11.** In Florida, this Opinion covers installation of stakes to attract birds, if necessary or appropriate for the project. Bird stakes should not be used in areas where additional nutrients may be detrimental to the seagrass. Bird stakes are not authorized in the U.S. Caribbean.
- A7.12.** This Opinion covers installation of signage (supported on piles or anchored) if the signs are necessary to prevent motorized boats from entering the area and anchoring. Signs must be sized and placed in a manner that prevents the loss of native seagrasses from sign shading.

Additional conditions for the installation of artificial reefs from the placement of man-made materials:

- A7.13.** Artificial reef materials shall be clean and free from asphalt, creosote, petroleum, other hydrocarbons and toxic residues, loose free-floating material, or other deleterious substances.
- A7.14.** New reef sections are limited to 1 reef section measuring ¼- by ¼-nmi area (40 ac)

in size with a distance of 500 ft between each section. Offshore reefs shall maintain a minimum vertical clearance of twice the height of the structure from the top of the deployed material relative to the MLW at all times.

A7.15. Reauthorization of existing reefs is limited to the previously permitted size.

Approved materials defined in PDC A7.19 can be added to the existing reef area.

A7.16. No artificial reef materials shall be deployed until a benthic assessment of the bottom conditions has been accomplished by diver or submersible video camera. The inspection of the deployment area may occur at the time of deployment but no more than 1 year prior to deployment. The permittee shall maintain a deployment buffer of at least 200 ft from any submerged aquatic resources, including seagrasses, macroalgae, hard or soft coral (including coral reefs), sponges, oysters, or hard bottom when placed in areas of sand. If materials are off-loaded from a barge or placed in areas that may generate turbidity (e.g., areas with fines or muck), a 500 ft buffer is required.

A7.17. This Opinion does not cover the use of mid-water fish aggregation devices.

A7.18. All reefs must be cleaned annually to remove marine debris and derelict fishing line in areas safely accessible to recreational SCUBA divers. Cleanup efforts shall follow the PDCs for Activity 9, marine debris removal, and all pertinent general PDCs.

Additional conditions for reef materials:

A7.19. Individual reef units or modules must weigh at least 500 pounds. Reef materials shall be clean and free from asphalt, petroleum, other hydrocarbons, and toxic residues, as well as loose, free-floating material, or other deleterious substances. All artificial reef materials and/or structures will be selected, designed, constructed, and deployed to create stable and durable marine habitat. Only the following reef materials may be used under this Opinion:

A7.19.1. Prefabricated artificial reef modules composed of ferrous and/or aluminum- alloy metals, concrete, rock, or a combination of these materials.

A7.19.2. Natural rock boulders and pre-cast concrete material, such as culverts, stormwater junction boxes, power poles, railroad ties, jersey barriers, or other similar concrete material.

A7.19.3. Clean steel and concrete bridge or large building demolition materials such as slabs or piles with all steel reinforcement rods cut at the base of the concrete so no rebar or metal protrudes from the concrete.

A7.20. Reef structures, materials, and installation methods shall be designed and deployed to prevent entanglement and entrapment of listed species. Open-bottom pre-fabricated reef modules may not be used unless the module also has a top opening sufficiently large to allow a turtle to escape. Approved open-bottom modules include:

A7.20.1. Three-sided modules where each side of the top opening is at least 36-in in length along its edge.

A7.20.2. Four or more sided modules where each side of the top opening is at least 40-in in length along its edge.

A7.20.3. Modules with a round opening with a diameter of at least 40-in (oval openings are not allowed unless a 40-in diameter circle space can fit within the oval).

A7.20.4. Modules that are approved by the FWS Artificial Reef Program as being turtle friendly. FWS is currently working on developing this list.

No open-bottom modules are allowed that include additional modules, discs, or other materials stacked or placed on or immediately adjacent to the top opening, as they may prevent turtles from easily escaping.

A7.21. This Opinion does not cover projects that use explosives to deploy reef material.

A7.22. If pile placement is required in the construction of a reef, such placement must comply with the PDCs for Activity 2, pile-supported structures, and all applicable general PDCs.

