

DEPARTMENT OF THE ARMY PERMIT

Permittee: TOWN OF NAGS HEAD

Permit No.: SAW 2006-40282

Issuing Office: CESAW-RG

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

To excavate 4.6 million cubic yards of beach-quality sediment from an offshore borrow source, and deposit the material along approximately 10 miles of ocean shoreline, in the Town of Nags Head, Dare County, North Carolina. The total impact of the proposed project will include the excavation of 575 acres of ocean bottom and the subsequent disposal of the resultant material within 495 acres of existing beach, intertidal zone, and inshore habitat.

Project Location:

Nags Head, Dare County, North Carolina.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **December 31, 2013**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must &How representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit,

Special Conditions:

SEE ATTACHED SPECIAL CONDITIONS

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit, Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Curt Ogle Town Manager (DATE) 11-30-10
 (PERMITEE) TOWN OF NAGS HEAD

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

J. Kenneth Jolly (DATE) 1-24-11
 (DISTRICT ENGINEER) JEFFERSON M. RYSCAVAGE, COLONEL

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

 (TRANSFEEE) (DATE)

In accordance with 33 U.S.C. 1341(d), all conditions of the North Carolina Division of Coastal Management consistency determination and the North Carolina Division of Water Quality 401 Water Quality Certification dated April 28, 2010 are incorporated as part of the Department of the Army permit. Therefore they are not listed as special conditions.

ACTION ID: SAW 2006-40282

Nags Head Beach Nourishment Project

1. All work authorized by this permit must be performed in strict compliance with the attached plans, which are a part of this permit. Any modification to these plans must be approved by the U.S. Army Corps of Engineers, Wilmington District (Corps) prior to implementation.

2. Endangered Species Protection.

a. Hopper dredging is being approved under the South Atlantic Regional Biological Opinion (RBO) dated 1997, which can be viewed on the ERDC web site at the following link: <http://el.erd.c.usace.army.mil/seaturtles/refs-bo.cfm>. The National Marine Fisheries Service (NMFS) has directed that the RBO issued to the U.S. Army Corps of Engineers (Corps) serve as the formal consultation for all hopper-dredge projects. The RBO includes an Incidental Take Statement (ITS) issued to the Corps. Under the RBO/ITS, incidental takes are authorized on a Fiscal Year (FY) (October 1 - September 30) basis to be metered out by the Division Commander, South Atlantic Division, U.S. Army Corps of Engineers for the southeastern United States for Corps civil and military projects. The Permittee is hereby advised to avoid any incidental take in that such take may trigger the cessation of hopper dredging for the remainder of that FY. The Permittee understands and agrees that, even where it is in full compliance with the terms and conditions of the RBO/ITS, incidental take by the Permittee may require suspension of the permit by the Corps. The amount of incidental take that will trigger suspension, and the need for any such suspension, shall be determined at the discretion of the Corps. The Permittee understands and agrees on behalf of itself, its agents, contractors, and other representatives, that no claim, legal action in equity or for damages, adjustment, or other entitlement against the Corps shall arise as a result of such suspension or related action.

b. The Permittee shall immediately notify the Corps Regulatory Project Manager that an incidental take has occurred. The Regulatory Project Manager responsible for this project is Mr. Raleigh Bland who may be contacted at the Washington Regulatory Field Office, Post Office Box 1000, Washington, North Carolina, 27889, by telephone at (910) 251-4564, or e-mail

raleigh.w.bland@usace.army.mil. Dredging operations shall immediately cease upon incidental take of any sea turtle species until the District Commander, or his designee, notifies the Permittee to resume dredging. The Sea Turtle Mortality Report, attached to this permit, will be filled out by the Observer within 6 hours of the take event and e-mailed in pdf format to takereport.nmfsser@noaa.gov and the Regulatory Project Manager. In accordance with the RBO, all hopper dredges shall have an Observer on board who meets the guidelines as established on the website listed in Special Condition 18 below.

3. Pre-Dredging Submittals.

a. No dredging shall be performed by a hopper dredge without the inclusion of a rigid sea turtle deflector device. The Permittee shall electronically submit drawings showing the proposed device and its attachment to the Regulatory Project Manager. These drawings shall include the approach angle for any and all depths to be dredged during the dredging.

b. The Permittee shall electronically submit detailed drawings showing the proposed drag head grating system(s) and drag head(s), and documentation that supports grate sizing such as dredge pump manufacturer's recommended maximum particle size dimension(s), etc.

c. The Permittee shall electronically submit an operational plan to achieve protection of sea turtles during the hopper dredging operation. These operational procedures are intended to stress the importance of balancing the suction pipe densities and velocities in order to keep from taking sea turtles.

d. During turning operations the pumps must either be shut off or reduced in speed to the point where no suction velocity or vacuum exists. No dredging work shall be allowed to commence until approval of the turtle deflector device has been granted by the U.S. Army Corps of Engineers, Wilmington District. Sample Turtle Deflector Design Details are available on the website listed in Special Condition 18. A copy of the approved drawings and calculations shall be available on the vessel during dredging operations.

4. Pre-Dredging Inspection. A pre-dredging inspection of the hopper dredge shall be performed by the Wilmington District inspector in accordance with the protocol Sea Turtle Compliance Inspection Checklist located on the website listed in Special Condition 18 below.

5. Hopper Dredge Equipment. Hopper dredge drag heads shall be equipped with rigid sea turtle deflectors which are solidly attached. No dredging shall be performed by a hopper dredge without an installed turtle deflector device approved by the District inspector. Sample Turtle Deflector Design Details are on the web site indicated in Special Condition number 18 below.

a. Deflector Design.

