



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bureau of Beaches and Coastal Systems
3900 Commonwealth Blvd., Mail Station 300
Tallahassee, Florida 32399-3000
Telephone (850) 488-7708

NOTICE TO PROCEED

Permittee Name:

City of Mexico Beach
c/o Chris Hubbard, City Administrator
Post Office Box 13425
Mexico Beach, Florida 32410

Permit Number: BA-846 E

Permit Expires: September 28, 2010

You are hereby granted final authorization to proceed with the construction or activities authorized by this notice. Authorized work must conform with the project description, approved plans, and all conditions of Chapter 62B-33, Florida Administrative Code, and any preconstruction requirements, and all permit conditions.

Project Description: The applicant/permittee is authorized to construct a sand barrier to close the Mexico Beach Canal at the Gulf of Mexico. The barrier is to be constructed of beach quality sand excavated west of the canal from the sand trap authorized by Joint Coastal Permit 0290631-001-JC, and east of the canal from the beach berm created from the bypassing operation of the same permit. The emergent sand barrier is to have a crest elevation to match existing grades of the adjacent uplands, or the emergency berm constructed under Department Permit BA-845 E. When emergency conditions have abated, beach quality sand placed within the channel is to be placed within the bypass disposal area on the beach east of the canal.

Project Location: Between the Department of Environmental Protection reference monuments R-127 and R-129, in Bay County, City of Mexico Beach.

Special Instructions: The permittee shall comply with all permit conditions.

By approval of this permit, the Department does not guarantee approval of funding or reimbursement for the authorized activities.

Questions regarding this notice should be directed to the undersigned at the above address.

Rolando Gómez, Permit Manager

6/28/10
Date

RG/sc

cc: Permit File
Permit Information Center
Keith Davie, Field Inspector
Bay County Building Official

Post Conspicuously on the Site



Florida Department of Environmental Protection

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

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

June 28, 2010

City of Mexico Beach
c/o Chris Hubbard, City Administrator
Post Office Box 13425
Mexico Beach, Florida 32410

Dear Mr. Hubbard:

Permit Number: BA-846 E
Permittee Name: City of Mexico Beach

Your request for an emergency permit pursuant to Section 161.053, Florida Statutes, for construction or other activities seaward of the coastal construction control line, has been approved by the Department of Environmental Protection.

The permit will expire September 28, 2010. Upon receipt of a written request signed by the permittee or authorized agent, the Department will consider extending the permit for up to but no more than 90-days. You must apply for a new permit for completion of any work not accomplished under the original permit.

NOTICE OF RIGHTS

Pursuant to section 120.569(2)(n) of the Florida Statutes, any party substantially affected by this Order has the right to seek an injunction of this Order in circuit court or judicial review of it under section 120.68 of the Florida Statutes. Judicial review must be sought by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, Mail 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 of appeal must be filed within thirty days after this Order is filed with the Clerk of the Department.

The authorized work is strictly limited to that described on the enclosed permit. Please direct any questions pertaining to this permit to me by letter at the above address (add mail station 300), or by telephone at 850/921-7841.

Chris Hubbard, City Administrator
June 28, 2010
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Sincerely,

A handwritten signature in black ink, appearing to be 'Rolando Gomez', written over a horizontal line.

Rolando Gomez, Permit Manager
Bureau of Beaches and Coastal Systems

RG/sc

Enclosures

cc: Permit Information Center
Keith Davie, Field Inspector
Bay County Building Official



STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Water Resource Management
Bureau of Beaches and Coastal Systems
3900 Commonwealth Blvd. - Mail Station 300
Tallahassee, Florida 32399-3000
(850) 488-7708

PERMIT NUMBER: BA-846 E

PERMITTEE

City of Mexico Beach
c/o Chris Hubbard, City Administrator
Post Office Box 13425
Mexico Beach, Florida 32410

EMERGENCY PERMIT FOR CONSTRUCTION OR OTHER ACTIVITIES
PURSUANT TO DEP EMERGENCY FINAL ORDER (OGC NO. 10-1610)

FINDINGS OF FACT: On June 18, 2010, the Department issued Second Amended Emergency Final Order (OGC No. 10-1610) to prevent, contain or reduce damage to natural resources and property that may occur as a result of the Deepwater Horizon Oil Spill. An application for authorization to conduct activities seaward of the coastal construction control line for the purpose of reducing the potential impact of oil on the Mexico Beach Canal was filed by the City of Mexico Beach on June 16, 2010, and was determined to be complete June 16, 2010. Department Joint Coastal Permit 0290631-001-JC, "*Mexico Beach Inlet Canal Maintenance Dredging and Sand Bypassing Consolidation*," issued May 1, 2009, authorizes sand trap excavation and beach fill placement within the project area of the subject application.

