

**BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN RE:

Robert and Patricia Garfield

OGC #15-0403

DEP FILE: CH-597 AR V

**FINAL ORDER  
GRANTING PETITION FOR VARIANCE**

On June 8, 2015, Robert and Patricia Garfield (Petitioners) filed a petition under Section 120.542, Fla. Stat., and Rule 28-104, F.A.C., for a permanent variance or waiver from Rules 62B-33.002(18), 62B-33.002(43), and 62B-33.0051(1)(a)1, F.A.C. Petitioners seek a variance or a waiver from the cited rule provisions in order to construct coastal armoring to protect a conforming structure from coastal erosion. Notice of receipt of the petition was published in the Florida Administrative Register on July 2, 2015. No comments were received in response to the notice.

**BACKGROUND AND APPLICABLE REGULATORY CRITERIA**

1. The Florida Department of Environmental Protection (“Department”) is the state agency charged with the duty and power to establish special siting and design considerations seaward of established coastal construction control lines to ensure the protection of the beach and dune system, proposed or existing structures, and adjacent properties and the preservation of public beach access.

2. The Petitioners seek a permanent variance or waiver from Rules 62B-33.002(18) and (43), and 62B-33.0051(1)(a)1, F.A.C., which provide in pertinent part:

- *Rule 62B-33.002(18). F.A.C.: “Eligible Structures” are private structures qualified for armoring as follows:*
  - (b) *Private structures include:*
    - 1. *Non-conforming habitable structures.*
  - (c) *Eligible structures do not include minor structures.*
- *Rule 62B-33.002(43), F.A.C.: “Non-conforming Structure” is any major habitable structure which was not constructed pursuant to a permit issued by the Department pursuant to Section 161.052 or 161.053, F.S., on or after March 17, 1985.*

- Rule 62B-33.0051(1)(a)1, F.A.C.: *Construction of armoring shall be authorized under the following conditions:*

1. *The proposed armoring is for the protection of an eligible structure;*

3. Petitioners' property is located at 2828 North Beach Road, Englewood, Florida. The existing dwelling on the property was constructed under the Department's Permit CH-424, which was issued on February 7, 2001.

4. The petition was received on June 8, 2015.

5. On August 25, 2015, Petitioners filed additional information in support of the petition, which was in response to the Department's letter dated July 8, 2015.

6. The segment of shoreline comprising Petitioners' property has been designated by the Department as "critically eroded" pursuant to 161.101 of the Florida Statutes. The Department Critically Eroded Beaches in Florida report updated in June 2015 designated the northern 3.0 miles of Charlotte County (R1-R17) along southern Manasota Key, including Englewood Beach and Stump Pass State Park, as critically eroded and threatening private development and public recreational interests. The subject property is located approximately 100 feet to 200 feet south of Department monument R-05 in Charlotte County and fronts the Gulf of Mexico. The dwelling is on property within this critically eroded portion of the beach. Large masses of sand slowly move southward down the coast into Charlotte County. A sequence of these sand masses is normally moving through the area, much like a series of waves. The beach width can fluctuate by as much as 200 feet or more, depending on whether or not a sand mass happens to be present at any given location, including the area of Petitioners' property. Shallow rock formations exist in the area. The subject shoreline is extensively armored for several hundred feet except for the subject property and the adjacent north beach access easement.

7. Charlotte County issued an emergency resolution 2014-173 declaring a state of local emergency for the structure located at 2828 North Beach Road, Englewood, Florida also known as Lot 19 Lemon bay Estates Unit 1A. According to the petition, the severe erosion has caused the loss (of use) of the habitable structure at 2828 North Beach Road, Englewood, Florida.

8. Prior to Charlotte County's Resolution 2014-173, the Petitioner had requested and received permission to install temporary sandbags. These measures were previously undertaken to protect the referenced structure and the escarpment, but proved to be ineffective. Temporary aluminum sheet pile was then installed to halt the erosion. Petitioners request a variance or waiver to make the temporary coastal armoring permanent.

9. The top of dune as of December 5, 2014, was approximately 17 feet seaward of the foundation of the dwelling. The frontal dune that existed at the time the dwelling was constructed has experienced significant erosion. The recent high erosion rate has continued to erode the base of the dune, rendering it unstable and susceptible to collapse prior to construction of the temporary armoring. According to the Department's engineering analysis, the erosion limits will terminate landward of the foundation of the dwelling from the high frequency storm event.

