



FLORIDA DEPARTMENT OF Environmental Protection

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

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

FINAL ORDER GRANTING VARIANCE

PETITIONER:

Manatee County Port Authority
Attn: George Isiminger, Senior Director
300 Tampa Bay Way, Suite 1
Palmetto, FL 34221
gisiminger@portmanatee.com

PROJECT INFORMATION:

Project Name: Port Manatee Berth 4
Extension
Variance No. 0079193-002-BV
Date of Issue: January 6, 2023
Expiration Date: January 6, 2028
OGC Case No.: 22-3051

AGENT:

Stantec
Attn: Raymond Dennis
777 South Harbour Island Blvd, Suite
6900
Tampa, FL 33602
Raymond.Dennis@stantec.com

FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants, to the Manatee County Port Authority, 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 that extends 290 meters downcurrent from the dredge or immediately outside of a turbidity control device such as a turbidity curtain, whichever is closer. This variance shall only be valid during the construction activities authorized in Permit No. 0079193-001-BI and shall expire when the permit expires.

The associated Environmental Resource Permit (Permit No. 0079193-001-BI) is to extend the existing Berths 4 and 5 (referred to as Berth 4 Extension). The proposed activities include:

- The installation of 1060 linear feet of steel sheet pile (combi-wall) bulkhead.
- The installation of 0.50 acres of armored rock revetment (rip rap).

- Filling approximately 3.51 acres enclosed within the bulkhead/rip rap (approximately 55,000 cubic yards of material), and
- Dredging approximately 9.64 acres (extending the existing Berth 4 basin) to a design depth of -41 MLLW plus 1 foot over-dredge, for a total depth of -42 MLLW (approximately 487,000 cubic yards of material).

After reviewing the Petition for Variance, the Department concluded the Petitioner demonstrated that the hardship asserted as a basis for the need for a variance is peculiar to the affected property and not self-imposed and that the granting of this variance is consistent with the general intent and purpose of Chapter 403, Florida Statutes. Additionally, the Petitioner demonstrated that there is no practical means known or available for the control of the pollution involved.

The *Notice of Intent to Issue an Environmental Resource Permit and Variance* notified Manatee 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 November 24, 2022, notice was given in Bradenton Herald and on December 21, 2022, 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.

The Petitioner 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 the Manatee County Port Authority requesting a variance be and is hereby granted, subject to the conditions specified by the Department in Permit No. 0079193-001-BI.

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 6th day of January, 2023, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Lainie Edwards, PhD.

Deputy Director
Office of Resilience and Coastal Protection

Copies furnished to:

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OGC 22-3051

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.

Diana Dukhovskaya
Deputy Clerk

01/06/2023
Date

Prepared by: Rachel Grundl