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MyFWC.com

February 4, 2015

Mr. Fritz Wettstein
Division of Water Resources Management
Florida Department of Environmental Protection
2600 Blairstone Road MS-3522
Tallahassee, Florida 32399

RE: Beach Cleaning Permit, City of Fort Lauderdale, Broward County

Dear Mr. Wettstein:

Staff in the Florida Fish & Wildlife Conservation Commission (FWC) has reviewed the City of Fort Lauderdale's request to conduct mechanical beach cleaning activities on the marine turtle nesting beach during marine turtle nesting season. The sandy Atlantic beaches in Fort Lauderdale support nesting by threatened loggerhead (*Caretta caretta*), endangered green (*Chelonia mydas*), and endangered leatherback (*Dermochelys coriacea*).

We do not object to the use of the blade to mix seaweed with sand as long as all work occurs in the wet sand below the tideline or to use of the drag bar in the urban areas of the beach. At this time, we recommend that mechanical cleaning be allowed landward of the high tide line for beach areas from R64 south to R67 and from R71 (Sunrise Boulevard) south to R80. Mechanical beach cleaning (including the use of the drag bar) from R-59 south to R64, and from R67 south to R71 should be restricted to the average high tide strand line and areas seaward. It is important that the permittee coordinate with the Marine Turtle Permit Holder to ensure that nesting data collection is conducted such that all required information can be submitted timely as required by #16 below. We will continue to review the data submitted for this permit. These comments are only for the year 2015, we reserve the right to change the work allowed as nesting densities may change.

In accordance with Florida Statute 379.2431 (1), we recommend the following conditions for this project.

1. During the marine turtle-nesting season (March 1 to October 31), access by all mechanical beach cleaning equipment to the beach and all mechanical beach cleaning activities shall be confined to daylight hours (sunrise to sunset).
2. Mechanical beach cleaning from FDEP control monuments R-59 south to R64, and from R67 south to R71 shall be limited to the average high tide line or debris line and areas seaward thereof with no mechanical cleaning across the unvegetated sandy beach in these areas.
3. Beach cleaning may occur across the unvegetated sandy beach from R64 south to R67 and from R71 (Sunrise Boulevard) south to R80.
4. Mechanical beach cleaning shall be conducted after contracted turtle surveyors communicate that they have completed their beach surveying and conservation activities as agreed between the beach cleaner and the Marine Turtle Permit Holder and after the locations of all turtle nests have been marked.

- a. During marine turtle nesting season (March 1 to October 1), the beach cleaning 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.
 - b. 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 and Wildlife Conservation Commission (FWC).
 - c. The location of all nests and false crawls described below must be marked using a GPS unit with submeter (24") capability. The reading shall be centered at the clutch location if known or the center of the marked area and shall be taken the day the emergence or nest is documented.
5. In areas where mechanical beach cleaning may occur across the dry sandy beach (from R64 south to R67 and from R71 (Sunrise Boulevard) south to R80, all nests (both relocated and left *in situ*) must be marked with a circle of brightly colored survey flagging tape having a radius of at least three (3) feet, centered at the location of the clutch. Any leatherback crawls where no clutch is located but there are signs of digging must also be marked. The entire disturbed sand area should be marked with a circle of brightly colored survey flagging tape.
6. In areas where mechanical beach cleaning is restricted to the average high tide line or debris line and areas seaward thereof (from R-59 south to R64, and from R67 south to R71), all nests left *in situ* within ten (10) feet of the normal high tide line and beach access sites shall be marked with a circle of brightly colored survey flagging tape having a radius of at least three (3) feet, centered at the approximated location of the clutch. Relocated nests placed landward of the high tide line may be marked in accordance with a triangle centered around the clutch as is currently done.
7. Mechanical beach cleaning shall be limited to areas outside of marked turtle nests in order to avoid any impacts to sea turtles. No mechanical cleaning equipment is allowed inside of the marked circle; however, careful removal of material by the Marine Turtle Permit Holder is allowed. All equipment operators should be briefed on the types of marking utilized and should be able to easily contact the Marine Turtle Permit holder responsible for the nesting surveys to verify any questionable areas.
8. In order to avoid adverse impacts in the event that cleaning accidentally occurs over a nest, 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 for raking or other purposes.
9. All salt tolerant dune vegetation shall be avoided by a minimum of ten (10) feet.