10. Utility lines for water and sewer service are located underneath the dwelling. The current and expected rate of erosion can be expected to expose and compromise the utilities. Use of the underground utilities is integral to the dwelling.

11. Petitioners propose to keep and complete installation of coastal armoring to protect the dwelling at 2828 North Beach Road, Englewood, Florida. A permit application for construction of coastal armoring (CH-597 AR) was received on January 14, 2015; waiver of the 90 day clock was granted until November 5, 2015.

**SECTION 120.542, F.S., VARIANCE AND WAIVER PROVISION**

1. Section 120.542, F.S., provides in pertinent part:

1. Strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. . . Agencies are authorized to grant variances and waivers to requirements of their rules consistent with this section and with rules adopted under the authority of this section.

\* \* \*

1. Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, “principles of fairness” are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

**Section 120.52(21), F.S. defines “variance” to mean:**

(21) “Variance” means a decision by an agency to grant a modification to all or part of the literal requirements of an agency rule to a person who is subject to the rule. Any variance shall conform to the standards for variances outlined in this chapter and in the uniform rules adopted pursuant to s. 120.54(5).

**Section 120.52(22), F.S. defines “waiver” to mean:**

(22) “Waiver” means a decision by an agency not to apply all or part of a rule to a person who is subject to the rule.

**PRINCIPLES OF FAIRNESS AND  
SUBSTANTIAL HARDSHIP TO THE PETITIONER**

12. The Petitioners seek a permanent variance or waiver from Rules 62B-33.002(18) and (43), and 62B-33.0051(1)(a)1, F.A.C., because the Petitioners allege that applying these rules to their situation would be unreasonable, unfair, and would create an unintended result and substantial hardship and would violate the principles of fairness. Petitioners allege that application of the eligibility requirements of the rules to Petitioners would be unreasonable, unfair, and would create unintended consequences because the rules do not take into consideration the large scale erosion that has and is occurring at this particular segment of the shoreline, or to the highly unstable nature of the shoreline. They allege that, given the excessive and pervasive erosion, and given the shoreline instability, the uniform application of the rules is unreasonable, unfair, and causes the unintended result of exposing Petitioners' property and dwelling, along with the dwelling's essential utilities, to additional significant erosion and damage.

13. The Petitioners allege that a substantial economic hardship will exist if additional erosion occurs, including: it will make the lower floor of the dwelling unusable, thereby adversely impacting the property value; require alteration of the access to the living area at a significant cost to the owner; and potentially require relocation of mechanical equipment such as HVAC system components.

14. The Petitioners allege that a substantial economic hardship would also result if further erosion damages foundation elements, retaining walls, decks, plumbing, underground utilities, HVAC condensers and ducts, exterior walls, and patios. Petitioners would have to pay the costs of repairing such damage. The Petitioners also allege that the severe erosion of their property has now made financing for potential buyers difficult or impossible, and that the property will experience a 40 to 50% reduction in value if a permanent solution is not constructed and erosion is allowed to continue. They allege that the coastal armoring as sought in their permit application is the only tool available to them to protect the marketability and value of their property while maximizing the amount of beach for use by marine turtles.

15. The Petitioners allege that a substantial technological hardship will exist if additional erosion occurs in that it will expose the utility lines and render the lines susceptible to failure. Moreover, the Petitioners allege that if the erosion is not halted, then the seaward staircase will no longer be usable and not be counted as a viable egress, thereby rendering the structure in violation of the Florida Building Code for egress. The Petitioners allege this will make the dwelling non-livable due to the loss of essential services and a viable means of egress.

16. Petitioners allege that strict application of the rules will lead to an unreasonable, unfair, and unintended result when compared to other persons subject to the rules. The Petitioners assert that the rules do not take into consideration the critical nature of the erosion that has occurred and is occurring on the shoreline and the highly unstable nature of the shoreline that affects them in a manner significantly different from the way the rules affect others subject to them.

17. Petitioners allege that principles of fairness are violated in that other properties north and south of their property are armored.

18. Petitioners have alleged a legal hardship, in that they would otherwise qualify for a “close the gap” armoring permit under Section 161.085(2)(c), F.S., because the property is no more than 250 feet in length as measured along the shoreline, is between and could adjoin existing coastal armoring at both ends, and follows a uniform line of armoring construction. However, Petitioners have been unable to obtain permission from an adjoining property owner to tie in to the adjoining wall, and thus are unable to “close the gap”. Additional erosion of the subject property from waves impacting the adjacent armoring is likely to occur if the subject property is not armored.