Fill to restore natural contours or improve water quality:

A7.23. Fill of scars or ruts caused by vessel groundings or similar activities must match the surrounding natural elevation.

A7.24. This Opinion covers fill of deep holes or canal bottoms that are determined to be hypoxic (i.e., that have critically low dissolved oxygen levels).

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK
2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. 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.
- b. 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.
- c. 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.
- d. 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.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com

EXPLANATION SHEET FOR THE ARTIFICIAL REEF MATERIALS CARGO MANIFEST FORM

The attached artificial reef cargo manifest has been developed in compliance with subsection 379.249(6)(b), Florida Statutes, which states that:

“It is unlawful for any person to: store, possess or transport on or across state waters any materials reasonably suited for artificial reef construction and stored in such a manner providing ready access for use and placement as an artificial reef, unless a valid cargo manifest issued by the commission or a commission-certified inspector is onboard the transporting vessel. The manifest will serve as authorization to use a valid permitted site or land-based staging area, which will validate that the type of artificial reef construction material being transported is permissible for use at the permitted site, and will describe and quantify the artificial reef material being transported. The manifest will also include the latitude and longitude coordinates of the proposed deployment location, the valid permit number, and the copy off the permit conditions for the permitted site. The manifest must be available for inspection by any authorized law enforcement officer or commission employee.”

This requirement for a cargo manifest became part of the statutory revision of the artificial reef program statute Section 379.249 Florida Statutes (F.S.), modified during the 2000 State of Florida Legislature. The statutory language allows a “commission certified inspector” to complete and approve the artificial reef materials cargo manifest. Therefore, we are providing the attached cargo manifest form to all local coastal government artificial reef coordinators and eligible non-profit corporations who may physically construct artificial reefs with the approval of the permit holders.

INSTRUCTIONS

A separate cargo manifest form is to be completed for each load to be transported offshore (i.e., one manifest per voyage). The manifest is to list all, and only, the reef materials onboard.

The top of the form is to be filled out by the reef builder with his/her contact information and the information about the proposed reef materials to be deployed written into the boxes. If several materials are identical but have different tag numbers, please write “SAME” in the box for the other materials. Also put “SAME” under additional coordinates if all materials are going to the same deployment site.

The shaded portion of the form at the bottom is to be filled out by the materials inspector. The cargo manifest must be completed by an entity representing the holder of the applicable artificial reef permit to assure that all materials meet the requirements of the permit.

Completion of the artificial reef materials cargo manifest is required for all construction activities.

The requirement to complete this document is not intended to be an undue burden on entities wishing to legally construct artificial reefs within permitted sites, but is a tool to assist law enforcement personnel in preventing the illegal construction of artificial reefs without the knowledge of the permit holder or in areas outside of legally permitted sites. It is intended to allow law enforcement staff to determine whether or not a load of materials is legal under the permit conditions. Without a properly completed Cargo Manifest Form on board, reef builders will be returned to port pursuant to Chapter 379.249 (6) (b). It is not necessary to send a copy of the Cargo Manifest Form to the FWC artificial reef section in Tallahassee. Documentation of the reef building activity should be maintained by the entity issuing the manifest in the event of any FWC inquiries.

Reminder: the placement of all public artificial reefs in state or adjacent federal waters requires the submittal of a Materials Placement Report to the FWC artificial reef program within 30 days of public reef deployment in accordance with s. 379.249 F.S.



FLORIDA ARTIFICIAL REEF MATERIALS PLACEMENT REPORT AND POST-DEPLOYMENT NOTIFICATION



US Army Corps
of Engineers

To Be Completed For Each Deployment Location or Date of Deployment

County or Municipality: _____

Date of Placement: _____

Grant No. FWC - _____
(if applicable)

U.S. Army Corps Permit No.: _____

Total project cost: \$ _____ (Funding Source(s) and Amount(s): FWC \$ _____ Local \$ _____ Other \$ _____)

