

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In re:  
Declaration of Shoreline Emergency  
Made Necessary by Subtropical Storm Andrea**

**OGC NO. 07-0819**

**FIRST AMENDED EMERGENCY FINAL ORDER**

Under Section 120.569(2)(n) of the Florida Statutes and Rule Chapter 62-B33 of the Florida Administrative Code, and upon consideration of the following findings of fact, the State of Florida Department of Environmental Protection (the Department) enters this First Amended Emergency Final Order (the Order), including Findings of Fact and Conclusions of Law, in response to the imminent or immediate danger to the public health, safety, and welfare to citizens of the State of Florida resulting from the severe coastal shoreline erosion wrought by Subtropical Storm Andrea (hereinafter "the Storm").

**FINDINGS OF FACT**

1. On May 7 through 10, 2007, the Storm generated excessive wave energy and corresponding beach and dune erosion, which has the potential to threaten upland habitable structures and public infrastructure. As a result of the storm's characteristics, segments of the State's shoreline have suffered severe erosion such that emergency conditions exist in the following locations:

- a. St. John's County: Ponte Vedra Beach Department Reference Monuments R84 to R94 (Physical Location: 10,000' stretch of shoreline; homes are flanked north and south by the Guana River State Park)
- b. Volusia County: Daytona Beach Shores Department Reference Monuments R106 to R120 (Physical Location: Ridge Road to Breakers Ave)
- c. Volusia County: New Smyrna Beach Department Reference Monuments R160 to R194 (Physical Location: Lakewood Street to Angelfish Avenue)

- d. Palm Beach County: County Park and the Town of Jupiter Beginning 500' south of Department Reference Monument R12 to R17 (Physical Location: Jupiter Inlet Park to Jupiter Beach Resort)
- e. Palm Beach County: Singer Island (City of Riviera Beach) Beginning 500' south of Department Reference Monument R60 to R68 (Physical Location: Water Glades Condominium to Palm Beach County Park)
- f. Palm Beach County: City of Lake Worth, Town of Palm Beach, Town of South Palm Beach, Town of Lantana Department Reference Monuments R128 to R138 (Physical Location: City of Lake Worth Municipal Park to Town of Lantana Municipal Park)

As a result, there exists an immediate danger to the safety and property of persons within those above-listed segments of coastal shoreline.

2. On May 14, 2007, the Department issued an Emergency Final Order declaring a shoreline emergency (DEP Order No. 07-0465) for the shoreline locations listed in paragraph 1, above.

3. The Department finds that the Storm has created a continuing state of emergency threatening the public health, safety, welfare, and property throughout the areas identified in Paragraph 1 of the Findings of Fact.

4. The Department finds that an emergency declaration is required to issue emergency permits for an additional period of time.

5. The Department finds that strict compliance with the applicable provisions of Rule Chapter 62-B33 of the Florida Administrative Code would prevent, hinder, or delay necessary action in coping with the emergency.

### **CONCLUSIONS OF LAW**

1. Based on the findings recited above, it is hereby concluded that the emergency caused by the Storm continues to pose an immediate danger to the public health, safety, or welfare and requires an immediate order of the Department.

2. Under Section 120.569(2)(n) of the Florida Statutes, the Secretary of the Department is authorized to issue this Order. Under Rule Chapter 62-B33 of the Florida Administrative Code, emergency procedures are authorized once the Secretary of the Department issues an Order declaring a shoreline emergency.

3. Suspension of rules as noted in paragraph 5 above is required in order not to prevent, hinder, or delay necessary action in coping with the emergency.

**THEREFORE, IT IS ORDERED:**

(a) A shoreline emergency is hereby declared within the areas identified in paragraph 1 of the Findings of Fact.

(b) Permits for emergency protection, as that term is defined in Rule Chapter 62-B33 of the Florida Administrative Code, may be issued by the Department within the areas identified in paragraph 1 of the Findings of Fact, in accordance with Rules 62-B33.0051(5) and 62B-33.014 of the Florida Administrative Code.

(c) This Order shall not constitute authorization to fill submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund.

(d) Activities authorized under an emergency permit issued pursuant to DEP Order No. 07-0465 or this Order shall be completed by no later than the expiration date of the emergency permit issued under paragraph (b).

(e) This Order does not provide relief from the requirements of other federal, state, and local agencies and water management districts. This Order therefore does not negate the need for the permittee to obtain any other required permits or authorizations, nor from the need to comply with all the requirements of those agencies.

(f) This Order does not provide relief from any of the requirements of chapter 471 of the Florida Statutes regarding professional engineering.

(g) This Order shall take effect immediately upon execution by the Secretary of the Department, and shall expire on July 13, 2007, unless modified or extended by further order.

(h) Failure to comply with any condition set forth in this Order shall constitute a violation of a Department Final Order under chapter 161 of the Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

### 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.


**DONE AND ORDERED** on this 8<sup>th</sup> day of June, 2007, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION



MICHAEL W. SOLE, Secretary  
3900 Commonwealth Blvd  
Tallahassee, FL 32399-3000

FILED on this date, pursuant to  
§120.52 Florida Statutes, with the  
designated Department Clerk, receipt  
of which is hereby acknowledged.

  
Deputy CLERK

6/8/07  
DATE