(1) The leading V-shaped portion of the deflector shall have an included angle of less than 90 degrees. Internal reinforcement shall be installed in the deflector to prevent structural failure of the device. The leading edge of the deflector shall be designed to have a plowing effect of at least 6 inches in depth when the drag head is being operated. Appropriate instrumentation or indicator shall be used and kept in proper calibration to insure the critical "approach angle." (Information Only Note: The design "approach angle", or the angle of lower drag head pipe relative to the average sediment plane, is very important to the proper operation of a deflector. If the lower drag head pipe angle in actual dredging conditions varies tremendously from the design angle of approach used in the development of the deflector, the 6-inch plowing effect does not occur. Therefore, every effort should be made to insure this design "approach angle" is maintained with the lower drag pipe.)

(2) If adjustable depth deflectors are installed, they shall be solidly attached to the drag head using either a hinged aft attachment point or an aft trunnion attachment point in association with an adjustable pin front attachment point or cable front attachment point with a stop set to obtain the 6-inch plowing effect. This arrangement allows fine-tuning the 6-inch plowing effect for varying depths. After the deflector is properly adjusted there shall be no openings between the deflector and the drag head that are more than 4-inches by 4-inches.

b. In-flow Baskets and overflow screening.

(1) The Permittee shall ensure that baskets or screening are installed over the hopper inflow(s) with no greater than 4-inch by 4-inch openings and if possible overflow screening. The method selected shall depend on the construction of the dredge used and shall be approved by the District Commander prior to commencement of dredging. The screening shall provide 100% screening of the hopper inflow(s). The screens and/or baskets shall remain in place throughout the performance of the work. The turtle deflector device and inflow screens shall be maintained in operational condition for the entire dredging operation. If during dredging operations, the Permittee cannot meet the requirements of the inflow screening contact the Regulatory Project Manager.

(2) The Permittee shall install and maintain floodlights suitable for illumination of the baskets or screening to allow the Observer to safely monitor the hopper baskets or screening during non-daylight hours or other periods of poor visibility. Safe access shall be provided to the inflow baskets or screens to allow the Observer to inspect for turtles, turtle parts, or damage.

c. Drag head grating.

(1) Drag head grating may be used to prevent over-sized objects (relative to respective pump and distribution system designs) from reaching and becoming lodged or damaging, the dredge pump and/or slurry distribution system. The Permittee may not use a drag head grating system that would prevent turtle remains from entering the hopper inflow screening. Detailed drawings showing the proposed drag head grating system(s) and drag head(s), and documentation that supports grate sizing (such as dredge pump manufacturer's recommended maximum particle size dimension(s), etc.) shall be submitted. Exceptions for smaller drag head screens will be considered as necessary (e.g., in areas containing ordnance or excessive debris likely to clog or damage the pumps) with supporting justifications. No dredging shall begin until the District has approved all grating and screening.

6. Hopper Dredge Operation.

a. The Permittee shall operate the hopper dredge to minimize the possibility of taking sea turtles and to comply with the requirements stated in the Incidental Take Statement provided by the NMFS in their RBO.

b. The turtle deflector device and inflow screens shall be maintained in operational condition for the entire dredging operation.

c. When initiating dredging, suction through the drag heads shall be allowed just long enough to prime the pumps, and then the drag heads must be placed firmly on the bottom. When lifting the drag heads from the bottom, suction through the drag heads shall be allowed just long enough to clear the lines, and then must cease. Pumping water through the drag heads shall cease while maneuvering or during travel to/from the disposal area. If the required dredging section includes compacted fine sands or stiff clays, a properly configured arrangement of teeth may enhance dredge efficiency, which reduces total dredging hours, and turtle takes. The operation of a drag head with teeth must be monitored for each dredged section to insure that excessive material is not forced into the suction line. When excess high-density material enters the suction line, suction velocities drop to extremely low levels causing conditions for plugging of the suction pipe. Dredge operators should configure and operate their equipment to eliminate all low-level suction velocities. Pipe plugging in the past was easily corrected, when low suction velocities occurred, by raising the drag head off the bottom until the suction velocities increased to an appropriate level. Pipe plugging cannot be corrected by raising the drag head off the bottom. Arrangements of teeth and/or the reconfiguration of teeth should be made during the dredging process to optimize the suction velocities.

d. Raising the drag head off the bottom to increase suction velocities is not acceptable. The primary adjustment for providing additional mixing water to the suction line should be

through water ports. To insure that suction velocities do not drop below appropriate levels, the Permittee shall monitor production meters throughout the job and adjust primarily the number and opening sizes of water ports. Water port openings on top of the drag head or on raised standpipes above the drag head shall be screened before they are utilized on the dredging project. If a dredge section includes sandy shoals on one end of a tract line and mud sediments on the other end of the tract line, the equipment shall be adjusted to eliminate drag head pick-ups to clear the suction line.

e. The drag head shall be buried a minimum of 6 inches in the sediment at all times. Although the over depth prism is not the required dredging prism, the Permittee shall achieve the required prism by removing the material from the allowable over depth prism.

f. During turning operations the pumps must either be shut off or reduced in speed to the point where no suction velocity or vacuum exists.

7. Silent Inspector. All hopper dredges shall be equipped with the Silent Inspector (SI) system for hopper dredge monitoring. The SI system must have been certified by the Engineer Research and Development Center (ERDC) within the last year. Questions regarding certification should be addressed to the SI support team at 601-634-2923. Information about SI can be found at <http://si.wes.army.mil/index.html>. The data collected by the SI system shall, upon request, be made available to the issuing District.