CONCLUSIONS OF LAW: After considering the merits of the proposal, the Department finds that the project as designed is expected to prevent, contain or reduce damage to natural resources and property as a result of the Oil Spill; will result in no significant adverse impacts to the beach/dune areas or to adjacent properties; that the work is not expected to adversely impact nesting sea turtles, their hatchlings, or their habitat; that the work is expendable in nature and/or is appropriately designed in accordance with Sections 62-4.244, 62B-41.007 and 62B-33.005, Florida Administrative Code (F.A.C.); is consistent with the emergency procedures of Section 62B-33.014, F.A.C.; and that it is an activity or type of construction which the Chief of the Bureau of Beaches and Coastal Systems has authority to approve or deny pursuant to Delegation of Authority, DEP Directive 100, effective September 27, 2002. Therefore, the Bureau Chief approves the application and authorizes construction and/or activities at the location indicated below in strict accordance with the project description, the approved plans and the General Permit Conditions which are attached and are by this reference incorporated herein, and any additional special conditions shown below, pursuant to Section 161.053(5), Florida Statutes. The Permittee must also follow the conditions of the Emergency Final Order (OGC No. 10-1610). If any condition of the Emergency Final Order conflicts with a general or special emergency permit condition, then the condition of the former controls.

EXPIRATION DATE: September 28, 2010

PERMITTEE: City of Mexico Beach

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LOCATION: Between the Department of Environmental Protection reference monuments R-127 and R-129, in Bay County, City of Mexico Beach.

PROJECT DESCRIPTION: The applicant/permittee is authorized to construct a sand barrier to close the Mexico Beach Canal at the Gulf of Mexico. The barrier is to be constructed of beach quality sand excavated west of the canal from the sand trap authorized by Joint Coastal Permit 0290631-001-JC, and east of the canal from the beach berm created from the bypassing operation of the same permit. The emergent sand barrier is to have a crest elevation to match existing grades of the adjacent uplands, or the emergency berm constructed under Department Permit BA-845 E. When emergency conditions have abated, beach quality sand placed within the channel is to be placed within the bypass disposal area on the beach east of the canal.

SPECIAL PERMIT CONDITIONS:

1. If any activities authorized by this permit are to occur on property not owned or managed by the applicant/permit holder, then, with respect to such activities, the Permittee shall obtain prior written permission from the owner of such property. This permit, under no circumstances, authorizes trespass of any kind.
2. Environmental monitoring for sea turtles and shorebirds shall be required if work occurs on the beach within nesting habitat during sea turtle and shorebird nesting seasons (May 1 through October 31) as indicated in the application for this permit. All activity shall be confined to daylight hours and shall not occur prior to the completion of all necessary marine turtle and shorebird surveys and conservation activities. No heavy equipment shall access the beach nor shall construction begin each day until the following monitoring requirements (See Special Permit Conditions 3 and 4) are met.
3. It is the responsibility of the Permittee to ensure that the project construction area and all access corridors are surveyed for sea turtles as outlined below.
 - 3.1. All marine turtle nest surveys shall be conducted only by persons with prior experience and training in these activities and who is duly authorized to conduct such activities through a valid permit issued by the Florida Fish and Wildlife Conservation Commission (FWC), pursuant to Florida Administrative Code 68E-1. Please contact Barbara Eells, the Marine Turtle Permit Holder, to arrange for surveys prior to construction.
 - 3.2. All marine turtle nests in the project area must be marked with a ten-foot buffer centered at the clutch and no construction activity or movement of equipment or materials that could disturb the nest shall be conducted within or adjacent to the marked area. In the event that fill is placed seaward of a marked nest, the Permittee shall coordinate with the FWC at 1-561-262-1104 to determine the appropriate action to be taken to ensure that all hatchlings reach the water safely and timely.