Name of Permitted Reef Site: _____

Location Name for This Deployment: _____

Latitude: _____° _____' _____" North
Degrees minutes decimal minutes

Longitude: _____° _____' _____" West
Degrees minutes decimal minutes

GPS Brand: _____ GPS Model number: _____

Geographical Location: _____ at _____ degrees from _____
(nautical miles) (bearing) (reference inlet)

Water Depth: _____ feet (minus) Max. Material Height: _____ feet (equals) Actual Vertical Clearance: _____ feet

TYPE AND AMOUNT OF MATERIAL DEPLOYED AT THE LOCATION DESCRIBED ABOVE:

(ATTACH A PHOTOGRAPH OF THE MATERIAL ON THE BARGE IMMEDIATELY PRIOR TO DEPLOYMENT)

Primary Type of Material: _____ Number of Pieces: _____

Dimensions: _____

Secondary Type of Material: _____ Number of Pieces: _____

Dimensions: _____

How was tonnage calculated?(Check all that apply, attach additional sheets if necessary): Before & after barge draft calculation

Known weight of individual pieces

Trucking receipts

TOTAL TONNAGE FOR THIS DEPLOYMENT: _____

I DO HEREBY CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE

Observer's Name: _____
(PLEASE PRINT)

Title: _____
(PLEASE PRINT)

Observer's Signature: _____

Date: _____

Observer's Remarks: _____

I DO HEREBY CERTIFY THAT THE ABOVE INFORMATION COMPLIES WITH THE ABOVE REFERENCED PERMIT CONDITIONS

Permittee's Staff Name: _____
(PLEASE PRINT)

Title: _____
(PLEASE PRINT)

Permittee's Staff Signature: _____

Date: _____

Local Tracking number _____ FWC Tracking number _____ Entered by _____ on _____ date
FWC initials



Vessel Strike Avoidance Measures and Reporting for Mariners NOAA Fisheries Service, Southeast Region

Background

The National Marine Fisheries Service (NMFS) has determined that collisions with vessels can injure or kill protected species (e.g., endangered and threatened species, and marine mammals). The following standard measures should be implemented to reduce the risk associated with vessel strikes or disturbance of these protected species to discountable levels. NMFS should be contacted to identify any additional conservation and recovery issues of concern, and to assist in the development of measures that may be necessary.

Protected Species Identification Training

Vessel crews should use an Atlantic and Gulf of Mexico reference guide that helps identify protected species that might be encountered in U.S. waters of the Atlantic Ocean, including the Caribbean Sea, and Gulf of Mexico. Additional training should be provided regarding information and resources available regarding federal laws and regulations for protected species, ship strike information, critical habitat, migratory routes and seasonal abundance, and recent sightings of protected species.

Vessel Strike Avoidance

In order to avoid causing injury or death to marine mammals and sea turtles the following measures should be taken when consistent with safe navigation:

1. Vessel operators and crews should maintain a vigilant watch for marine mammals and sea turtles to avoid striking sighted protected species.
2. When whales are sighted, maintain a distance of 100 yards or greater between the whale and the vessel.
3. When sea turtles or small cetaceans are sighted, attempt to maintain a distance of 50 yards or greater between the animal and the vessel whenever possible.
4. When small cetaceans are sighted while a vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until the cetacean has left the area.
5. Reduce vessel speed to 10 knots or less when mother/calf pairs, groups, or large assemblages of cetaceans are observed near an underway vessel, when safety permits. A single cetacean at the surface may indicate the presence of submerged animals in the vicinity; therefore, prudent precautionary measures should always be exercised. The vessel should attempt to route around the animals, maintaining a minimum distance of 100 yards whenever possible.

6. Whales may surface in unpredictable locations or approach slowly moving vessels. When an animal is sighted in the vessel's path or in close proximity to a moving vessel and when safety permits, reduce speed and shift the engine to neutral. Do not engage the engines until the animals are clear of the area.

