



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Water Resource Management
Coastal Construction Control Line Program
2600 Blair Stone Road, M.S. 3522
Tallahassee, FL 32399-2400
Phone: (850) 245-8336

Permit No. _____ - _____

No. of Pages Attached: _____

FIELD PERMIT PURSUANT TO SECTION 161.053 OR 161.052, FLORIDA STATUTES

FINDINGS OF FACT AND CONCLUSION OF LAW: The request for a field permit was considered by the staff designee of the Department of Environmental Protection and found to be in compliance with the requirements of Chapter 62B-33, Florida Administrative Code (F.A.C.). Approval is specifically limited to the activity in the stated location and by the project description, approved plans (if any), attached standard conditions, and any special conditions stated below pursuant to Paragraph 161.053(5), Florida Statutes (F.S.). This permit may be suspended or revoked in accordance with Section 62-4.100, F.A.C.

PROJECT LOCATION:

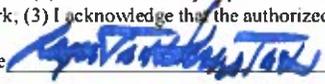
PROJECT DESCRIPTION:

SPECIAL PERMIT CONDITIONS: The permit is valid only after all applicable federal, state, and local permits are obtained and does not authorize contravention of local setback requirements or zoning or building codes. This permit and public notice shall be posted on the site immediately upon issuance and shall remain posted along with local approval until the completion of any activity authorized by this permit. Other special conditions of this permit include:

- 1) See attached Public Notice, Standard Field Conditions, Beach Cleaning Permit Conditions and CCCL Best Management Practices for Protection of Shorebirds and Seabirds, Chicks and Nests. Shorebird records should be submitted to the Florida Shorebird Alliance through the FSD <https://public.myfwc.com/crossdoi/shorebirds/>.
- 2) Maintain a 10' distance from any vegetation.
- 3) During sea turtle nesting season (May 01 to Oct. 31) the beach shall not be cleaned until the daily survey for sea turtle nesting activity has been completed by the Marine Turtle permit holder.
- 4) 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.
- 5) The permittee shall obtain any applicable licenses or permits required by Federal, state, county, or municipal law.
- 6) This permit does not authorize trespass onto other property.
- 7) If there is a conflict between the Special Permit Conditions, Standard Field Conditions, or the plans, the Special Permit Conditions and Beach Cleaning Permit Conditions shall prevail.

STANDARD PERMIT CONDITIONS: The permittee shall comply with the attached standard field permit conditions.

APPLICANT INFORMATION: I hereby certify that I am either: (1a) the owner of the subject property or (1b) I have the owner's consent to secure this permit on the owner's behalf, and that (2) I shall obtain any applicable licenses or permits which may be required by federal, state, county, or municipal law prior to commencement of the authorized work, (3) I acknowledge that the authorized work is what I requested, and (4) I accept responsibility for compliance with all permit conditions.

Applicant's Signature  Date 10/30/2020 Telephone No. () _____

Applicant's Printed Name Roger Hernstadt Address 2525 Estero Blvd, Town of Fort Myers Beach, FL 33931

If applicant is an agent

Printed name of property owner *Property owner's address* *Property owner's telephone no*

DEPARTMENT FINAL ACTION AND FILING AND ACKNOWLEDGMENT: This field permit is approved on behalf of the Department of Environmental Protection by the undersigned staff designee, and filed on this date, pursuant to section 120.52, F.S., with the undersigned designated Deputy Clerk, receipt of which is hereby acknowledged.

 / Kelly Cramer, ESII / 11/3/20
Staff Designee/Deputy Clerk *Printed Name of Designee/Deputy Clerk* *Date*

11/3/21

EXPIRATION DATE: _____

(Emergency permits issued pursuant to Section 62B-33.014, F.A.C., are valid for no more than ninety days and other field permits are valid for no more than 12 months. The staff designee may specify a shorter time limit.)

EMERGENCY PERMIT: YES NO

Approved plans are attached: YES NO

POST PERMIT AND PUBLIC NOTICE CONSPICUOUSLY ON THE SITE**PUBLIC NOTICE**

The foregoing constitutes final agency action. Any person whose substantial interests are affected by any decision made by the Department on the Field Permit has a right to request an administrative hearing in accordance with the provisions of Sections 120.569 and 120.57, F.S. The request for an administrative hearing must comply with the provisions of Rule 28-106.201, F.A.C., and must be received by the Department (at the address given below) within twenty-one (21) days from the date of this notice.

