



# FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING  
3900 COMMONWEALTH BOULEVARD  
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT  
GOVERNOR

HERSCHEL T. VINYARD JR.  
SECRETARY

## FINAL ORDER OF VARIANCE

### GRANTEE:

Lee County Natural Resources Division  
c/o Steven Boutelle  
1500 Monroe Street  
Ft. Myers, Florida 33901

### AGENT:

Coastal Technology Corporation  
c/o Lois Edwards  
3625 20<sup>th</sup> Street  
Vero Beach, Florida 32960

### PROJECT INFORMATION:

Variance No. 0311811-002-BV

Issuance Date: June 24, 2013

Expiration Date: Same as expiration date of  
Permit No. 0311811-001-JC

County: Lee

Project: Bonita Beach and Lover's Key  
Beach Nourishment

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### FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants, to Lee County, a variance from the requirements of Rule 62-4.244(5)(c), Florida Administrative Code (F.A.C.), to establish a temporary mixing zone greater than 150 meters.

This variance will temporarily establish an expanded mixing zone of up to 650 meters downcurrent and 150 meters offshore for the nourishment site at Bonita Beach, and another expanded mixing zone of up to 2,500 meters downcurrent and 300 meters offshore for the nourishment site at Lover's Key. This temporary variance shall only be valid during the construction activities authorized in Permit No. 0311811-001-JC and shall expire when the permit expires on May 16, 2023, unless the permit is modified to grant a time extension.

The associated joint coastal permit (No. 0311811-001-JC) is to nourish 0.8 miles of Bonita Beach and 1.1 miles of Lover's Key Beach using beach compatible material from borrow areas in the Big Carlos Pass ebb shoal complex.

After reviewing the Petition for Variance, the Department concluded that it satisfied the requirements and criteria set forth in Section 403.201, Florida Statutes (F.S.), and Rule 62-110, F.A.C.

The *Consolidated Notice of Intent to Issue Joint Coastal Permit, Variance and Authorization to Use Sovereign Submerged Lands* notified Lee County of the Department's proposed agency action and advised them of their right to a hearing pursuant to Sections 120.569 and 120.57, F.S. On May 1, 2013, notice was given in the Fort Myers News-Press and on May 1, 2013, notice was given in the Florida Administrative Register informing the public of the Department's intended action and offering an opportunity for hearing pursuant to Sections 120.569 and 120.57, F.S. A copy of the notice is attached as Exhibit A.

The Grantee and interested parties, having been advised of their rights under Chapter 120, F.S., and having failed or declined to file a Petition pursuant to Sections 120.569 and 120.57, F.S., are hereby deemed to have waived those rights. Acceptance of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof. It is therefore:

**ORDERED** by the State of Florida, Department of Environmental Protection, that the Petition of Lee County requesting a variance be and is hereby granted, subject to the conditions specified by the Department in Permit No. 0311811-001-JC.

Any Party to this Order has the right to seek judicial review of the Order Pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of the Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the clerk of the Department.

**DONE AND ORDERED** this 24 day of June, 2013, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



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Danielle H. Irwin, Deputy Division Director  
Division of Water Resource Management

Final Order of Variance  
Variance No. 0311811-002-BV  
Permit No. 0311811-001-JC  
Bonita Beach and Lover's Key Beach Nourishment  
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Copies furnished to:

Lucy Blair, DEP, South District  
Robert Brantly, DEP DWRM  
Subarna Malakar, DEP DWRM  
Vladimir Kosmynin, DEP DWRM  
Alex Reed, DEP DWRM  
Vince George, DEP DWRM  
Robbin Trindell, FWC ISMS  
Luke Davis, FWC ISMS

Jenny Cowart, DEP DWRM  
Marshall Flake, DEP Parks  
Sri Tammisetti, DEP Parks  
Gloria Beauchamp, Lovers Key State Park  
FWCConservationPlanningServices@myfwc.com  
Tunis McElwain, U.S. Army Corps of Engineers  
DWRM Permit File  
DWRM Compliance Officer

#### **FILING AND ACKNOWLEDGMENT**

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

*Lauren Wild*

6/24/13

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Deputy Clerk

Date

Prepared by: Liz Yongue