8. Sea Turtle Non-Capture Trawl Sweeping. In order to minimize or reduce taking of turtles during dredging, non-capture trawling is required. This type of trawling is designed to use non-capture type trawling equipment to sweep in the proximity of the dredging operations in order to stimulate sea turtles to move out of the dredge path. No sea turtles will be captured using this trawling technique. Non-capture trawl sweeping shall be performed 48 hours prior to initiating dredging and shall continue throughout dredging operations. Conduct non-capture trawl sweeping operations in the vicinity of dredge operations, but maintain a safe distance from the dredge. Trawl equipment used (e.g. trawling nets) and trawl sweeping operations shall be conducted such that no sea turtles or other marine organism by-catch are captured. As much as possible, non-capture trawl sweeping shall be conducted to maximize the amount of time during each 24-hour trawl day that the trawl equipment (e.g. trawling nets) sweeps the bottom sediment in the vicinity of the dredging operation (i.e. maximize the bottom time with the trawling equipment). Such trawling in the vicinity of the dredge shall be conducted continuously, stopping after every 4 to 6 hours to check the condition of the trawl equipment and assure that no turtles have been captured.

a. Non-capture Trawl Sweeping Period. Non-capture trawl sweeping shall be conducted as described below:

(1) A day of non-capture trawl sweeping shall be defined as 24 hours of continuous trawling.

(2) Non-capture trawl sweeping may be conducted as 24-hours of trawling as a continuous trawl; however, two separate crews must be available on board to work two 12-hour shifts.

b. Turtle Handling and Endangered Species Permits. No sea turtles are to be intentionally captured during non-capture trawl sweeping operations. No endangered species permits to handle sea turtles are required for non-capture trawl sweeping. Should a sea turtle become entangled in the trawling nets; the nearest marine facility must be notified for arrangements to be made to transfer the animal as needed.

c. Reporting. A daily log will be kept for each non-capture trawl sweeping operations. The non-capture trawl sweeping log will be submitted to the Regulatory Project Manager at the completion of the project. Data to be included with this log daily will include:

(1) GIS coordinate of trawl locations at the start and end of each sweep.

(2) Times recorded for the duration of each trawl sweep.

(3) Description of dredge proximity during each sweep.

(4) General notes as appropriate (e.g. condition of equipment at the end of each sweep, snags occurring during each sweep, incidental debris, etc.).

(5) Water Quality and Physical Measurements: Water temperature measurements shall be taken at the water surface each day using a laboratory thermometer. Weather conditions shall be recorded from visual observations and instruments on the trawler. Weather conditions, air temperature, wind velocity and direction, high and low tides, sea state-wave height, and precipitation shall be recorded on the Trawling Form on the web site indicated in Special Condition 18 below.

d. Non-Capture Trawl Sweeping Equipment: The trawler shall be equipped with two 60-foot flat-style trawling nets with the bag or cod end of the nets removed to create a completely open bag or cod end of each net. As appropriate for the environmental conditions and sediment type, the lead line of each net shall be rigged with weights, mud rollers, tickler chains, and/or trawling cookies to ensure that the lead line and what was previously the mouth of the trawl net maintain contact with the sediment bottom.

e. Trawler Equipment Breakdown: Should there be a breakdown of trawler equipment that would cause the trawler to leave the area where dredging is underway during any period of

time when non-capture trawl sweeping is required, the dredge may continue to operate for up to 48 hours, as long as no turtles are taken, and subject to the discretion of the Regulatory Project Manager. Should there be dangerously high seas that would cause the trawler to leave the dredging area when non-capture trawl sweeping is required, the dredge may continue to operate, as long as no turtles are taken; subject to the discretion of the Project Manager.

9. Endangered Species Observers: During dredging operations, observers approved by the NMFS sea turtles, sturgeon and whales shall be aboard to monitor for the presence of the species. Observer coverage shall be 100 percent (24hr/day) and shall be conducted year round. During transit to and from the disposal area, the observer shall monitor from the bridge during daylight hours for the presence of endangered species, especially the Northern right whale, during the period December through March. During dredging operations, while drag heads are submerged, the observer shall continuously monitor the inflow and/or overflow screening for turtles and/or turtle parts and sturgeon and/or sturgeon parts. Upon completion of each load cycle, drag heads should be monitored as the drag head is lifted from the sea surface and is placed on the saddle in order to assure that sea turtles that may be impinged within drag head are not lost and unaccounted for. Observers shall physically inspect drag heads and inflow and overflow screening/boxes for threatened and endangered species take. Other abiotic and biotic debris found in the screens during their examination for sea turtle or sturgeon parts shall be recorded and then disposed of so as not to impede the functioning of the screens during the next load cycle.

a. Monitoring Reports. The results of the monitoring shall be recorded on the appropriate observation sheets. There is a sheet for each load, a daily summary sheet, and a weekly summary sheet. In addition, there will be a post dredging summary sheet. Observations sheets will be completed regardless of whether any takes of sturgeon (Gulf, shortnose or Atlantic), whales, or sea turtles occur. In the event of any sea turtle or sturgeon (Gulf, Atlantic or shortnose) take by the dredge, appropriate incident reporting forms shall be completed. Additionally, all specimens shall be photographed with a digital camera. These photographs shall be attached to respective reports for documentation. Dredging of subsequent loads shall not commence until all appropriate reports are completed from the previous dredging load to ensure completeness and thoroughness of documentation associated with the incidental take. Reports shall be submitted to the Corps within 24-hours of the take. Copies of the forms must be legible. Observer forms may be accessed on the web site indicated in Special Condition 18 below.

