



FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Ron DeSantis
Governor

Jay Collins
Lt. Governor

Alexis A. Lambert
Secretary

In the Matter of an
Application for a Joint Coastal Permit and
Authorization to Use Sovereign Submerged Lands by:

APPLICANT:

City of Marco Island
Attn: Michael McNees
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Marco Island, FL 34145
jmartin@cityofmarcoisland.com

AGENT:

Humiston & Moore Engineers
Attn: Mohamed Dabees
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PROJECT INFORMATION:

Project Name: Hideaway Beach Culvert

File No.: 0461351-001-JC

County: Collier

CONSOLIDATED NOTICE OF INTENT TO ISSUE JOINT COASTAL PERMIT AND AUTHORIZATION TO USE SOVEREIGN SUBMERGED LANDS

The Department of Environmental Protection (Department) gives consolidated notice of its intent to take the following agency actions:

- (a) issue a 5-year joint coastal permit (draft copy attached), under Chapter 161 which includes consideration of the provisions of Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.) for the activity described below; and
- (b) grant a letter of consent to use sovereign submerged lands for the proposed culvert construction, under Article X, Section 11 of the Florida Constitution, Chapter, F.S., Title 18, F.A.C., and the policies of the Board of Trustees, as described below.

Issuance of the joint coastal permit (JCP) would constitute a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act. Issuance of the JCP would also constitute certification of compliance with state water quality standards pursuant to Section 401 of the Clean Water Act, 33 United States Code (U.S.C.) 1341

I. PROPOSED ACTIVITY

a. Project Description

The proposed project involves the construction of a concrete culvert to replace the existing passive stormwater outflow system currently discharging into the Gulf. The culvert design includes the installation of two parallel reinforced concrete pipes, each measuring 70 feet in length and 24 inches in diameter, spaced 6 inches apart and filled with sand between them. The culverts will be placed at a slope of 1:140, from an elevation of +1.5 feet to +1 feet NAVD. Following the culvert installation the beach sand will be graded and reshaped using native material to form a dune and berm feature constructed over the culvert extending a total of 1000 feet along the shoreline. The dune will be designed with an elevation of +6.0 feet sloping to +5.5 feet NAVD at the dune crest, and +3.0 feet NAVD at the top of the beach berm with a slope of 1:10. The back slope of the dune feature will taper to the existing vegetation.

b. Project Location

The project is located in Collier County, Marco Island, Hideaway Beach, Section 7, Township 52 South, Range 26 East, near Department monument R-127.

II. AUTHORITY FOR REVIEW

The Department has permitting authority under Chapter 161, which includes consideration of the provisions of Part IV of Chapter 373, F.S., and Chapters 62B-41, 62B-49 and 62-330, F.A.C. The activity is regulated under the JCP program, as indicated in Sections 161.055 and 373.427, F.S. Pursuant to Operating Agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C., the Department is responsible for reviewing this application.

The activity also requires a proprietary authorization, as it is located on sovereign submerged lands, which are owned by the Board of Trustees of the Internal Improvement Trust Fund. The activity is not exempt from the need to obtain a proprietary authorization. Pursuant to Article X, Section 11 of the Florida Constitution, Sections 253.002 and 253.77, F.S., Sections 18-21.0040, 18-21.0051, 62-330.075 and 62B-49.001, F.A.C., the policies of the Board of Trustees, and the Operating Agreements executed between the Department and the water

management districts, as referenced in Chapter 62-113, F.A.C., the Department has the responsibility to review and take final action on this request for proprietary authorization.

III. BACKGROUND/BASIS FOR ISSUANCE

A. Background Information

The stormwater discharge pathways at Hideaway Beach, located on the north end of Marco Island, Florida, were initially designed and implemented when Hideaway Beach was developed over 30 years ago. The outflow system was originally designed and constructed under the environmental conditions present at that time. These conditions consisted of a marshy coast with a mangrove shoreline. This aided in the original design and construction of a passive stormwater discharge system, where water flows from inland lakes, lagoons, and conservation areas, through an 18-inch concrete pipe with a flap gate on the downstream end, and discharges into the Gulf along the Big Marco Pass inlet which was still open at that time.

In the early 2000's, Big Marco Pass was closed by the migration of the tidal inlet to Capri Pass and the sand spit growth along the northwest part of Marco Island. Over subsequent decades, the South Point part of Hideaway Beach has changed from a marshy coast to a predominately sandy coastline. This resulted in the formation of a wide beach in the vicinity of the originally designed stormwater outfall location. As the shoreline gained sand and grew in beach width through natural coastal process and periodic and beach nourishment activities, the shoreline advanced seaward, altering the hydrologic connectivity of the passive outfall system. This resulted in unpredictable surface runoff flows that carved meandering channels and erosion gullies into the beach profile.