When the Department receives an adequate and timely filed request for hearing, the Department will request the assignment of an administrative law judge. Once the administrative law judge is requested, the Division of Administrative Hearings will have jurisdiction over the formal proceeding and the Department (as the referring agency) will take no further action with respect to the proceeding except as a party litigant.

Section 120.54(5)(b)4, F.S., and Rule 28-106.201(2), F.A.C., explain that the following items must be included in a petition for a formal administrative hearing

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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 proceedings; and an explanation of how the petitioner's substantial interests 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 issues of material fact disputed by the petitioner, or a statement that there are no disputed facts;
- (e) A concise statement of the ultimate facts alleged, including a statement of the specific facts that the petitioner contends warrant reversal or modification of the Department's action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's 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 wants the Department to take with respect to its action.

A person may request an extension of time to petition for an administrative hearing. The person filing the request for extension must do so within the time limits for filing a petition described above. The request must state why an extension of time is needed. The Department will grant an extension only when good cause is shown.

If a petition or a request for time extension is filed, further order of the Department becomes necessary to effectuate this Field Permit. Accordingly, the Department's final action may be different from the position taken in this notice. Actions undertaken by any person under this permit, pending the lapse of time allowed for the filing of such a request for hearing, may be subject to modification, removal, or restoration.

Failure to petition within the allowed time frame constitutes waiver of any right that a person has to request a hearing under Section 120.57, F.S., and to participate as a party to the proceeding. If a legally sufficient petition for hearing is not timely received, this notice constitutes final agency action.

When this order becomes final and is filed with the Department Clerk, any party to the order has the right to seek judicial review under Section 120.57, F.S., and Rule 9.030(b)1(c) and 9.110, Florida Rules of Appellate Procedure. A notice of appeal must be filed within thirty (30) days with both the Department Clerk (see address below) and with the appropriate district court of appeal. The notice filed with the district court must be accompanied by the filing fee specified in Section 35.33(3), F.S. Any subsequent intervention will be only by the approval of the presiding officer on motion filed under Rules 28-5.207 or 60Q-2.010, F.A.C.

All requests for hearings are to be filed with the Department at the following address:

Florida Department of Environmental Protection
Office of General Counsel
Department Clerk
3900 Commonwealth Boulevard Mail Station 35
Tallahassee, Florida 32399-3000

STANDARD FIELD PERMIT CONDITIONS

The following conditions shall apply to **FIELD PERMITS** (unless waived by DEP or modified by special permit condition). In the event of a conflict between a field permit condition and a special permit condition, the special condition shall prevail.

- 1) 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 DEP as part of the permit. Any deviation there from shall be grounds for suspension of the work and revocation of the permit pursuant to Section 120.60(7), F.S., and may result in assessment of civil fines or issuance of an order to alter or remove the unauthorized structure, or both. No other construction or activities shall be conducted. No modifications to project size, location, or structural design are authorized. A copy of the permit shall be conspicuously displayed at the project site.
- 2) 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 and their nests and habitats, or adjacent property and structures.
- 3) The permittee shall allow any duly authorized member of the staff 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 DEP, until all construction or activities authorized or required in the permit have been completed and the project accepted by DEP.
- 4) The permittee shall hold and save the State of Florida, DEP, 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.
- 5) The permittee shall allow DEP to use all submitted records, notes, monitoring data, and other information relating to construction or any activity under the permit for any purpose it may deem necessary or convenient, except where such use is otherwise specifically forbidden by law.
- 6) Construction traffic shall not operate and building materials shall not be stored on vegetated areas seaward of the control line, unless specifically authorized by the permit. If (in the opinion of DEP staff) this requirement is not being met, positive control measures shall be provided by the permittee at the direction of DEP staff. Such measures may include temporary fencing, designated access roads, adjustment of construction sequence, or other requirements.
- 7) 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.
- 8) The fill material shall be obtained from a source landward of the control line and shall consist of sand which is similar to that already on the site in both grain size and coloration. This fill material shall be free of construction debris, rocks, or other foreign matter. A sample of the sand shall be provided to the staff representative of the Bureau of Beaches and Coastal Systems during the preconstruction conference.
- 9) If surplus sand fill results from any approved excavation seaward of the CCCL, such material shall be distributed seaward of the CCCL on the site, as directed by DEP staff (unless otherwise specifically authorized by the permit).
- 10) Any native salt-resistant vegetation destroyed during construction shall be replaced with plants of the same species or, by authorization of DEP, with other native salt-resistant vegetation suitable for beach and dune stabilization. Unless otherwise specifically authorized by the staff, 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 (i.e., sea oats, sea grape, saw palmetto, panic grass, salt meadow hay cord grass, seashore salt grass, and railroad vine).
- 11) All topographic restoration and revegetation work is subject to approval and acceptance by DEP staff.
- 12) If not specifically authorized elsewhere in this 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 marine turtle nesting occurs during the period of March 1 through October 31).
- 13) If not specifically authorized elsewhere in this 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.
- 14) This permit has been issued to a specified property owner and is not valid for any other person.