b. Endangered Species Observer(s). A list of endangered species observer-biologists (ESOs) that have been NMFS-approved to monitor threatened/endangered species takes by hopper dredges can be obtained by contacting NOAA Fisheries' Northeast Region, Protected

Resources Division. The main contact is Ms. Julie Crocker; she can be reached at julie.crocker@noaa.gov or 978-281-9300 ext.6530.

c. The Permittee shall provide a digital camera, with an image resolution capability of at least 300 dpi, in order to photographically report all incidental takes, without regard to species, during dredging operations. Immediately following the incidental take of any threatened or endangered species, images shall be provided, via email, CD, DVD, or USB (thumb/flash/jump drive) to the Contracting Officer's Representative in a .JPG or .TIF format and shall accompany incidental take forms. The nature of findings shall be fully described in the incidental take forms including references to photographs.

10. Manatee, Sea Turtle, and Whale Sighting Reports. Any take concerning a manatee, sea turtle, sturgeon, or whale (Atlantic only); or sighting of any injured or incapacitated manatees, sea turtles, or whales shall be reported immediately to the Corps by notifying the personnel indicated in the list in Condition 11 below. A copy of the incidental take report shall be provided within 24 hours of the incident. The Permittee shall also immediately report any collision with and/or injury to a manatee to the North Carolina Wildlife Resources Commission. If a sea turtle is taken by the dredge (live or dead), the Permittee shall email a PDF version of the incidental take report to NOAA-Fisheries Southeast Region at the following email address within 24 hours of the take: takrcrport.nmfsser@noaa.gov, also providing a copy to the Regulatory Project Manager.

11. Disposition of Sea Turtles or Turtle Parts.

a. Turtles taken by hopper dredge

(1) Dead turtles - Upon removal of sea turtle and/or parts from the drag head or screening, observers shall take photographs to sufficiently document major characteristics of the turtle or turtle parts including but not limited to dorsal, ventral, anterior, and posterior views. For all photographs taken, a backdrop shall be prepared to document the dredge name, observer company name, contract title, time, date, species, load number, location of dredging, and specific location taken (drag head, screening, etc.).

Carcass/turtle parts shall also be scanned for flipper and Passive Integrated Transponder (PIT) tags. Any identified tags shall be recorded on the "Sea Turtle Incidental Take Form" that is included in the "Endangered Species Observer Program Forms" located on the web site indicated in Special Condition number 18 below. Turtle parts which cannot be positively identified to species shall be preserved by the observer(s) for later identification. A tissue sample shall be collected from any lethally taken sea turtle and submitted under the process stated in the *Protocol for Collecting Tissue Samples from Turtles for Genetic Analysis* found in the website listed in Special Condition 18 below.

After all data collection is complete, the sea turtle parts shall be placed in plastic bags, labeled as to the time, date, and dredged reach of collection, kept frozen and transported to the National Marine Fisheries Service Laboratory in Beaufort, North Carolina. If no local facility is capable of receiving the sea turtle/parts, they should be marked (spray paint works well), weighted down and disposed of under the direction of the Regulatory Project Manager.

(2) Live Turtles - Observer(s) shall measure, weigh, scan for Passive Integrated Transponder (PIT) tags, and photograph any live turtle(s) incidentally taken by the dredge. If no tagging was identified, observers shall tag the turtle using Iconnel flipper and PIT tags if they are qualified to do so. Observer(s) or their authorized representative shall coordinate with the Regulatory Project Manager to transport, as soon as possible, the live turtle(s) taken by the dredge to an approved rehabilitation facility in the project area.

12. Report Submission. The Permittee shall maintain a log detailing all incidents, including sightings, collisions with, injuries, or killing of manatees, sea turtles, sturgeon (Gulf, Shortnose or Atlantic), or whales occurring during the contract period. The data shall be recorded on forms available on the website as indicated in Special Condition number 18. All data in original form shall be forwarded directly to Wilmington District within 10 days of collection. Following project completion, a report summarizing the above incidents and sightings shall be submitted to the following:

- a. Wilmington District Regulatory Contact: Raleigh.W.Bland@usace.army.mil
- b. South Atlantic Dredging Projects: Terri.L.Jordan@usace.army.mil
- c. National Marine Fisheries Service
Protected Species Management Branch
263 13th Avenue South
St. Petersburg, Florida 33701
- d. North Carolina Wildlife Resources Commission
943 Washington Square Mall
Washington, North Carolina 27889

13. The Permittee shall implement the Mitigation Plan described in Section 8.0 of the FEIS including all monitoring, surveying, and reporting requirements. Copies of the monitoring

reports will be also sent to the Corps, NMFS, USFWS, N.C. Division of Coastal Management, and the N.C. Wildlife Resources Commission.

14. The Permittee's turtle relocation trawling plan (Plan) shall be implemented for this project. As prescribed by the Plan, two (2) turtle trawlers shall be mobilized when ocean water temperatures within the project area reach 55 degrees Fahrenheit. Trawling will commence immediately when ocean water temperatures within the project area reach 57 degrees Fahrenheit and cease when ocean water temperatures drop below this mark in the fall. The applicant will electronically monitor the locations of trawlers and hopper dredges so that trawling is implemented to maximum effectiveness.

15. All necessary precautions and measures will be implemented so that any activity will not kill, injure, capture, pursue, harass, or otherwise harm any protected federally listed species (sea turtles, whales, manatee, shortnose sturgeon, and piping plover). While accomplishing the authorized work, if the Permittee discovers or observes a damaged or hurt listed endangered or threatened species, the Corps will be immediately notified so that required coordination can be initiated with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS).