The shoreline has undergone morphological changes over time due to natural processes, and the Applicant has proposed installation of a culvert system to replace the existing passive outflow system. The proposed intervention would establish a controlled, permanent discharge pathway thereby stabilizing the stormwater discharge and reducing beach erosion caused by uncontrolled surface flows.

B. Habitats

Hardbottom/Coral Reef/ Seagrass/Macroalgae/Mangroves

There are no natural hardbottom, coral reefs, seagrasses, macroalgae or mangroves within 1,000 feet of the project boundary. Consequently, no impacts to any of these resources are anticipated from the project activities.

Beach

The beach, swash zone and surf zone of the project area is comprised of soft sandy bottom. The sandy substrate in the subtidal, intertidal and supratidal portions of the beach is an important habitat for invertebrates living on (epibenthos) or within (infauna) the sediment. This invertebrate community can include crabs, polychaetes, gastropods, and bivalves. Ghost crabs, mole crabs and coquina clams are common inhabitants. The infaunal organisms are important food items for shorebirds and fish. The construction activity will be short-term and is not expected to significantly impact beach habitat, with only minor impacts on infauna. Consequently, no long-term adverse impacts on the infaunal community are anticipated.

C. Protected Fish & Wildlife

Pursuant to the Environmental Resource Permit Applicant's Handbook, Volume I, 10.2.7(b), in evaluating whether the proposed activity will adversely impact the ecological value of uplands to aquatic or wetland dependent listed species that nest in upland, such as marine turtle and shorebirds, and to maintain consistency with the authority of the Florida Fish and Wildlife Conservation Commission (FWC) under Florida's Coastal Zone Management Program, the Department considered comments received from the FWC and the U.S. Fish and Wildlife Service (FWS). Pursuant to the Environmental Resource Permit Applicant's Handbook, Volume I, 10.3.1.5, *mitigation can include the implementation of management plans, or other measures*, such as the Terms and Conditions and the Reasonable and Prudent Measures from the FWS Biological Opinion, as well as the recommended conditions from the FWC. These requirements will be incorporated into the permit to provide reasonable assurance that the proposed activity will not adversely impact these upland habitat functions.

Turtles

The beaches in Collier County provide important nesting habitat for threatened loggerhead (*Caretta caretta*), threatened green (*Chelonia mydas*) and endangered leatherback (*Dermochelys coriacea*) marine turtles. Construction activity on a sea turtle nesting beach can impact nesting females, their nests, and hatchlings due to modifications of the profile and incubation substrate relative to the native beach. The draft permit contains protective conditions provided by the FWC to ensure that marine turtles are not adversely affected by the construction activities authorized by the permit, in accordance with Florida Statute 379.2431 (1).

Birds

Construction activity in proximity to shorebird nests or nesting areas can interfere with ongoing or potential breeding activity, including mortality of eggs, chicks, and fledglings due to disturbance from heavy equipment and construction. Migratory birds using the area are also protected by state and federal laws, including shorebirds and colonial nesting seabirds. The

Department does not anticipate any significant adverse impacts to shorebird habitats covered under Part IV of Chapter 373, F.S. The draft permit contains protective conditions provided by the FWC to ensure that shorebirds are not adversely affected by the construction activities authorized by the permit.

D. Other Criteria

Public Health, Safety or Welfare

The proposed construction activities are not expected to alter the project's potential impacts to public health, safety, or welfare; property of others; navigation; recreation nor historical and archaeological resources.

Temporary hazards to public safety will exist during the construction phase of this project. However, the Applicant has provided reasonable assurance to the Department that measures will be taken to reduce these hazards. Specifically, the Applicant has designated construction access and staging areas to minimize interaction with the public. The Department has also included specific conditions in the draft permit that restrict the storage of equipment and stockpiling of materials to these approved areas.

Property of Others

The proposed activity is not expected to adversely impact the property of others. The project falls within the existing easement (BOT No. 110337105) granted to Collier County and the City of Marco Island.

The proposed project is not expected to unreasonably infringe upon the traditional, common law riparian rights, of upland property owners adjacent to sovereignty submerged lands. However, there may be areas where the construction activity may temporarily affect upland properties during construction, in such instances, construction easements from the affected upland property owners will be obtained prior to any work being done on their property.

Navigation

The proposed project is not expected to have any adverse impact on the navigation within the project limits. All construction will take place landward of the Mean High Water Line.

E. Water Quality

Pursuant to Rule 62-4.244(5)(d), F.A.C., best management practices will be implemented to minimize the magnitude and duration of turbidity to the maximum extent practicable. The construction activity will be accomplished in a manner that minimizes the potential for elevated turbidity; consequently, no impacts to water quality or turbidity are anticipated.