Florida Department of Environmental Protection (DEP)
Division of Water Resource Management
Bureau of Beaches and Coastal Systems
3900 Commonwealth Boulevard, Mail Station 300
Tallahassee, Florida 32399-3000
(850) 488-7708

BEACH CLEANING PERMIT CONDITIONS FOR ALL OTHER COUNTIES, EXCLUDING BREVARD THROUGH BROWARD AND MONROE COUNTY

Pursuant to subsection 62B-33.005(11), F.A.C.

Field Permit No. _____

1. During the marine turtle-nesting season (May 1 to October 31), mechanical beach cleaning activities shall be confined to daylight hours (sunrise to sunset).
2. During marine turtle nesting season (May 1 to October 31), the permittee is responsible for ensuring that a daily marine turtle nest survey, protection, and monitoring program is conducted throughout the permitted beach cleaning area. Such surveys and associated conservation measures shall be completed after sunrise and prior to the commencement of any mechanical beach cleaning. The marine turtle survey, protection, and monitoring program shall be conducted only by individuals possessing appropriate expertise in the protocol being followed and a valid F.A.C. Rule 68E-1 Permit issued by the Florida Fish & Wildlife Conservation Commission (FFWCC).
3. In the event that mechanical beach cleaning occurs prior to completion of the marine turtle nest survey, protection, and monitoring program, mechanical beach cleaning shall not occur landward of the wrack or debris line on that beach until 65 days have passed or after November 30, whichever is earlier. The permittee shall contact the Marine Turtle Permit Holder prior to reinitiating mechanical beach cleaning in that area.
4. All nests left in place shall be marked with a circle of tape or string having a radius of at least three (3) feet, centered at the approximated location of the clutch. An additional marker shall be placed at the base of the dune or seawall to ensure that future location of the nests will be possible should the on-beach markings be lost. No mechanical cleaning equipment is allowed inside of this circle; however, careful removal of material by hand is allowed. All equipment operators should be briefed on the types of marking utilized and should be able to easily contact the individual responsible for the nest survey to verify any questionable areas.
5. In the event that on-beach nest markers are lost for any reason, including vandalism or high water conditions, no mechanical beach cleaning shall be conducted until the marine turtle permit holder identifies the nest and restores the markers. In the event that the nest cannot be found and may have been lost during high water conditions, the permittee shall contact FFWCC staff at (850) 922-4330 to determine if mechanical beach cleaning can resume. All marine turtle protection conditions shall remain in effect unless specifically waived in writing by FFWCC.
6. In order to avoid adverse impacts in the event that cleaning accidentally occurs over a nest, mechanical beach cleaning equipment shall not penetrate more than two inches into the surface of the beach. This permit authorizes the use of a vehicle with a maximum tire pressure of 10 p.s.i. and a rake or cleaning apparatus that limits penetration into the surface of the beach to a maximum of two inches. Box blades and front or rear mounted blades are not authorized. No other types of vehicles may be operated on the beach pursuant to this permit. Mechanized beach cleaning shall be accomplished so that no ruts are formed on the beach.
7. Burial or storage of any debris (biotic or abiotic) collected is prohibited seaward of the 50-foot setback. Removal of accumulated debris from the beach must occur immediately after cleaning has been performed.
8. Operators of mechanical beach cleaning equipment shall avoid all native, salt tolerant dune vegetation by a minimum of ten (10) feet.