16. Trawling shall be initiated in accordance with the turtle relocation trawling plan and as directed by the Corps. The Permittee must initiate trawling and relocation activity in the dredging area within 8 hours of direction to do so from the Corps in accordance with the conditions below. Trawling shall continue until suspended by the District Commander or his designee.

17. The Permittee shall conduct routine beach surveillance during construction to prevent unintentional damage to sea turtles and their nesting areas. If a nest or a turtle crawl is identified in the project area, the Permittee will immediately stop all beach disposal activities and contact the Corps to determine appropriate action.

18. Reporting Forms. In order to avoid use of outdated forms, the Permittee is directed to the following website for forms and attachments required under this permit. Links to these forms are under the heading *Turtle Information*, <http://el.erdc.usace.army.mil/seaturtles>, (List of forms required under this permit include: Sea Turtle/Pre and Post-Hopper Dredging Project Checklist, Endangered Species Observer Program Forms, Sea Turtle Tagging and Relocation Report, and Sea Turtle Trawling Report).

19. Dredging activities authorized by this permit shall not in any way interfere with those operations of the Wilmington District Civil Works dredging and navigation projects, specifically

the *Dare County Hurricane Protection and Beach Erosion Control Project* (Dare County Beach 2000 Project).

20. All work authorized by this permit must be performed in strict compliance with the August 18, 2008, U.S. Fish and Wildlife Service Biological Opinion and Incidental Take Statement for the Nags Head Emergency Beach Nourishment Project.

21. The Permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit. A copy of this permit, including all conditions, shall be present and available at the project site during construction and maintenance of this project.

22. The Permittee shall schedule a preconstruction meeting between its representatives, the contractor's representatives and the Corps prior to undertaking any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all terms and conditions contained within the Department of the Army permit. The Permittee shall contact the Corps a minimum of thirty (30) days in advance of the scheduled meeting in order to provide that individual with ample opportunity to schedule and participate in the required meeting. Meeting participants may include, but are not limited to, representatives from N.C. Division of Coastal Management, N.C. Division of Water Quality, N.C. Wildlife Resource Commission, and the U.S. Coast Guard.

23. The Permittee shall advise the Corps in writing prior to beginning the work authorized by this permit. The contractor's name, phone number, and address, including any inspector's contact name and phone number must be provided to the Corps prior to undertaking any work.

24. This permit authorizes beach fill activities to be undertaken only one (1) time along the entire project area. Any request to undertake additional maintenance beach fill activities within the project area where nourishment activities have already been completed under this permit will require prior written authorization from the Corps.

25. Within forty-five (45) days of project completion, the Permittee shall submit a detailed map of the final dimensions of the S1 Borrow Area and the final Biological Monitoring Plan to the U.S. Environmental Protection Agency and the Corps.

26. All beach fill material shall be obtained from within federal Borrow Area S1 as defined in the FEIS. The dredging contractor shall use dredge positioning software to ensure that no dredging occurs outside the boundaries of Borrow Area S1.

27. Visual surveys to detect escarpments shall be made along the beach fill area immediately after the completion of construction. All escarpments in the newly placed beach fill that exceed 18 inches in height shall be graded to match adjacent beach contours immediately completion of each project phase. Removal of escarpments during the sea turtle hatching season (May 1 through November 15) must be coordinated with the North Carolina Wildlife Resources Commission.
28. Immediately after completion of the project as authorized by this permit and prior to the next three (3) sea turtle nesting seasons, beach compaction shall be monitored by the Permittee and coordinated with the Corps and N.C. Wildlife Resources Commission. The Permittee shall conduct tilling/disking of the compacted beach fill area as required by the monitoring plan to reduce the likelihood of impacting sea turtle nesting and hatching activities. The Permittee shall not conduct any beach tilling without prior compaction sampling of the beach and shall provide an annual summary of compaction surveys to the USFWS.
29. Should monitoring indicate that unexpected adverse impacts have occurred as a result of this project, the applicant will pursue, in consultation with the Corps and other appropriate and interested agencies, any appropriate and practicable remedial action including consideration of compensatory mitigation.
30. No dredged material will be placed at any time in waters outside the permitted beach nourishment disposal area. Material will be placed on the beach via pipeline.
31. The Permittee shall coordinate the placement of all dredge pipeline along the beach with the N.C. Wildlife Resources Commission and the N.C. Division of Coastal Management.
32. All material used for the beach nourishment must be beach compatible, clean, free of debris and clay, and free of any pollutants except in trace quantities. The Permittee shall ensure that an inspector is present during all beach disposal activities and immediately report to the Corp should any potentially incompatible material be placed on the beach.
33. If submerged cultural resources are encountered during the operation, the Permittee shall immediately notify the Corps so that coordination can be initiated with the Underwater Archeology Unit (UAU) of the Department of Cultural Resources.
34. In issuing this permit, the Federal Government does not assume any liability for: a) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; b) Damages to the permitted project or uses thereof as a result of current or future Federal activities initiated on behalf of the general public; c) Damages to other permitted or unpermitted activities or structures caused by the authorized activity; d) Design and

construction deficiencies associated with the permitted work; e) Damage claims associated with any future modification, suspension, or revocation of this permit.

35. Except as authorized by this permit or any Corps approved modification to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.

36. All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other toxic materials. In the event of a spill of petroleum products or any other hazardous waste, the Permittee shall immediately report it to the N.C. Division of Water Quality at (919) 733-5083, extension 526, or (800) 662-7956, and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed

37. The Permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

38. Violations of these conditions or violations of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act must be reported in writing within 24 hours of the Permittee's discovery of the violation to the Washington Regulatory Field Office, Attn: Mr. Raleigh Bland, Post Office Box 1000, Washington, North Carolina, 27889.