There are no benthic communities within the vicinity of construction that would be adversely affected by slightly elevated turbidity levels. The construction activities are planned to be landward of the MHWL. However, if the activity generates an obvious turbidity plume, it could cause a violation of state water quality standards. In order to meet the water quality standard for turbidity, when working in close proximity to the MHWL, a mixing zone measuring 50 meters radius from the active point of construction, will be granted and the permit will include a visual turbidity monitoring protocol to ensure compliance with the State's water quality standard (no more than 29 NTUs above background).

The requirements outlined in the permit provide reasonable assurance that direct impacts to water quality resulting from the construction activities at the project site will not violate State water quality standards or cause adverse impacts.

F. Coastal Engineering

In accordance with the definition provided in Rule 62B-36.002(4), F.A.C., or the provisions of sub-section 161.101(3), F.S., the project area is designated as critically eroded beach. The Department develops and maintains a comprehensive long-term management plan for the restoration and maintenance of the state's critically eroded beaches as required by Section 161.161, F.S. The adopted Strategic Beach Management Plan includes maintaining the project through monitoring and nourishment using sand from offshore and bypassing sources.

Pursuant to Fla. Admin. Code r. 62B-41.005 (3), the Department will determine whether to authorize coastal construction at any coastal location upon consideration of the facts or circumstances, including: (a) Adequate engineering data concerning the existing coastal system, including topography, bathymetry; wave and current data; coastal processes, conditions and morphological trends; (b) Design features of the proposed structures or activities; and (c) Such other specific information or calculations as are necessary for the evaluation of the application. The Department has received adequate engineering data concerning the existing coastal system and the design features of the proposed project that is sufficient for an evaluation of the proposed activities. The proposed project is consistent with Rule 62B-41.005(4), F.A.C., which requires flexible coastal protection structures, such as beach and dune restoration, to be used whenever practicable to achieve coastal protection objectives.

Pursuant to Rule 62B-41.005(2), F.A.C., coastal construction authorized by the Department shall have a net positive benefit to the coastal system resulting from the project's effects, as demonstrated by the Applicant, taking into account the considerations and requirements of Section 161.041, F.S. The Applicant has provided adequate engineering data concerning the coastal system and design features of the proposed project that demonstrates the project will have a net positive benefit to the coastal system.

G. Sovereign Submerged Lands

Pursuant to Rule 18-21.004(3)(a), F.A.C., the proposed project is not expected to unreasonably infringe upon the traditional, common law riparian rights, as defined in Section 253.141, F.S., of upland property owners adjacent to sovereignty submerged lands. The project is replacing a previously existing passive outflow system, which will enhance the capability and stability of the outflow system. The culvert construction falls within an existing easement (BOT No. 110337105) held by Collier County and the City of Marco Island.

Pursuant to Rule 18-21.004(3)(b), F.A.C., governmental agencies proposing activities on sovereignty submerged lands riparian to uplands must obtain satisfactory evidence of sufficient upland interest prior to beginning construction but need not provide such evidence as part of any required application. Construction easements will be obtained from each of the relevant property owners prior to construction. In this case, the Applicants are governmental agencies, and will acquire all necessary construction easements from the riparian owners prior to the commencement of construction activities on their upland property.

H. Monitoring

Water quality monitoring for turbidity will be conducted during construction to ensure that water quality standards are being met. Both physical and visual turbidity monitoring for turbidity will be conducted during construction to ensure that water quality standards are being met. If turbidity does not exceed 29 NTUs above background for 14 consecutive days of monitoring, turbidity may be visually monitored (without collecting samples). Visual monitoring may continue unless an observed turbidity plume crosses the edge of a 50-meter mixing zone, at which point physical monitoring shall resume. The turbidity monitoring contractor will be independent of both the design contractor and the construction contractor.

I. Public Interest

Regulatory

As discussed in the sections above, the Department has considered the effects of this project according to the public interest criteria that are specified in Section 373.414(1), F.S., and the Environmental Resource Permit Applicant's Handbook, Volume I, 10.2.3. The following is brief summary of that evaluation for each of the public interest criteria;

- The proposed activity is not expected to adversely affect public health, safety, welfare or the property of others;
- The draft permit will require measures to protect manatees, marine turtles and other protected species. Therefore, the proposed activity is not expected to adversely affect the

conservation of fish and wildlife, including endangered or threatened species, or their habitats;

- The proposed activity is not expected to adversely affect navigation. Additionally, the proposed construction of the culvert will not affect the flow of water nor the movement of sand so, it is not anticipated to cause harmful erosion or shoaling;
- The activity is not anticipated to adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- The proposed activity is not expected to adversely affect significant historical and archaeological resources under the provisions of s. 267.061; and
- The current condition and relative value of functions being performed by areas to be impacted by the proposed activity is not expected to be adversely impacted.