- 3.3. Relocation of marine turtle nests to accommodate construction is not authorized unless otherwise approved by the U.S. Fish and Wildlife Service. In the event a marine turtle nests in the sand placed to close the canal, or within the storage or scraping areas, that nest must be marked and the sand must be left in place until the nest hatches or for 90 days, whichever is sooner.
- 3.4. In the event that a marine turtle nest is excavated during construction activities, all work shall cease in that area immediately and FWC staff shall be immediately notified at 1-561-262-1104.
- 3.5. Movement of heavy equipment on the nesting beach shall be minimized to the maximum extent practicable. Equipment and vehicle access for this project shall be provided only through the designated access sites. All equipment and materials shall be removed from the beach at night.
- 3.6. All depressions and ruts shall be removed and the beach shall be returned to the natural profile that existed prior to the project.
4. No construction activity shall occur immediately adjacent to shorebird nesting areas. All equipment will be kept as far as practicable from nests should they occur. Prior to any construction activities near these marked areas the FWC Regional Biologist shall be notified at 1-850-265-3676. All activity must avoid impacts to the nest or disturbance to the adult birds that causes them to leave the nest by avoiding any operation of heavy equipment adjacent to or past nest sites during the hottest part of the day, from 11 AM to 1 PM Central.
 - 4.1. No construction activities, movement of vehicles, or stockpiling of equipment shall be allowed within the marked nesting areas.
 - 4.2. The Permittee shall ensure that qualified bird monitors are on site providing monitoring and observation during the course of this the construction. If movement of vehicles or equipment on the beach is necessary in an area where shorebird chicks and fledglings have been observed, the vehicles shall be accompanied by the bird monitor who will insure no flightless birds are in the path of the moving vehicle and no tracks capable of trapping flightless young remain.
5. Construction activities shall avoid dune areas located approximately 1,000 feet to 2,000 feet west of the project area that provide habitat for endangered beach mice as well as the beach berm immediately adjacent to those areas.
6. Excavation of the beach berm is to be limited to the scraping or blading of sand bypass disposal material to a maximum one foot depth, and shall extend from the mean high water line to an approximate 5-foot contour or to the existing dune line, whichever is less. Impacts to existing dune vegetation are not authorized.

7. Construction access shall be limited to designated beach access routes. Designated beach access routes are existing or proposed access ways of sufficient width to allow for heavy equipment operation without damaging dune topography or vegetation. Proposed beach access routes include any access depicted on beach or dune construction permit drawings approved by the Department but not yet constructed.
8. Work authorized under this permit shall only commence in the circumstance where forecasts issued by the National Oceanic and Atmospheric Administration predict the landfall of oil sheens, oil slicks or oil mousse within 72 hours.
9. The Department grants a mixing zone for turbidity of 150 meters from the point of dredging or discharge. Beyond the limits of this mixing zone, project-related activities shall not be allowed to cause or contribute to turbidity levels greater than 29 Nephelometric Turbidity Units (NTUs) above background. In-water construction events shall be visually monitored closely to assure that turbidity levels adhere to this state water quality standard outside the mixing zone.
10. During all in-water construction activities, the Permittee shall have a person with experience in turbidity monitoring on site to visually monitor for turbidity plumes. This monitoring shall be conducted by an experienced turbidity monitor who has been approved by the Department pursuant to Permit Number 0290631-001-JC, "Mexico Beach Inlet Canal Maintenance Dredging and Sand Bypassing Consolidation." If a visible turbidity plume extends beyond a 150-meter mixing zone, the Permittee shall stop work and modify the construction methods causing the problem. Upon such an occurrence, the Permittee shall notify the Bureau of Beaches & Coastal Systems about the incident and explain how the problem was corrected. At the Department's written instruction, or at the Permittee's discretion, the Permittee shall begin collecting samples to measure turbidity levels and ensure compliance with the water quality standard for turbidity. (i.e., that the turbidity plume does not measure more than 29 NTUs above background at the edge of the standard 150-meter mixing zone).
11. Any sand contaminated with oil must be properly disposed of landward of the control line and replaced with the same volume of beach compatible sand.
12. This permit solely authorizes construction activities to close the channel on the occasion of imminent threat of oil contamination. All other activities, including dredging the channel to re-open it, are subject to additional permit requirements, including for the removal and disposal of contaminated materials and the requirements of Permit Number 0290631-001-JC, "Mexico Beach Inlet Canal Maintenance Dredging and Sand Bypassing Consolidation."
13. The activities authorized above that are located in, on, or over state-owned submerged lands are hereby granted a Letter of Consent under Rule 18-21.005(1)(c)14., F.A.C., provided: (a) The activities are conducted in accordance with the terms, conditions, and limitations of the Department's Emergency Final Order; (b) Activities authorized under this permit must be conducted in conformance with the general conditions of Rule 18-21.004(7), F.A.C.; and (c) Archaeological and historical sites are avoided.

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14. Authorization from the Department does not relieve the Permittee from the responsibility of obtaining other permits (Federal, State, or local) that may be required for the project. U.S. Army Corps of Engineers (USACE) emergency permit requests should be directed to Terry Wells at 1-850-450-6876 (cell) or 1-850-433-8866 (office). The USACE will issue their authorization directly or contact the Permittee if additional information is needed. Failure to obtain USACE authorization prior to construction could be subject to federal enforcement action by that agency.