39. The Permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the water or wetland to its pre-project condition.

40. The Permittee shall provide the Corps with written notification immediately upon completion of the work authorized by this permit.

41. This Department of the Army permit does not obviate the need to obtain other Federal, State or local authorizations required by law.

42. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in

the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal, relocation, or alteration. The Permittee shall notify NOAA/NATIONAL OCEAN SERVICE Chief Source Data Unit N CS261, 1315 E West HWY- RM 7316, Silver Spring, MD 20910-3282 at least two (2) weeks prior to beginning work and upon completion of work.

43. The authorized project must not interfere with the public's right to free navigation on all navigable waters of the United States. No attempt will be made by the Permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work for reason other than safety.

44. The Permittee will comply with all U.S. Coast Guard regulations for dredging operations and contact Mr. Tom Flynn, United States Coast Guard, District 5 Waterways at telephone, (757) 398-6229, at least thirty (30) days prior to construction. Contact with the U.S. Coast Guard will initiate the Local Notice for Mariners procedures to ensure all safety precautions for aids to navigation are implemented. The Permittee shall notify the Corps when this coordination with the U.S. Coast Guard has commenced and provide updates as requested.

45. The Permittee must install and maintain, at his expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on authorized facilities. For further information, the Permittee should contact the U.S. Coast Guard Marine Safety Office at telephone, (910) 772-2200.



North Carolina Department of Environment and Natural Resources
Division of Water Quality

Beverly Eaves Perdue
Governor

Coleen H. Sullins
Director

Dee Freeman
Secretary

April 28, 2010

DWQ Project # 2006-1275 Ver. 2
Dare County

Town of Nags Head
Mr. Cliff Ogburn, Town Manager
Post Office Box 99
Nags Head, NC 27959

Subject Property: Nags Head Emergency Beach Nourishment
Atlantic Ocean

Approval of 401 Water Quality Certification (GC 3642) with Additional Conditions

Dear Mr. Ogburn:

You have our approval, in accordance with the attached conditions and those listed below, to place fill within or otherwise impact 575 acres of open waters from dredge (offshore borrow site S1, as ID by ACE) and 591 acres of ocean beach fill for the purpose of beach nourishment at the subject property, as described within your application dated August 18, 2009 and received by the N.C. Division of Water Quality (DWQ) on December 10, 2009. After reviewing your application, we have decided that the impacts are covered by General Water Quality Certification Number(s) 3642 (GC3642). **This Certification allows you to use the CAMA Major Permit when the Division of Coastal Management issues it.** In addition, you should obtain or otherwise comply with any other required federal, state or local permits before you go ahead with your project including (but not limited to) Erosion and Sediment Control, Non-discharge regulations. **Also, this approval to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application shall expire upon expiration of the 404 or CAMA Permit.**

This approval is for the purpose and design that you described in your application. If you change your project, you must notify us and you may be required to send us a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter and is thereby responsible for complying with all conditions. If total fills for this project (now or in the future) exceed one acre of wetland or 150 linear feet of stream, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h). **This approval requires you to follow the conditions listed in the attached certification and any additional conditions listed below.**

The Additional Conditions of the Certification are:

North Carolina Division of Water Quality
943 Washington Square Mall
Washington, NC 27889

Internet: www.ncwaterquality.org
Phone: 252-946-6481
FAX: 252-946-9215

One
North Carolina
Naturally

1. Impacts Approved

The following impacts are hereby approved as long as all of the other specific and general conditions of this Certification (or Isolated Wetland Permit) are met. **No other impacts are approved including incidental impacts:**

	Amount Approved (Units)	Plan Location or Reference
Stream	(feet)	
404/CAMA Wetlands	(acres)	
Open Waters	575 (acres)	Offshore Borrow Sites S1
Beach Nourishment	591 (acres)	Blackmon St. to McCall Court

2. Erosion & Sediment Control Practices

Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:

- a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
- b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
- c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
- d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
- e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), Trout (Tr), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supersede all other sediment and erosion control requirements.

3. No Waste, Spoil, Solids, or Fill of Any Kind

No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts depicted in the Pre-Construction Notification and authorized by this written approval, including incidental impacts. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

4. No Sediment & Erosion Control Measures w/n Wetlands or Waters

Sediment and erosion control measures shall not be placed in wetlands or waters without prior approval by DWQ. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. All devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources has released the project.

5. If concrete is used during the construction, then a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life/fish kills.

6. Certificate of Completion

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return the attached certificate of completion to the 401 Oversight/Express Review Permitting Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650.

7. The applicant/permittee is required to comply with the North Carolina Wildlife Resources Commission (NCWRC) and US Fish & Wildlife Service (as stated in their August 18, 2008 Biological Opinion) monitoring and conservation measures recommended for the Town of Nags Head Beach Nourishment Project. The applicant/permittee shall also implement improvements to monitoring plan recommended by the Division of Marine Fisheries and monitoring and mitigation plans proposed in the Major CAMA Permit application (pages 10-12).

8. The applicant/permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law. If the Division determines that such standards or laws are not being met, including failure to sustain a designated or achieved use, or that State or Federal law is being violated, or that further conditions are necessary to assure compliance, then the Division may reevaluate and modify this General Water Quality Certification.

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. The authorization to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application and as authorized by this Certification shall expire upon expiration of the 404 or CAMA Permit.