After weighing the effects of the project for each of these criteria, and based on reasonable assurance provide by the Applicant, the Department has determined that the proposed activity is not contrary to the public interest.

Proprietary

The proposed project will stabilize the currently existing outflow system. This stabilization will prevent diversion of the outflow path on the beach and thus prevent further erosion. Therefore, pursuant to Section 161.088, F.S., the proprietary authorization for this project is in the public interest. The project will not adversely affect fish and wildlife habitat or other natural or cultural resources and will not interfere with traditional recreational uses such as fishing, boating, and swimming. Pursuant to Rule 18-21.003(54), F.A.C., the demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of this activity would exceed all demonstrable environmental, social, and economic costs of the proposed action. Therefore, pursuant to Rule 18-21.004(1)(a), F.A.C., the Department has determined that this project is not contrary to the public interest.

J. Specific Regulatory Basis for Issuance

The Applicant has provided affirmative reasonable assurance that the construction of the activity will comply with the provisions of Part IV of Chapter 373, F.S., and the rules adopted thereunder. The Department has considered the direct, secondary and cumulative impacts of the project, as well as the general and specific conditions to the attached draft permit, in making this determination. Specifically, construction of the activity will not result in violations of water quality standards, pursuant to Section 373.414(1), F.S., and set forth in Chapters 62-4 and 62-

302, F.A.C. The Applicant also has demonstrated that the construction of the activity is not contrary to the public interest, pursuant to Paragraph 373.414(1), F.S.

The Applicant has also provided adequate engineering data to evaluate the design features of the project and any potential effects to the coastal system. Pursuant to Chapter 161, F.S., the Department finds that the proposed activities:

- will not result in any significant adverse impacts to the sandy beaches of the state;
- are not expected to adversely impact nesting marine turtles, their hatchlings or their habitat;
- will not interfere, except during construction, with the use by the public of any area of the beach seaward of mean high water; and
- are appropriately designed in accordance with Rule 62B-41, F.A.C.

K. Specific Proprietary Basis for Issuance

The Applicant has met all applicable requirements for proprietary authorizations to use sovereign submerged lands. That includes the requirements of Article X, Section 11 of the Florida Constitution, Chapter 253, F.S., associated Rule 18-21, F.A.C., and the policies of the Board of Trustees. Therefore, the Applicant has provided reasonable assurance that the proposed activity would:

- not be contrary to the public interest;
- maintain essentially natural conditions;
- not cause adverse impacts to fish and wildlife resources or public recreation or navigation; and
- not interfere with the riparian rights of adjacent property owners.

IV. PUBLICATION OF NOTICE

The Department has determined that the proposed activity, because of its size, potential effect on the environment or the public, controversial nature, or location, is likely to have a heightened public concern or likelihood of request for administrative proceedings. Therefore, pursuant to Subsection 373.413(4), F.S. and section 5.5.5.3 of Applicant's Handbook, Volume I, you (the applicant) are required to publish at your own expense this Notice of Intent to Issue. The notice

is required to be published one time, in the legal ad section in a newspaper or newspapers of general circulation in the areas affected. For the purpose of this rule, “publication in a newspaper of general circulation in the area affected” means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. The applicant shall provide proof of publication to:

Florida Department of Environmental Protection
Office of Resilience and Coastal Protection
Beaches, Inlets and Ports Program
2600 Blair Stone Road, M.S. 3544
Tallahassee, Florida 32399
Email: BIPP@dep.state.fl.us

The proof of publication shall be provided to the above address within 30 days of issuance of intended agency action, or within 21 days of the date of publication, whichever occurs sooner. Failure to publish the notice and provide proof of publication within the allotted time shall be grounds for denial of the permit and letter of consent to use sovereign submerged lands.

V. 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.

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.

EXECUTION AND CLERKING:

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Gregory W. Garis.
Program Administrator
Beaches, Inlets and Ports Program
Office of Resilience and Coastal Protection

Attachment(s):

1. Draft Final Order
2. Permit Plans (6 pages, dated September, 2025)

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:

cc: Greg Garis, RCP
Sean Green, RCP
Ivana Kenny Carmola, RCP
Shamim Murshif, RCP
Ahsan Habib, RCP
Sarah Bodin, RCP
Ryan Byrne, FWC
Ricardo Zambrano, FWC

BIPP
CE Review
BMES
JCP Compliance
marineturtle@myfwc.com
Conservationplanningservies@myfwc.com
Imperiledspecies@myfwc.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.

<u><i>Jordan Faulkner</i></u>	<u>12/15/2025</u>
Clerk	Date