Additional Requirements for the North Atlantic Right Whale

1. If a sighted whale is believed to be a North Atlantic right whale, federal regulation requires a minimum distance of 500 yards be maintained from the animal (50 CFR 224.103 (c)).
2. Vessels entering North Atlantic right whale critical habitat are required to report into the Mandatory Ship Reporting System.
3. Mariners should check with various communication media for general information regarding avoiding ship strikes and specific information regarding North Atlantic right whale sighting locations. These include NOAA weather radio, U.S. Coast Guard NAVTEX broadcasts, and Notices to Mariners. Commercial mariners calling on United States ports should view the most recent version of the NOAA/USCG produced training CD entitled "A Prudent Mariner's Guide to Right Whale Protection" (contact the NMFS Southeast Region, Protected Resources Division for more information regarding the CD).
4. Injured, dead, or entangled right whales should be immediately reported to the U.S. Coast Guard via VHF Channel 16.

Injured or Dead Protected Species Reporting

Vessel crews should report sightings of any injured or dead protected species immediately, regardless of whether the injury or death is caused by your vessel.

Report marine mammals to the Southeast U.S. Stranding Hotline: 877-433-8299

Report sea turtles to the NMFS Southeast Regional Office: 727-824-5312

If the injury or death of a marine mammal was caused by a collision with your vessel, responsible parties should remain available to assist the respective salvage and stranding network as needed. NMFS' Southeast Regional Office should be immediately notified of the strike by email (takereport.nmfsser@noaa.gov) using the attached vessel strike reporting form.

For additional information, please contact the Protected Resources Division at:

NOAA Fisheries Service
Southeast Regional Office

263 13th Avenue South
St. Petersburg, FL 33701

Tel: (727) 824-5312

Visit us on the web at <http://sero.nmfs.noaa.gov>



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, Florida 32502

Rick Scott
Governor

Carlos Lopez-Canera
Lt. Governor

Noah Valenstein
Secretary

November 21, 2018

Escambia County Board of County Commissioners
% Robert Turpin
223 Palafox Place
Pensacola, Florida 32502
rkturpin@myescambia.com

Re: File No. 0322742-002-EM/17
Extension of File No. 17-0322742-001-EI

Dear Mr. Turpin:

We are in receipt of your notice to use the provisions of Section 252.363 of the Florida Statutes (F.S.) to extend the duration of the above-referenced permit, which authorized activities and works within the geographic area affected by the Governor's declaration of a state of emergency for the following events:

Opioid Epidemic, established by Executive Order 17-146, issued May 03, 2017, extended per Executive Order 17-177 issued June 29, 2017, extended per Executive Order 17-230 issued August 28, 2017, extended per Executive Order 17-285 issued October 27, 2017 and extended per the Executive Order 17-329 issued December 22, 2017 and extended per Executive Order 18-47 issued February 19, 2018 and extended per Executive Order 18-110 issued April 19, 2018 and extended per Executive Order 18-177 issued June 20, 2018 and extended per Executive Order 18-235 issued August 17, 2018 and extended per Executive Order 18-279 issued October 16, 2018. (Total of 610 days plus six months)

Hurricane Michael, established by Executive Order 18-276, issued October 07, 2018,
(Total of 60 days plus six months)

Hurricane Maria established by Executive Order 17-259, issued October 02, 2017, extended per Executive Order 17-304 issued November 28, 2017 and extended per the Executive Order 18-17 issued January 25, 2018 and extended per Executive Order 18-80 issued March 23, 2018 and extended per Executive Order 18-135 issued May 22, 2018 and extended per Executive Order 18-214 issued July 20, 2018 and extended per Executive Order 18-236 issued August 19, 2018

and extended per Executive Order 18-281 issued October 16, 2018 . (Total of 381 days plus six months)

Hurricane Florence, established by Executive Order 18-253, issued September 14, 2018. (Total of 60 days plus six months)

In accordance with the provisions of that legislation, the expiration date of the permit is changed as follows:

Current Expiration Date: **January 7, 2019**

New Expiration Date: **January 22, 2024**

All dates contained in the terms and conditions of the permit pertaining to deadlines, such as for commencing or completing construction, completing any mitigation, and submitting reports for the activity authorized by the permit are modified in recognition of, and relative to, the new expiration date. You are advised that Section 252.363, F.S. requires that, "If the permit or other authorization for a phased construction project is extended, the commencement and completion dates for any required mitigation are extended such that the mitigation activities occur in the same timeframe relative to the phase as originally permitted."