If you do not accept any of the conditions of this Certification (associated with the approved wetland or stream impacts), you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition, which conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. This certification and its conditions are final and binding unless you ask for a hearing.

This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act 15A NCAC 02H. .0500. If you have any questions, please telephone Roberto Scheller of the Washington Regional Office at 252-948-3940 or Ian McMillan of the 401 Oversight/Express Unit at 919-715-4631.

Sincerely,

Coleen H. Sullins

Enclosures: Certificate of Completion
GC 3642

cc: Corps of Engineers Washington Field Office
DWQ 401 Oversight/Express Unit
CAMA, Doug Hugget, Morehead Office
CAMA, John Cece, Morehead Office
File copy

Filename: 06-1275 Ver.2

Permit Class
NEW

Permit Number
45-10

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission

Permit

for

Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to **Town of Nags Head, PO Box 99, Nags Head, NC 27959**

Authorizing development in Dare County at Atlantic Ocean and Ocean Beach within Town limits. as requested in the permittee's application dated 8/18/09, including the attached drawings (26), 17 dated Apr. 2009 & 9 dated revised Oct. 2009, & attached AEC Hazard Notice dated 4/28/09

This permit, issued on April 29, 2010, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

Excavation

- 1) Unless specifically altered herein, all excavation activities shall take place entirely within the areas indicated on attached figures No. 02 (Overall Project Plan) and No. S1 (Survey Track and Tie Lines) and in accordance with the attached narrative dated 1/5/09.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

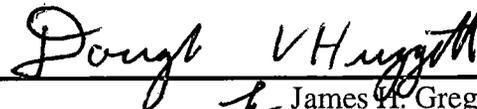
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

September 3, 2014

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.



James H. Gregson, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.



Signature of Permittee

ADDITIONAL CONDITIONS

Cultural Resource Protection

- 2) In order to satisfy concerns with the North Carolina Department of Cultural Resources, and to protect the two magnetic anomaly clusters identified in the report prepared by Tidewater Atlantic Research entitled "A Phase I Remote Sensing Archaeological Survey of the Three Proposed Borrow Sites East of Bodie Island, Dare County, North Carolina", there shall be a 400 foot diameter buffer zone around each of the two anomalies. No excavation activities shall take place with these buffer areas without permit modification.

Beach Nourishment

- 3) This permit authorizes beach nourishment activities to be carried out one (1) time along the entire reach of the requested project area. Any request to carry out additional activities within an area where nourishment activities have been completed under this permit shall require a modification of this permit.
- 4) Prior to initiation of beach nourishment activity along each section of beach, the existing mean high water line shall be surveyed, and a copy of the survey provided to the Division of Coastal Management.

NOTE: The permittee is advised that the State of North Carolina claims title to all currently submerged lands and any future lands that are raised above the Mean High Water level as a result of this project.

- 5) Prior to the initiation of any beach nourishment activity above the normal high water contour (NHW) within the limits of the permittee's jurisdiction, easements or similar legal instruments shall be obtained from all impacted property owner's.
- 6) Prior to the initiation of any beach nourishment activity, the permittee shall coordinate with the Division of Coastal Management to determine the static vegetation line that shall be used as the reference point for measuring future oceanfront setbacks. The static vegetation line, which is defined as the vegetation line that existed within one year prior to the onset of initial project construction, shall be established using on-ground observation and survey or aerial imagery. This static vegetation line shall then be marked and a survey depicting this static vegetation line shall be submitted to the Division of Coastal Management prior to any beach nourishment activities.
- 7) The seaward nourishment limit shall be conducted in accordance with the attached work plats labeled "Project Plan" figures 3 -17 all dated April 2009.
- 8) Temporary dikes shall be used to retain and direct flow of material parallel to the shoreline to minimize surf zone turbidities. The temporary dikes shall be removed and the beach graded in accordance with approved profiles upon completion of pumping activities in that particular section of beach.
- 9) Should dredging operations encounter sand deemed non-compatible with 15A NCAC 07H .0312 (Technical Standards for Beach Fill Projects), the dredge operator shall immediately cease operation and contact the NCDPCM. Dredge operations shall resume after resolution of the issue of sand compatibility.
- 10) In order to prevent leakage, dredge pipes shall be routinely inspected. If leakage is found and repairs cannot be made immediately, pumping of material shall stop until such leaks are fixed.

ADDITIONAL CONDITIONS

- 11) Once a section is complete, piping and heavy equipment shall be removed or shifted to a new section and the area graded and dressed to final approved slopes.
- 12) Land-based equipment necessary for beach nourishment work shall be brought to the site through existing accesses. Should the work result in any damage to existing accesses, the accesses shall be restored to pre-project conditions immediately upon project completion in that specific area

NOTE: The permittee is advised that any new access site would require a modification of this permit.

- 13) Where oceanfront development exists at elevations nearly equal to that of the native beach, a low protective dune shall be pushed up along the backbeach to prevent slurry from draining towards the development.
- 14) Dune disturbance shall be kept to a minimum. Any alteration of existing dunes shall be coordinated with the Division of Coastal Management as well as the appropriate property owner(s). All disturbed areas shall be restored to original contours and configuration with reference to the surveyed normal high water line and shall be revegetated immediately following project completion in that specific area.