**THE VARIANCE OR WAIVER WILL MEET THE  
UNDERLYING PURPOSE OF THE STATUTE**

19. The Coastal Construction Control Line (“CCCL”) program was established to protect Florida’s beaches and dunes while assuring reasonable use of private property lying seaward of the CCCL. One purpose of the program is to protect the coastal system from improperly sited and designed structures which can destabilize the beach and dune system, accelerate erosion, endanger adjacent properties, or interfere with public beach access. Construction activities which take place seaward of the CCCL require Department approval. In the instant case, the armoring and the habitable major structure and its associated infrastructure are located seaward of the CCCL.

20. Section 161.085, F.S., sets forth the state’s policy on rigid coastal armoring structures. This section recognizes the need to protect private structures and public infrastructure from damage or destruction caused by coastal erosion. The statute provides that armoring may be permitted provided that the private structures or public infrastructure is vulnerable to damage from frequent coastal storms, and that the siting and design of the armoring takes into consideration protection of the beach-dune system, impacts on adjacent property, preservation of public beach access, and protection of native coastal vegetation and nesting marine turtles and their hatchlings. The intent of the statute is to strike the appropriate balance between protection of the coastal system and the need to protect private structures and public infrastructure.

**CONCLUSION**

21. Given the specific circumstances at Petitioners’ property, including the significant rate of erosion, the appropriate siting of the armoring will be consistent with Rule 62B-33.0051(2), F.A.C. Such armoring will minimize adverse effects to the beach and dune system, adjacent property owners, and marine turtles. The armoring would be consistent with the purpose of the underlying statute if constructed in compliance with the requirements of the CCCL and its regulations. For the foregoing reasons and the economic, technical and legal hardships as alleged, it is appropriate to grant the requested variance subject to the condition below.

22. Section 120.542, F.S., requires the agency to consider the Petitioners’ “substantial hardship” (economic, technical, legal and other hardship) when considering whether a variance from or waiver of the rule(s) should be granted. The section also directs the Department to consider whether the “principles of fairness” are violated when the literal application of the rule(s) affects a particular person in a manner significantly different than other similarly situated persons who are subject to the rule(s).

23. Petitioners have demonstrated actual substantial economic, technical and legal hardships that will be suffered if the armoring is not allowed to be installed.

24. Taken as a whole, literal application of the rules in this instance would be unfair based on the allegations of the Petition, as set forth herein.

### **THEREFORE, IT IS ORDERED:**

The petition of Robert and Patricia Garfield for a variance from Rules 62B-33.002(18) and (43), and 62B-33.0051(1)(a)1, F.A.C., is GRANTED, subject to the condition below.

### **Condition for Approval**

The variance shall be for a period of time to run concurrent with the period of time of any Department-issued permit to the Petitioners to construct coastal armoring at the property. A permit for coastal armoring allows for a construction period of 3 years from date of issuance pursuant to Rule 62B-33.008(8), F.A.C.

### **NOTICE OF RIGHTS**

The Department's proposed agency action will become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57 of the Florida Statutes before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's Order may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, and Tallahassee, Florida 32399-3000. Petitions filed by the Petitioner or any of the parties listed below must be filed within twenty-one days of receipt of this written notice.

Under Rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may request an extension of time to file a petition for an administrative hearing. Requests for extension of time must be filed (received by the clerk) with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the end of the time period for filing a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Petitions filed by any persons other than those entitled to written notice under section 120.60(3), Florida Statutes must be filed within twenty-one days of publication of the notice or within twenty-one days of receipt of the written notice, whichever occurs first. Under section 120.60(3), Florida Statutes, however, any person who asked the Department for notice of agency action may file a petition within twenty-one days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under

Sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will only be at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise contain the same information as set forth above, as required by rule 28-106.301, F.A.C.

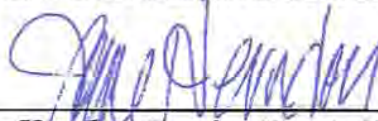
Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available for this proceeding.

Once this permitting decision becomes final, any party to the final agency action has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, or via email at [agency\\_clerk@dep.state.fl.us](mailto:agency_clerk@dep.state.fl.us), and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within thirty days after this order is filed with the clerk of the Department.