In accordance with Section 252.363, F.S., the permitted activity will continue to be governed by the rules in effect at the time the permit was issued. However, any future request to modify the permit, except where the modification lessens the environmental impact, will be governed by the rules in effect at the time of the modification.

This extension does not:

1. Alter any other terms or conditions of the permit.
2. Affect the expiration date of any associated state-owned submerged lands lease or easement that was executed for the activities authorized in the permit. It also does not change any terms or conditions contained in the lease or easement, such as deadlines for submittal of any required lease fees.
3. Affect the water quality certification determination under Section 401, Public Law 92-500, 33 U.S.C. Section 1341 made as part of the permit.
4. Affect the coastal zone consistency concurrence determination made under Florida's Coastal Zone Management Program in Section 307 of the Coastal Zone Management Act and 15 CFR 930, Subpart D originally contained in the permit.
5. Affect the expiration date of any state, federal, or local permit, license, or authorization related to this permit, specifically including any federal permit under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act of 1899.

If you have any questions regarding this matter, please contact Douglas Sprague at the letterhead address, at (850)595-0579, or at douglas.sprague@floridadep.gov .

Sincerely,



Elizabeth Mullins Orr
Assistant Director
Northwest District

EO:ds

Attachment:

DEP Permit No. 17-0322742-001-EI, 18 pages

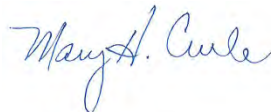
CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

DEP Office of General Counsel, agency_clerk@floridaDEP.gov
Daniel R. Brown, Gulf Islands National Seashore, daniel_r_brown@nps.gov
USACE, Stephen.W.Andrews@usace.army.mil
Department of Community Affairs, Ray.Eubanks@deo.myflorida.com
DCPPermits@deo.myflorida.com
U.S. Coast Guard, D8DPWartificialReef@uscg.mil D08-DG-District-DPWPaton@uscg.mil
Beth Fugate, DEP, Beth.l.fugate@dep.state.fl.us
Lisa Gregg, FWC, lisa.gregg@myfwc.com
Keith Mille, FWC, keith.mille@myfwc.com
Keith Johnson, Wetland Sciences, Keith@wetlandsciences.com
Heather Reed, Agent, pm@ecologicalconsultingservices.com heather_reed@juno.com

FILING AND ACKNOWLEDGMENT

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



Clerk

November 21, 2018
Date



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

160 W. GOVERNMENT STREET, SUITE 308
PENSACOLA, FLORIDA 32502-5740

RICK SCOTT
GOVERNOR
HERSCHEL T. VINYARD JR.
SECRETARY

Permittee/Authorized Entity:

Escambia County Board of County Commissioners
c/o Robert Turpin
223 Palafox Place
Pensacola, Florida, 32502

Escambia County BOCC – West Reef Site

Authorized Agent:

Keith Johnson, Wetland Sciences, Inc.
1829 Bainbridge Avenue
Pensacola, Florida, 32507

**Environmental Resource Permit
State-owned Submerged Lands Authorization – Granted**

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Escambia County
Permit No.: 17-0322742-001-EI

**Permit Issuance Date: January 7, 2014
Permit Construction Phase Expiration Date: January 7, 2019**

Consolidated Environmental Resource Permit and Sovereignty Submerged Lands Authorization

Permittee: Escambia County Board of County Commissioners
Permit No: 17-0322742-001-EI

PROJECT LOCATION

The activities authorized by this permit and sovereignty submerged lands authorization are located approximately 1.73 nautical miles from the Pensacola Harbor Navigation Channel and from 2.46 to 2.93 nautical miles south of Perdido Key, Florida within the Gulf of Mexico within the corner markers in Table 1, below.

Table 1.