10. Mechanized beach cleaning shall be accomplished so that no ruts are formed on the beach.
11. A drag bar may be used to smooth the sand on the beach above the tide line provided that it does not penetrate the sand and its weight on the surface of the sand does not exceed 10 p.s.i. within the area from R64 south to R67 and from R71 (Sunrise Boulevard) south to R80. The bar may not be utilized to smooth the beach between from FDEP control monuments R-59 south to R64, and from R67 south to R71. Tire pressure on the equipment used to drag the bar must also not exceed 10 p.s.i. Any nests left in place by the marine turtle permit holder must be clearly marked (by the FWC Marine Turtle Permit holder or authorized personnel) and avoided by the beach cleaner as outlines above.
12. Box blades and front of rear mounted blades are not authorized for raking purposes, except that a rear-mounted blade may be used below the typical tide line (NOT storm tide line) to mix seaweed with the wet sand.
13. Burial or storage of any debris (biotic or abiotic) collected is prohibited seaward of any frontal dune, vegetation line, or armoring structure except as authorized in this permit. Removal of accumulated abiotic debris from the beach must occur immediately after cleaning has been performed. |
14. 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 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.
15. 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 or volunteers designated on the existing Marine Turtle Permit for this area identify all known nests and restore the nest markers, creating a five (5) foot radius centered at the GPS coordinates for each clutch.
16. In the event that the nest cannot be reidentified and may have been lost during high water conditions, the permittee shall contact DEP staff to determine if mechanical beach cleaning may resume. All marine turtle protection conditions shall remain in effect unless specifically waived in writing.
17. In the event a sea turtle nest is excavated during beach cleaning activities, all work shall cease in that area immediately. FWC's Imperiled Species Management staff shall be notified immediately at (561)262-1104 in the event that marine turtle nests, eggs, or hatchlings are discovered during conduct of beach cleaning activities.
18. Electronic summaries of all nesting activity shall be provided each year that beach cleaning occurs across the dry sandy beach. Monitoring of nesting activity shall include daily surveys and any additional measures authorized by the FWC. Data submitted shall include daily report sheets noting all activity, nesting success rates, missed nests discovered after hatching, hatching success of all nests and

names of all personnel involved in nest surveys and relocation activities. Data should be reported separately for raked areas and for areas where raking is restricted to the high tide line. Summaries of nesting activity shall be submitted in electronic format (Excel spreadsheets). All reports should be submitted to FWC at marineturtle@myFWC.com by January 15 of the following year.

Please note that the current standard Marine Turtle Protection conditions for beach cleaning require daily surveys from March 1 through October 31 in Broward County. This prolonged survey effort is the best possible option to ensure that all nests are located and marked for protection during mechanical beach cleaning. We are certainly willing to discuss the need for nesting surveys into the fall if requested by the Permittee or the Marine Turtle Permit Holder. Such discussions should be in September and October, when actual nesting activity can be assessed for the project area.

Thank you for the opportunity to review this request. Please contact me at (850) 922-4330 if you have questions or require additional information.

Sincerely,



Kristen Nelson Sella, Fish and Wildlife Biological Scientist IV
Imperiled Species Management Section

cc: Ms. Courtney Kiel, Broward County
Ms. Christian Lambright, DEP
Mr. Mark Almy, City of Fort Lauderdale
Mr. Jeff Howe, FWS

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 Department 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.

Beach Cleaning Survey

1. Where do you clean the beach? (What is the shore-parallel dimension?)
 - a. Between FDEP Range Monuments: R- 59 and R- 80 ; or
 - b. Between addresses: _____ and _____ ; or
 - c. Between lat/longs: _____ and _____ ; or
 - d. Additional Area: _____
 - e. Additional Area: _____
 - f. Additional Area: _____
2. How far "up" the beach do you clean? (What is the shore-perpendicular dimension?)
 - a. MHW to Dune Vegetation or Seawall Line - typically 40-100 ft. wide.
 - b. Just along the wrack line - typically 30 ft. wide.
 - c. Other Area Description: A/A
Typically _____ ft. wide.
3. How often do you clean the beach?
 - a. Daily
 - b. Weekly
 - c. Monthly
 - d. Other: _____
4. Are there any times of year you cease beach cleaning?
 - a. No
 - b. Yes. If yes, what times of year do you cease?

5. What equipment do you use to beach clean?
 - a. Mechanized rake cleaner, with rotating collectors.
 - b. Pull-behind, fixed rake
 - c. Drag-Mat or Roll bar PER NEW PERMIT
 - d. Other: _____
6. What vehicle do you use to pull the cleaning equipment?
 - a. CAT CHALLENGERS AND NEW HOLLAND TRACTORS
7. Is seaweed or "wrack" relocated within the beach and dune system or bladed into the wet sand?
 - a. No.
 - b. Yes. If so, where is it placed? WE HAVE NOT BLADED IN THE PAST, BUT NEW PERMIT IT ALLOWS
WE WILL TYPICALLY REMOVE SEAWEED, BUT WILL BLADE WHERE ALLOWED
AT TIMES.
8. Is seaweed or "wrack" removed from the beach and dune system?
 - a. No.
 - b. Yes. If so, where is it placed? TAKEN TO OUR COMPOST DUMP (SNYDER PARK).
9. If applicable, what size debris does your equipment pick up?
 - a. Minimum size 3/4"
 - b. Maximum size 4.5"

If desired, please provide additional comments below for each question.

1. _____

2. FORT LAUDERDALE BEACH VARIES GREATLY IN WIDTH DEPENDING UPON
LOCATION. THE BEACH IS AS WIDE AS 600 FT ON THE VERY SOUTH END AND
AS NARROW AS 40 FT AT TIMES AT R-64 AND R-67

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

Additional Information:

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 the 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 proceeding.

- (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 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.
- (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 is needed. The Department will grant an extension only when good cause is shown.

If a petition or a request for extension of time 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 35.22(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.

PERMITTEE MUST POST PERMIT AND PUBLIC NOTICE CONSPICUOUSLY ON SITE