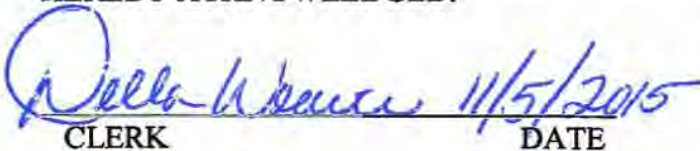
**DONE AND ORDERED** this 5 day of November, 2015, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



Jane Herndon, Esquire, Deputy Director  
Division of Water Resource Management  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

FILED ON THIS DATE PURSUANT TO § 120.52,  
FLORIDA STATUTES, WITH THE DESIGNATED  
DEPARTMENT CLERK, RECEIPT OF WHICH IS  
HEREBY ACKNOWLEDGED.

 11/5/2015  
CLERK DATE

Electronic Copies Furnished to:

Karl Kokomoor, P.E., DMK Associates, Inc. ([kkokomoor@dmkassoc.com](mailto:kkokomoor@dmkassoc.com))

Agents for Petitioners

Tony McNeal, DEP CCCL Program ([tony.mcneal@dep.state.fl.us](mailto:tony.mcneal@dep.state.fl.us))

Betsy Hewitt, DEP Office of General Counsel ([betsy.hewitt@dep.state.fl.us](mailto:betsy.hewitt@dep.state.fl.us))

Lea Crandall, DEP Agency Clerk ([agency\\_clerk@dep.state.fl.us](mailto:agency_clerk@dep.state.fl.us))

Suzanne Printy, Chief Attorney, Joint Administrative Procedures Committee  
([printy.suzanne@leg.state.fl.us](mailto:printy.suzanne@leg.state.fl.us))





## General Permit Conditions

Rule 62B-33.0155, Florida Administrative Code

1. The following general permit conditions shall apply, unless waived by the Department or modified by the permit:

(a) 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 the Department as part of the permit. Deviations therefrom, without written approval from the Department, shall be grounds for suspension of the work and revocation of the permit pursuant to Section 120.60(7), F.S., and shall result in assessment of civil fines or issuance of an order to alter or remove the unauthorized work, or both. No other construction or activities shall be conducted. No modifications to project size, location, or structural design are authorized without prior written approval from the Department. A copy of the notice to proceed shall be conspicuously displayed at the project site. Approved plans shall be made available for inspection by a Department representative.

(b) 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, their nests and habitat, or adjacent property and structures.

(c) The permittee shall allow any duly identified and authorized member of the Department 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 the Department until all construction or activities authorized or required in the permit have been completed and all project performance reports, certifications, or other documents are received by the Department and determined to be consistent with the permit and approved plans.

(d) The permittee shall hold and save the State of Florida, the Department, and 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.

(e) The permittee shall allow the Department to use all records, notes, monitoring data, and other information relating to construction or any activity under the permit, which are submitted, for any purpose necessary except where such use is otherwise specifically forbidden by law.

(f) Construction traffic shall not occur and building materials shall not be stored on vegetated areas seaward of the control line unless specifically authorized by the permit. If the Department determines that this requirement is not being met, positive control measures, such as temporary fencing, designated access roads, adjustment of construction sequence, or other requirements, shall be provided by the permittee at the direction of the Department. Temporary construction fencing shall not be sited within marine turtle nesting habitats.

(g) 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.

(h) All fill material placed seaward of the control line shall be sand which is similar to that already existing on the site in both coloration and grain size. All such fill material shall be free of construction debris, rocks, clay, or other foreign matter; shall be obtained from a source landward of the coastal construction control line; and shall be free of coarse gravel or cobbles.

(i) If surplus sand fill results from any approved excavation seaward of the control line, such material shall be distributed seaward of the control line on the site, as directed by the Department, unless otherwise specifically authorized by the permit.

(j) Any native salt-tolerant vegetation destroyed during construction shall be replaced with plants of the same species or, by authorization of the Department, with other native salt-tolerant vegetation suitable for beach and dune stabilization. Unless otherwise specifically authorized by the Department, 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, such as sea oats, sea grape, saw palmetto, panic grass, saltmeadow hay cordgrass, seashore saltgrass, and railroad vine, and grown from stock indigenous to the region in which the project is located.

(k) All topographic restoration and revegetation work is subject to approval by the Department, and the status of restoration shall be reported as part of the final certification of the actual work performed.

(l) If not specifically authorized elsewhere in the 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 leatherback turtle nesting occurs during the period of March 1 through October 31.

(m) If not specifically authorized elsewhere in the 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.