Corner	Latitude (GPS)	Longitude (GPS)
NW	30° 16.065' N	87° 21.857' W
SW	30° 15.062' N	87° 21.857' W
NE	30° 16.063' N	87° 19.547' W
SE	30° 15.060' N	87° 19.548' W

PROJECT DESCRIPTION

This project is a re-authorization and expansion of a previously permitted artificial reef site [ACOE File No. SAJ-200704277 (2009) and FDEP File No. 17-0283226-001-DG (2007)]. The permittee is authorized to place a total of approximately 6336 cubic yards of new artificial reef material over approximately 0.7 acres (30,492 square feet) of area within a 1 nautical mile by 2 nautical mile (1,695.09 acres) rectangle shown on the attached drawings and described in the Specific Conditions of this permit within the Gulf of Mexico, Class III waters of the state, Outstanding Florida Waterbody and Fort Pickens State Park Aquatic Preserve. Authorized activities are depicted on the attached exhibits.

AUTHORIZATIONS

Escambia County BOCC – West Reef Site

Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S., and

Chapter 258, F.S. As staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) under Sections 253.002, F.S., the Department has determined that the activity qualifies for and requires a Letter of Consent, as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions herein. During the term of this Letter of Consent you shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), Florida Administrative Code. If such interest is terminated or the Board of Trustees determines that such interest did not exist on the date of issuance of this Letter of Consent, this Letter of Consent may be terminated by the Board of Trustees at its sole option. If the Board of Trustees terminates this Letter of Consent, you agree not to assert a claim or defense against the Board of Trustees arising out of this Letter of Consent.

Federal Authorization

A copy of this permit has been sent to the U.S. Army Corps of Engineers (USACE). The USACE may require a separate permit. Failure to obtain any required federal permits prior to construction could subject you to enforcement action by that agency.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

Coastal Zone Management

Issuance of this authorization also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

Water Quality Certification

This permit also constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this activity may be required by other federal, state, regional, or local entities including but not limited to local governments or municipalities. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

PERMIT/SOVEREIGNTY SUBMERGED LANDS CONDITIONS

The activities described must be conducted in accordance with:

- **The Specific Conditions**

- **The General Conditions**
- **The General Conditions for Sovereignty Submerged Lands Authorization**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit and sovereignty submerged lands authorization, as described.

SPECIFIC CONDITIONS

PRIOR TO ANY CONSTRUCTION

1. Pursuant to Section 379.249, Florida Statutes, the transport and deployment of all artificial reef materials off Florida require a cargo manifest. The attached “Florida Artificial Reef Materials Cargo Manifest and Pre-Deployment Notification” form must be filled out and maintained on the vessel, with the materials onboard, during transport and deployment of artificial reef materials. The completed form must be submitted to the FWC Artificial Reef Program at least 7 days prior to the anticipated deployment via email artificialreefdeployments@myfwc.com, or via fax (850) 487-4847. The form is also available online at: <http://myfwc.com/media/131594/FWCArtificialReefCargoManifest.pdf>.

CONSTRUCTION ACTIVITIES

1. The construction phase expires at 11:59 p.m. on the date indicated on the cover page of this permit.
2. For emergencies involving a serious threat to the public health, safety, welfare, or environment, the emergency telephone contact number is **800-320-0519** (State Warning Point). The Department telephone number for reporting nonthreatening problems or system malfunctions is (850) 595-0663, day or night.
3. The mailing address for submittal of forms for the “Construction Commencement Notice”, “As-Built Certification ...”, “Request for Conversion of Stormwater Management Permit Construction Phase to Operation and Maintenance Phase”, or other correspondence is FDEP, SLERP, 160 Governmental Center, Pensacola, Florida, 32502.
4. All contractors involved in this permitted activity shall be provided copies of this permit in its entirety. A copy shall remain onsite at all times during the activities.