Mitigation and Monitoring

- 15) The permittee shall fully implement the benthic monitoring plan as described in the attached "Draft Proposed Benthic Monitoring Plan" dated April 2010, including the following modifications to the approved plan;
 - a) Samples stations within the swash and subtidal zones shall be defined with standardized (fixed) stations that can be accurately relocated for all subsequent sampling events:
 - b) The northern control station shall be located in an area that will not be potentially renourished by future nourishment projects (ie. USACE or Town of Kill Devil Hills):
 - c) The control stations shall be located +/- 4 miles north and +/- 4 miles south of the authorized impact area, as opposed to the +/- 2 mile separations currently proposed:
 - d) Prior to the initiation of implementation of the benthic monitoring plan, the permittee shall provide to the Division for approval a more specific plan on what organisms are proposed to be identified, as well as what mesh size the applicant proposes to use to collect these organisms.

ADDITIONAL CONDITIONS

- 16) In order to ensure protection of sea turtles, the permittee shall implement the following survey activities throughout the entire project area from May 1st through November 15th for the duration of the authorized project;
- a) In each case of observation of sea turtles (nesting females, hatchlings or eggs), designated local personnel shall immediately be notified:
 - b) If a sea turtle is observed in the project area during the project, all work shall immediately be stopped within 500 ft. of the turtle. If the turtle successfully places a clutch of eggs on the beach, work in the area shall not resume until the eggs can be relocated to a safe area. If the turtle returns to the water without nesting, work may resume in the affected area:
 - c) If recently emerged hatchlings from an unmarked nest are observed, all work shall immediately stop within 100 feet of the hatchlings, and all artificial lighting shall be extinguished within 500 feet of the hatchling to facilitate seafinding behavior of the hatchlings. Work shall not resume within 100 feet of the emerged nest until authorized sea turtle volunteers can excavate the nest and release any remaining hatchlings into the ocean:
 - d) Nests located in areas where beach nourishment material is to be placed prior to nest hatching shall be relocated to typical nesting habitat on the beach outside of the project area. Nesting surveys and egg relocations shall be conducted only by Wildlife Resources Commission permitted personnel with prior experience and training. Only nests that will be affected by construction activities may be moved:
 - e) If any nests or eggs are discovered during the project, all project activity shall immediately cease within 50 feet of the location of the eggs or nest. Work in the affected area shall only resume after receiving permission from Wildlife Resources Commission staff:
 - f) During beach nourishment activities, daily monitoring shall be conducted to determine if escarpments have formed. Any escarpments greater than 18 inches that are present between May 1^t and August 30 shall be leveled. Monitoring outside the sea turtle nesting season shall be done at least once every two weeks. Leveling activities shall be coordinated with the Wildlife resources Commission prior to implementation. The permittee shall implement the escarpment monitoring and associated leveling for three years post construction:
 - g) During the sea turtle season (May 1 through November 15), efforts shall be made to minimize impacts to sea turtle access to the beach to the maximum extent possible by storing equipment and materials off of the beach, perpendicular to the beach, or at the landward most area of the beach that does not compromise dune integrity:
 - h) During the sea turtle season (May 1 through November 15), nighttime lighting associated with nourishment activities shall be minimized. Lighting shall be limited to the immediate construction area and shall be minimized through reduction, shielding, lowering, and appropriate placement to avoid excess illumination of the water surface and nesting beach.

ADDITIONAL CONDITIONS

- 17) Unless specifically modified herein, all mitigative commitments and/or biological monitoring commitments made during the environmental review process as found in the final Environmental Impact Statement shall be adhered to.

General

- 18) This permit does not authorize the extension of any of the existing ocean outfalls that fall within the project boundaries.
- 19) This permit shall not be assigned, transferred, sold or otherwise disposed of to a third party without the written approval of the Division of Coastal Management.
- 20) The permittee and his contractor shall schedule a pre-construction conference with the Division of Coastal Management and the Wildlife Resources Commission prior to the initiation of any dredging or mobilization activities.
- 21) The permittee shall obtain any necessary authorizations or approvals from the US Army Corps of Engineers prior to initiation of any permitted activity. All conditions of the Federal approval shall be adhered to.
- 22) The permittee and/or his contractor shall provide for proper storage and handling of all oils, chemicals hydraulic fluids, etc., necessary to carry out the project.
- 23) The N.C. Division of Water Quality has authorized the proposed project under General Water Quality Certification No. 3642 (DWQ Project No. 06-1275 V2), which was issued on 4/28/10. Any violation of the Water Quality Certification shall also be considered a violation of this CAMA Permit.
- 24) No sand shall be placed on any sand bags that have been determined by the Division of Coastal Management to be subject to removal under 15A NCAC .0308(a)(2). In order to ensure compliance with this condition, the Division of Coastal Management shall be contacted at (252) 264-3901 prior to project initiation so that Division staff may meet on site with the permittee and/or contractor.
- 25) This permit does not authorize any permanent or long-term interference with the public's right of access and/or usage of all State lands and waters.
- 26) The permittee shall make every effort possible to minimize any negative impacts of trucks and construction equipment on roadway and pedestrian traffic. The permittee should also ensure that the ability of individuals to access and enjoy the beach is not impeded outside of the construction limits.

NOTE: The permittee is advised that the Division of Coastal Management shall regulate the removal of existing sandbags and the placement of new sandbags in accordance with 15A NCAC 07H .0308 (a)(2)(F), or in accordance with any variances granted by the N.C. Coastal Resources Commission.

ADDITIONAL CONDITIONS

NOTE: This permit does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required.

NOTE: Future nourishment activities may require a modification of this permit. The permittee shall contact a representative of the Division at (252) 264-3901 prior to the commencement of any such activity for the determination.

NOTE: The permittee is encouraged to make its contractors aware of existing utilities during ingress and egress of the site to avoid damage to the utilities. Please contact the Dare County Water Department to confirm the location of utilities in the area.