CAVEAT:

This permit does not constitute an endorsement of any funding request for activities described herein.

Done and ordered this 28th day of June 2010, in Tallahassee, Florida.

Attachment: General Permit Conditions

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant to S120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.

Theresa P. Calves 6/28/10
Deputy Clerk Date

State of Florida
Department of Environmental Protection

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



General Permit Conditions

Rule 62B-33.0155, Florida Administrative Code

- 1 The following general permit conditions shall apply, unless waived by the Department or modified by the permit:
 - a) The permittee shall carry out the construction or activity for which the permit was granted in accordance with the plans and specifications that were approved by the Department as part of the permit. Deviations therefrom, without written approval from the Department, shall be grounds for suspension of the work and revocation of the permit pursuant to Section 120.60(7), F.S., and shall result in assessment of civil fines or issuance of an order to alter or remove the unauthorized work, or both. No other construction or activities shall be conducted. No modifications to project size, location, or structural design are authorized without prior written approval from the Department. A copy of the notice to proceed shall be conspicuously displayed at the project site. Approved plans shall be made available for inspection by a Department representative.
 - b) The permittee shall conduct the construction or activity authorized under the permit using extreme care to prevent any adverse impacts to the beach and dune system, marine turtles, their nests and habitat, or adjacent property and structures.
 - c) The permittee shall allow any duly identified and authorized member of the Department to enter upon the premises associated with the project authorized by the permit for the purpose of ascertaining compliance with the terms of the permit and with the rules of the Department until all construction or activities authorized or required in the permit have been completed and all project performance reports, certifications, or other documents are received by the Department and determined to be consistent with the permit and approved plans.
 - d) The permittee shall hold and save the State of Florida, the Department, and its officers and employees harmless from any damage, no matter how occasioned and no matter what the amount, to persons or property that might result from the construction or activity authorized under the permit and from any and all claims and judgments resulting from such damage.
 - e) The permittee shall allow the Department to use all records, notes, monitoring data, and other information relating to construction or any activity under the permit, which are submitted, for any purpose necessary except where such use is otherwise specifically forbidden by law.
 - f) Construction traffic shall not occur and building materials shall not be stored on vegetated areas seaward of the control line unless specifically authorized by the permit. If the Department determines that this requirement is not being met, positive control measures, such as temporary fencing, designated access roads, adjustment of construction sequence, or other requirements, shall be provided by the permittee at the direction of the Department. Temporary construction fencing shall not be sited within marine turtle nesting habitats.
 - g) The permittee shall not disturb existing beach and dune topography and vegetation except as expressly authorized in the permit. Before the project is considered complete, any disturbed topography or vegetation shall be restored as prescribed in the permit with suitable fill material or revegetated with appropriate beach and dune vegetation.
 - h) All fill material placed seaward of the control line shall be sand which is similar to that already existing on the site in both coloration and grain size. All such fill material shall be free of construction debris, rocks, clay, or other foreign matter; shall be obtained from a source landward of the coastal construction control line; and shall be free of coarse gravel or cobbles.
 - i) If surplus sand fill results from any approved excavation seaward of the control line, such material shall be distributed seaward of the control line on the site, as directed by the Department, unless otherwise specifically authorized by the permit.
 - j) Any native salt-tolerant vegetation destroyed during construction shall be replaced with plants of the same species or, by authorization of the Department, with other native salt-tolerant vegetation suitable for beach and dune stabilization. Unless otherwise specifically authorized by the Department, all plants installed in beach and coastal areas – whether to replace vegetation displaced, damaged, or destroyed during construction or otherwise – shall be of species indigenous to Florida beaches and dunes, such as sea oats, sea grape, saw palmetto, panic grass, saltmeadow hay cordgrass, seashore saltgrass, and railroad vine, and grown from stock indigenous to the region in which the project is located.
 - k) All topographic restoration and revegetation work is subject to approval by the Department, and the status of restoration shall be reported as part of the final certification of the actual work performed.
 - l) If not specifically authorized elsewhere in the permit, no operation, transportation, or storage of equipment or materials is authorized seaward of the dune crest or rigid coastal structure during the marine turtle nesting season. The marine turtle nesting season is May 1 through October 31 in all counties except Brevard, Indian River, St. Lucie, Martin, Palm Beach, and Broward counties where leatherback turtle nesting occurs during the period of March 1 through October 31.
 - m) If not specifically authorized elsewhere in the permit, no temporary lighting of the construction area is authorized at any time during the marine turtle nesting season and no additional permanent exterior lighting is authorized.