5. If the approved permit drawings conflict with the specific conditions, then the specific conditions shall prevail.
6. This permit does not authorize any activities or the construction of any additional structures not illustrated on the permit drawings.
7. The material to be used shall be clean concrete or rock, clean, heavy gauge steel products with a thickness of ¼ inch or greater, and prefabricated structures that are a mixture of clean concrete and heavy gauge steel. Any steel rebar or other protrusions in the materials shall be trimmed or otherwise removed to be as flush with the surface of the materials as possible.
8. The material shall be free of soils, oils and greases, debris, litter, putrescible substances or other pollutants.
9. The material shall be firmly anchored to the bottom or shall be sufficiently massive to “self-anchor” when placed in sandy bottom.
10. The material shall be purposefully and accurately placed by crane, mechanized lifts, or manual deployment, and shall not be indiscriminately dumped.
11. The material shall be placed so that the top of the reef does not exceed ½ distance from the bottom to the surface of the water unless a greater distance from the surface is required for safe navigation. At no time shall the distance between the top of the reef and the surface of the water be less than 15 feet.
12. There shall be no “white goods”, such as inoperative and discarded refrigerators, freezers, ranges, water heaters, washers, and other similar domestic and commercial appliances, asphalt materials, tires, or other polluting materials used in the construction of the reef.
13. No vessels shall be used as reef material.
14. The site shall be marked with perimeter buoys during construction to ensure that no material is deposited outside of the site.
15. The permittee shall notify the National Ocean Service, National Oceanographic and Atmospheric Association, U.S. Department of Commerce, Rockville, Maryland, of the precise location of the reef within 30 days of placement of the material.
16. Pursuant to Section 379.249, Florida Statutes, the FWC is required to track all artificial reef deployments state-wide. The attached “Florida Artificial Reef Materials Placement Report and Post-Deployment Notification” form must be filled out and submitted to the FWC within 30 days of completion for each date of deployment or separate deployment location. The completed form must be submitted to the FWC Artificial Reef Program via email artificialreefdeployments@myfwc.com, via fax (850) 487-4847, or mailed to the FWC Artificial Reef Program, 620 S. Meridian Street, Box 4B2, Tallahassee, FL 32399-1600. The form is also available online at: <http://myfwc.com/media/131597/FWCArtificialReefMaterialPlacementReport.pdf>.

GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex – "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or

- b. For all other activities – “As-Built Certification and Request for Conversion to Operational Phase” [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
- a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
 - b. Within 30 days of submittal of the as- built certification, the permittee shall submit “Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity” [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
9. This permit does not:
- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
 - b. Convey to the permittee or create in the permittee any interest in real property;
 - c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
 - d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
12. The permittee shall notify the Agency in writing:
- a. Immediately if any previously submitted information is discovered to be inaccurate; and
 - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots

or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS AUTHORIZATION

Any use of sovereignty submerged lands is subject to the following general conditions are binding upon the applicant and are enforceable under Chapter 253, F.S. and Chapter 258, F.S.

1. Sovereignty submerged lands may be used only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use will constitute a violation. Violation of the authorization will result in suspension

or revocation of the applicant's use of the sovereignty submerged lands unless cured to the satisfaction of the Board of Trustees.

2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty submerged lands or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.
3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S. and Chapter 18-14, F.A.C.
4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
6. Structures or activities will not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
7. Structures or activities will not create a navigational hazard.
8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.
10. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
11. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
12. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be

terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.

13. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.
14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing 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, any email address, any facsimile number, 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.

The petition 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. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication. The failure to file a petition 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., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) 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.

Extension of Time

Under Rule 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 for filing a petition for an administrative hearing. 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.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

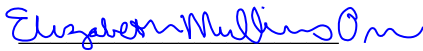
Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 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 action is filed with the Clerk of the Department.

If you have any questions about this document, please contact Jared Searcy at (850) 595-0641 or at Jared.Searcy@dep.state.fl.us.

Executed in Escambia County, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Elizabeth Mullins Orr
Program Administrator
Submerged Lands & Environmental
Resource Program

EMO/js

Attachments:

Exhibit 1, Project Drawings, 5 pages

Exhibit 2, Florida Artificial Reef Materials Cargo Manifest and Pre-Deployment Notification, 2 pages

Exhibit 3, Florida Artificial Reef Materials Placement Report and Post-Deployment Notification, 1 page

Copies of 62-330 forms can be obtained at:

<http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>

Copies furnished to:

DEP, Office of General Counsel

U.S. Army Corps of Engineers

Department of Community Affairs

Beth Fugate, Department of Environmental Protection < Beth.L.Fugate@dep.state.fl.us >