(n) All windows and glass doors visible from any point on the beach must be tinted to a transmittance value (light transmission from inside to outside) of 45% or less through the use of tinted glass or window film.

(o) The permit has been issued to a specified property owner and is not valid for any other person unless formally transferred. An applicant requesting transfer of the permit shall sign two copies of the permit transfer agreement form, agreeing to comply with all terms and conditions of the permit, and return both copies to the Bureau. The transfer request shall be provided on the form entitled "Permit Transfer Agreement" – DEP Form 73-103 (Revised 1/04), which is hereby adopted and incorporated by reference. No work shall proceed under the permit until the new owner has received a copy of the transfer agreement approved by the Department. A copy of the transfer agreement shall be displayed on the construction site along with the permit. An expired permit shall not be transferred.

(p) The permittee shall immediately inform the Bureau of any change of mailing address of the permittee and any authorized agent until all requirements of the permit are met.

(q) For permits involving major structures or activities, the permittee shall submit to the Bureau periodic progress reports on a monthly basis beginning at the start of construction and continuing until all work has been completed. If a permit involves either new armoring or major reconstruction of existing armoring, the reports shall be certified by an engineer licensed in the State of Florida. The permittee or engineer, as appropriate, shall certify that as of the date of each report all construction has been performed in compliance with the plans and project description approved as a part of the permit and with all conditions of the permit, or shall specify any deviation from the plans, project description, or conditions of the permit. The report shall also state the percent of completion of the project and each major individual component. The reports shall be provided to the Bureau using the form entitled "Periodic Progress Report" – DEP Form 73-111 (Revised 6/04), which is hereby adopted and incorporated by reference. Permits for minor structures or activities do not require submittal of periodic reports unless required by special permit condition.

(r) For permits involving habitable major structures, all construction on the permitted structure shall stop when the foundation pilings have been installed. At that time the foundation location form shall be submitted to and accepted by the Bureau prior to proceeding with further vertical construction above the foundation. The form shall be signed by a professional surveyor, licensed pursuant to Chapter 472, F.S., and shall be based upon such surveys performed in accordance with Chapter 472, F.S., as are necessary to determine the actual configuration and dimensioned relationship of the installed pilings to the control line. The information shall be provided to the Bureau using the form entitled "Foundation Location Certification" – DEP Form 73-114B (Revised 9/05), which is hereby adopted and incorporated by reference. Phasing of foundation certifications is acceptable. The Department shall notify the permittee of approval or rejection of the form within seven (7) working days after staff receipt of the form. All survey information upon which the form is based shall be made available to the Bureau upon request. Permits for repairs or additions to existing structures with nonconforming foundations are exempt from this condition.

(s) For permits involving major structures, the permittee shall provide the Bureau with a report by an engineer or architect licensed in the State of Florida within thirty (30) days following completion of the work. The report shall state that all locations specified by the permit have been verified and that other construction and activities authorized by the permit have been performed in compliance with the plans and project description approved as a part of the permit and all conditions of the permit; or shall describe any deviations from the approved plans, project description, or permit conditions, and any work not performed. Such report shall not relieve the permittee of the provisions of paragraph 62B-33.0155(1)(a), F.A.C. If none of the permitted work is performed, the permittee shall inform the Bureau in writing no later than 30 days following expiration of the permit. The report shall be provided on the form entitled "Final Certification" DEP Form 73-115B (Revised 9/05), which is hereby adopted and incorporated by reference.

(t) Authorization for construction of armoring or other rigid coastal structures is based on an engineering review and assessment of the design and anticipated performance and impact of the structure as a complete unit. Construction of any less than the complete structure as approved by the Department is not authorized and shall result in the assessment of an administrative fine and the issuance of an order to remove the partially constructed structure. Modifications to the project size, location, or structural design shall be authorized by the Department in accordance with Rule 62B-33.013, F.A.C.

2. The permittee shall not commence any excavation, construction, or other physical activity on or encroaching on the sovereignty land of Florida seaward of the mean high water line or, if established, the erosion control line until the permittee has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.
3. The permittee shall obtain any applicable licenses or permits required by Federal, state, county, or municipal law.
4. This permit does not authorize trespass onto other property.
5. In the event of a conflict between a general permit condition and a special permit condition, the special permit condition shall prevail.
6. Copies of any forms referenced above can be obtained by writing to the Department of Environmental Protection, Bureau of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 300, Tallahassee, Florida 32399-3000, or by telephoning (850)488-7708.