- n) All windows and glass doors visible from any point on the beach must be tinted to a transmittance value (light transmission from inside to outside) of 45% or less through the use of tinted glass or window film.
 - o) The permit has been issued to a specified property owner and is not valid for any other person unless formally transferred. An applicant requesting transfer of the permit shall sign two copies of the permit transfer agreement form, agreeing to comply with all terms and conditions of the permit, and return both copies to the Bureau. The transfer request shall be provided on the form entitled "Permit Transfer Agreement" – DEP Form 73-103 (Revised 1/04), which is hereby adopted and incorporated by reference. No work shall proceed under the permit until the new owner has received a copy of the transfer agreement approved by the Department. A copy of the transfer agreement shall be displayed on the construction site along with the permit. An expired permit shall not be transferred.
 - p) The permittee shall immediately inform the Bureau of any change of mailing address of the permittee and any authorized agent until all requirements of the permit are met.
 - q) For permits involving major structures or activities, the permittee shall submit to the Bureau periodic progress reports on a monthly basis beginning at the start of construction and continuing until all work has been completed. If a permit involves either new armoring or major reconstruction of existing armoring, the reports shall be certified by an engineer licensed in the State of Florida. The permittee or engineer, as appropriate, shall certify that as of the date of each report all construction has been performed in compliance with the plans and project description approved as a part of the permit and with all conditions of the permit, or shall specify any deviation from the plans, project description, or conditions of the permit. The report shall also state the percent of completion of the project and each major individual component. The reports shall be provided to the Bureau using the form entitled "Periodic Progress Report" – DEP Form 73-111 (Revised 6/04), which is hereby adopted and incorporated by reference. Permits for minor structures or activities do not require submittal of periodic reports unless required by special permit condition.
 - r) For permits involving habitable major structures, all construction on the permitted structure shall stop when the foundation pilings have been installed. At that time the foundation location form shall be submitted to and accepted by the Bureau prior to proceeding with further vertical construction above the foundation. The form shall be signed by a professional surveyor, licensed pursuant to Chapter 472, F.S., and shall be based upon such surveys performed in accordance with Chapter 472, F.S., as are necessary to determine the actual configuration and dimensioned relationship of the installed pilings to the control line. The information shall be provided to the Bureau using the form entitled "Foundation Location Certification" – DEP Form 73-114B (Revised 9/05), which is hereby adopted and incorporated by reference. Phasing of foundation certifications is acceptable. The Department shall notify the permittee of approval or rejection of the form within seven (7) working days after staff receipt of the form. All survey information upon which the form is based shall be made available to the Bureau upon request. Permits for repairs or additions to existing structures with nonconforming foundations are exempt from this condition.
 - s) For permits involving major structures, the permittee shall provide the Bureau with a report by an engineer or architect licensed in the State of Florida within thirty (30) days following completion of the work. The report shall state that all locations specified by the permit have been verified and that other construction and activities authorized by the permit have been performed in compliance with the plans and project description approved as a part of the permit and all conditions of the permit; or shall describe any deviations from the approved plans, project description, or permit conditions, and any work not performed. Such report shall not relieve the permittee of the provisions of paragraph 62B-33.0155(1)(a), F.A.C. If none of the permitted work is performed, the permittee shall inform the Bureau in writing no later than 30 days following expiration of the permit. The report shall be provided on the form entitled "Final Certification" DEP Form 73-115B (Revised 9/05), which is hereby adopted and incorporated by reference.
 - t) Authorization for construction of armoring or other rigid coastal structures is based on an engineering review and assessment of the design and anticipated performance and impact of the structure as a complete unit. Construction of any less than the complete structure as approved by the Department is not authorized and shall result in the assessment of an administrative fine and the issuance of an order to remove the partially constructed structure. Modifications to the project size, location, or structural design shall be authorized by the Department in accordance with Rule 62B-33.013, F.A.C.
- 2 The permittee shall not commence any excavation, construction, or other physical activity on or encroaching on the sovereignty land of Florida seaward of the mean high water line or, if established, the erosion control line until the permittee has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.
 - 3 The permittee shall obtain any applicable licenses or permits required by Federal, state, county, or municipal law.
 - 4 This permit does not authorize trespass onto other property.
 - 5 In the event of a conflict between a general permit condition and a special permit condition, the special permit condition shall prevail.
 - 6 Copies of any forms referenced above can be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000, or by telephoning (850) 488-7708.