Daniel R. Brown, Gulf Islands National Seashore < Daniel_R_Brown@nps.gov >

Lisa Gregg, FWC < lisa.gregg@myfwc.com >

Keith Johnson, Wetland Sciences, Inc. < keith@wetlandsciences.com >

File

Permittee: Escambia County Board of County Commissioners

Permit No: 17-0322742-001-EI

Page **12** of **13**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit and authorization to use sovereignty submerged lands, including all copies, were mailed before the close of business on January 7, 2014, to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

<u>Brandy Bass</u>	1/7/2014
Clerk	Date



FLORIDA DEPARTMENT OF Environmental Protection

Northwest District
160 W. Government Street, Suite 308
Pensacola, Florida 32502

Rick Scott
Governor
Carlos Lopez-Canera
Lt. Governor
Noah Valenstein
Secretary

September 14, 2018

Escambia County Board of County Commissioners
C/o Robert Turpin
223 Palafox Place
Pensacola, Florida 32502
Rkturpin@myescambia.com

Project Name: East Near Shore Artificial Reef
File No.: 0322735-002-EM/17, Modification of File No.: 17-0322735-001-EI

Dear Mr. Turpin:

Your request to modify this permit has been received and reviewed by Department staff. The modifications are to remove the 8 to 16 foot reef height restriction of rubble above the sea floor, allow for new artificial reef material to be added. The entire reef will still meet the 26 foot navigational clearance requirement. This modification requires an amendment to Special Condition 11.

The above changes are not expected to adversely affect water quality and will not be contrary to the public interest provided the following permit conditions are amended to the permit as issued. The amended Specific Condition 11 is as follows:

Special Condition, Construction Activities.

11. A Navigational Clearance of 26 feet shall be maintained between the top of artificial reef material and the surface waters at Mean Low Low Water (MLLW). Should the reef material encroach into the 26 foot Navigational buffer, immediately contact the Eight Coast Guard District to deploy Private Aids to Navigation at D8oanPATON@uscg.mil or by phone (504) 671-2328 or 2330.

Since the proposed modifications with the above permit conditions are not expected to result in any adverse environmental impact or water quality degradation and are expected to be of environmental benefit, the permit is hereby modified as requested. By copy of this letter and the attached drawings, we are notifying all necessary parties of the modifications.

This letter of approval does not alter the original expiration date, January 7, 2019, Specific or General Conditions, or monitoring requirements of the permit. This letter and accompanying drawings must be attached to the original permit.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S. before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing 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.

The petition 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., 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. The failure to file a petition 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. or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) 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.

Extension of Time

Under Rule 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the deadline for filing a petition for an administrative hearing. 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.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

Judicial Review


Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S. by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, 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 must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Thank you for applying to the Submerged Lands and Environmental Resource Permit Program. If you have any questions regarding this matter, please contact Douglas Sprague at the letterhead address, at 850-595-0579, or at douglas.sprague@dep.state.fl.us.

EXECUTION AND CLERKING

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



For Kimberly R. Allen
Permitting Program Administrator

KRA:ds

Attachments:

1. Permit Drawings, 4 pages
2. Permit File No. 17-0322735-001-EI, 18 pages

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

U.S. ACOE, Stephen.W.Andrews@usace.army.mil

Department of Community Affairs, Ray.Eubanks@deo.myflorida.com

DCPPermits@deo.myflorida.com

U.S. Coast Guard, D8DPWartificialReef@uscg.mil D08-DG-District-DPWPaton@uscg.mil

Beth Fugate, DEP, Beth.l.fugate@dep.state.fl.us

Lisa Gregg, FWC, lisa.gregg@myfwc.com

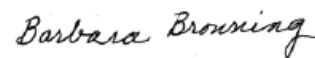
Keith Mille, FWC, keith.mille@myfwc.com

Keith Johnson, Wetland Sciences, Keith@wetlandsciences.com

Heather Reed, Agent, pm@ecologicalconsultingservices.com heather_reed@juno.com

FILING AND ACKNOWLEDGMENT

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



Clerk

September 14, 2018

Date