CCCL Best Management Practices for Protection of Shorebirds and Seabirds, Chicks and Nests

The Florida Fish & Wildlife Conservation Commission (FWC) has the authority to protect shorebirds and seabirds in accordance with Article IV, Section 9 of the Florida Constitution, 372.021, Florida Statutes, and 68A-1.002, Florida Administrative Code. Under these laws, the FWC is obligated to ensure that no take of shorebirds or seabirds (as defined in Chapter 68A-1.004 FAC) occurs on the beach, including during state-authorized construction activities such as beach cleaning and special events. To protect shorebirds and seabirds, persons issued coastal construction control line (CCCL) permits under Sections 161.052 or 161.053, Florida Statutes are recommended to follow these best management practices (BMPs) during construction, equipment operation and other activities conducted on the beach.

1. Prior to any construction activity on or seaward of the frontal dune during shorebird and seabird nesting season (April 1 through September 1 on Atlantic Coast; February 15 through September 1 on the Gulf of Mexico coast and the Panhandle), please contact [FWC's Regional Shorebird Biologist](#) to determine if shorebird nesting is occurring on the project area, and:
 - a. Arrange for nesting surveys prior to project commencement throughout the construction period or through August.
 - b. Ensure that surveys for detecting nesting activity are completed prior to movement of equipment, operation of vehicles, or other activities that could potentially disrupt nesting behavior or cause harm to the birds or their eggs or young.
 - c. Notify the FWC Regional Biologist within 24 hours of the observance of a scrape (nest) or eggs within the project area.
 - d. Create a protective buffer zone, up to 300-feet wide if possible, around any nests or colonial nesting areas. Any and all construction activities, including movement of vehicles, should avoid the buffer zone.
 - e. Increase the width of the buffer zone if birds appear agitated or disturbed by construction or other activities that are too close to the nesting areas.
 - f. Where nesting has been reported or observed, work with FWC staff to post the perimeter of buffer zones with clearly marked signs.
2. Observations of nesting shorebirds and seabirds within the project area can be submitted to the Florida Beach-Nesting Bird Website at <https://public.myfwc.com/crossdoi/shorebirds/>.
3. Where foraging (feeding) of federally or state listed endangered or threatened shorebirds and seabirds has been observed, it is recommended that a minimum of thirty percent (30%) of the natural seaweed wrack be left on the beach through the nesting and fledgling period.

Note: these BMPs are recommendations for CCCL permit holders to follow in order to avoid violation of state and federal wildlife protection laws. Compliance with the BMPs is not subject to enforcement under Sections 161.052 or 161.053, Florida Statutes.

Proposed Beach Raking Area

Legend

- Beach Raking Area

Canal St. Beach Access

Palm Ave. Beach Access

Mango St Beach Access

Fort Myers Beach Town Hall

Flamingo St. Beach Access





Florida Department of Environmental Protection
Beach Cleaning Survey

Applicant: _____
Submitted by: _____

Current Permit No. _____ - _____ (if applicable)

1. Where do you clean the beach? (What is the shore parallel dimension?)
 Between FDEP Range Monuments: R- _____ and R _____
 Between Addresses: _____ and _____
 Between Lat/Longs: _____ ° _____ ' _____ " and _____ ° _____ ' _____ "
 Additional Area: _____
 Additional Area: _____
 Additional Area: _____

2. How far "up" the beach do you clean? (What is the shore-perpendicular dimension?)
 MHW to Dune Vegetation or Seawall Line- typically _____ Ft. wide.
 Just along the wrack line- typically _____ Ft. wide.
 Other Area Description: _____ typically _____ Ft. wide.

3. How often do you clean the beach?
 _____ If Other, please explain: _____

4. Are there any times of year you cease beach cleaning
 _____ If Yes, what times of year do you cease? _____

5. What equipment do you use to beach clean?
 _____ If Other, please explain: _____

6. What vehicle do you use to pull the cleaning equipment?

7. Is seaweed or "wrack" relocated within the beach & dune system or bladed into the wet sand?
 _____ If yes, where is it placed? _____

8. Is seaweed or "wrack" removed from the beach and dune system?
 _____ If yes, where is it placed? _____

9. If applicable, what size debris does your equipment pick up?
 Minimal size _____ Maximum size _____

Additional Comments: