



# FLORIDA DEPARTMENT OF Environmental Protection

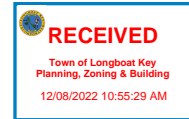
Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

November 4, 2022



St. Regis Longboat Key II, LLC  
Attn: Charles Whittall  
7940 Via Dellagio Way, Suite 200  
Orlando, FL 32819  
[Chuck@Unicorp.com](mailto:Chuck@Unicorp.com)

c/o

The Tignor Group, P.A.  
Attn: Kristina V. Tignor, P.E.  
1255 South Tamiami Trail  
Sarasota, FL 34239  
[KTignor@TheTignorGroup.com](mailto:KTignor@TheTignorGroup.com)



## NOTICE OF DE MINIMIS EXEMPTION St. Regis Groin Repair File No. 0427114-001-BE, Sarasota County

Dear Mr. Whittall and Ms. Tignor:

The Department of Environmental Protection (Department) received your application for a de minimis exemption on October 5, 2022. As stated in your application, the project is to remove and rebuild portions of the St. Regis groin within the same footprint and design specifications as the existing groin.

The project site is located at 1620 Gulf of Mexico Drive, in Sarasota County, Section 17, Township 36 South, Range 17 East, extending into the Gulf of Mexico, Class III Florida Waters.

The 120-foot groin was originally built in 1965 and it was later extended to a total length of 240 feet in 1967. Repairs to the structure were done in 1980 and 1992. Over time, storm damage, and a lack of maintenance have led to a deterioration of the structure. Currently, repairs to the structures are needed to maintain the structure's integrity. These repairs will only be conducted on the 130-foot seaward segment of the exposed groin that is exposed and include the removal of the top slabs of the groin and the replacement of derelict structural elements where necessary. It is not anticipated that the project will result in any significant adverse environmental impacts to natural resources as the repairs do not require any in-water work and the activity will be conducted outside of the marine turtle nesting season. Additionally, Department staff have determined that the repairs to the groin will only have a de minimis



**Notice of De Minimis Exemption**  
**St. Regis Groin Repair**  
**File No. 0427114-001-BE, Sarasota County**  
**Page 2 of 10**

impact on coastal processes and that there are no significant biological resources in the project area that would be impacted by the project.

Under normal conditions, the groin repair activity is not expected to generate a noticeable amount of turbidity, so no turbidity mixing zone is authorized for this activity. However, if the activity generates an obvious turbidity plume, it could cause a violation of state water quality standards and result in adverse resource impacts. Therefore, if the authorized activities generate a turbidity plume that exceeds the water quality standard for turbidity, the de minimis exemption is no longer valid, and a permit would be required before the project activities outlined herein would be allowed to continue. The application for that permit would have to address the potential impacts associated with the turbidity and the need to establish a mixing zone for turbidity.

Activities in, on or over waters of the State require a regulatory authorization for construction and operation of the project, unless otherwise exempt by statute or rule. Activities that have a material physical effect on existing coastal conditions or natural shore and inlet processes, and that extend seaward of the mean high water line into sovereign submerged lands, are regulated as “coastal construction”, unless otherwise exempt by rule. Activities on sovereign submerged lands require a proprietary authorization. Works in waters of the United States also require federal authorization and **may** qualify for review by the state under the State Programmatic General Permit process. Your proposed application has been reviewed for these authorizations.

**REGULATORY REVIEW – EXEMPTION VERIFIED**

A project that affects surface waters is regulated under Part IV of Chapter 373, Florida Statutes (F.S.), and unless otherwise exempt by statute or rule, requires an Environmental Resource Permit, pursuant to Rule 62-330.020(2), Florida Administrative Code (F.A.C.). However, Chapter 373.406(6), F.S., provides a de minimis exemption for activities that *will have only minimal or insignificant individual or cumulative adverse impacts on the water resources*. The Department has determined that the proposed groin repair activity meets this criterion and would be exempt from the need for an Environmental Resource Permit.

A project that may affect existing coastal conditions or natural shore and inlet processes on sovereign submerged lands (seaward of the mean high water line) is regulated under the Coastal Construction program, pursuant to Section 161.041, F.S., and Chapter 62B-41, F.A.C. According to Rules 62B-41.004(2)(c) and 62B-41.002(18)(c), F.A.C, *coastal construction shall be exempt from the provisions of this chapter when it is determined by the Department that it will have ... de minimis impacts ... that are insignificant and do not have a measurable adverse impact either individually or cumulatively*. The Department has determined that the proposed repair activity meets this criterion and is, therefore, exempt from the need for regulatory authorization under the Coastal Construction program, as described in Rule 62B-41.005, F.A.C. Because the project is exempt from the need for an Environmental Resource Permit and a regulatory authorization under the Coastal Construction program, the project does not require a Joint Coastal Permit, as prescribed in Rules 62B-49 and 62-330.075(7), F.A.C.



**Notice of De Minimis Exemption  
St. Regis Groin Repair  
File No. 0427114-001-BE, Sarasota County  
Page 3 of 10**

**Therefore, the Department hereby grants a de minimis exemption for the proposed activity under Chapter 373.406(6), F.S. and Chapter 62B-41, F.A.C.**

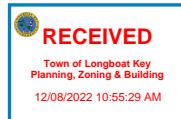
Working under an exemption does not relieve you (the Grantee) from the need to comply with all applicable water quality standards during construction and operation. **Activities conducted under the above exemption must be constructed and operated using appropriate best management practices and in a manner that does not cause water quality violations, pursuant to Rule 62-302, F.A.C.** This de minimis exemption determination shall not be valid if the project results in water quality violations or if the basis for the exemption is found to be materially incorrect.

The determination that your project qualifies for a de minimis exemption is based upon forms, drawings and documents provided to the Department as of October 5, 2022, and the statutes and rules that were in effect at that time. This determination is effective only for the specific activity proposed and may be invalid if site conditions materially change or if the governing statutes or rules are amended. In addition, any substantial alterations to the construction plans or location of the project should be submitted to the Department for review prior to commencement of work, as changes may result in the need for a permit. **In any event, this determination shall expire after one year.**

This project shall be subject to the specific conditions listed below:

**SPECIFIC CONDITIONS:**

1. At least 48 hours prior to the commencement of the repair activity, the Grantee shall submit a notice of commencement to the Department's JCP Compliance Officer (email: [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us)). This Notice of Commencement shall indicate the proposed start date and the anticipated completion date
2. All materials and debris (including rocks, sandbags, construction materials, etc.) related to the repair project shall be removed from the project site and deposited at an approved upland disposal facility immediately after completion of the construction activity.
3. Best Management Practices (BMP) for controlling turbidity and run off from construction and equipment into state waters shall be utilized where appropriate and shall be maintained at all times during the repair activity to minimize impairment of state waters.
4. No water quality mixing zone has been authorized for this repair project. If an obvious turbidity plume is observed, the Grantee shall notify the JCP Compliance Officer immediately by email at [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us). Unless it is determined by the JCP Compliance Officer that the project can proceed without violating water quality standards, this exemption determination shall be revoked and a Joint Coastal Permit would be required to continue the repair project.
5. The Grantee shall ensure that staging areas for construction equipment or materials shall be located off the beach. No nighttime storage of equipment on the beach is allowed. All activity on



**Notice of De Minimis Exemption**  
**St. Regis Groin Repair**  
**File No. 0427114-001-BE, Sarasota County**  
**Page 4 of 10**

the beach shall cease prior to sunset each day, including, but not limited to, removing equipment from the beach, debris removal, and smoothing disturbances in the sand

6. All project-related debris shall be removed from the project site and disposed of at an approved upland disposal facility immediately after completion of the construction and repair activity.
7. No construction, operation, transportation or storage of equipment or materials is authorized on marine turtle nesting habitat (sandy beach) during nesting season of May 1 through October 31.
8. All activity shall be confined to daylight hours. No temporary lighting of the construction area is authorized at any time during the marine turtle nesting season. No permanent lighting is authorized.
9. All activities shall avoid marked marine turtle nests including those that may be on the beach before or after the marine turtle nesting season. Any impacts to nests that may have inadvertently occurred or if a marine turtle nest is exposed, or a dead, injured, or sick marine turtle is discovered, the Grantee shall ensure that the Marine Turtle Permit Holder be notified immediately such that appropriate conservation measures can be taken. Within 24 hours of any such occurrence, the Grantee shall submit a report detailing the incident (e.g., date, time, permit number, location, photos, contact information, incident and response descriptions) to the FWC at [MarineTurtle@MyFWC.com](mailto:MarineTurtle@MyFWC.com)
10. All temporary disturbances in the sand (including, but not limited to, ruts, depressions, mounds, etc.) resulting from work activities shall be filled in and raked smooth after project completion.
11. Within 72 hours after completion of the repair activity, the Grantee shall submit a notice of completion to the Department's JCP Compliance Officer (email: [JCPCompliance@dep.state.fl.us](mailto:JCPCompliance@dep.state.fl.us)). This Notice of Completion shall confirm the actual start and completion dates and shall describe any deviations from the plans and specifications.

**PROPRIETARY REVIEW – AUTHORIZATION APPROVED**

The project is not exempt from the need to obtain the applicable proprietary authorization for activities that are on or over sovereign (state-owned) submerged lands, as described in Chapter 253, F.S., and Chapter 18-21, F.A.C. The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Section 253.77, F.S. Under this authority, the Department has reviewed the proposed project, at the proposed locations, and has made the following proprietary determinations:

The repair activity qualifies for a letter of consent under Rule 18-21.005(1)(c), F.A.C., to construct, the activity on the specified sovereign submerged lands. This letter **constitutes proprietary authorization to perform this activity** as long as the work performed is located



**Notice of De Minimis Exemption**  
**St. Regis Groin Repair**  
**File No. 0427114-001-BE, Sarasota County**  
**Page 5 of 10**

within the boundaries described in the application as of October 5, 2022 and is consistent with the Specific Conditions, listed above, and the attached General Consent Conditions.

**STATE PROGRAMMATIC GENERAL PERMIT**

The State Programmatic General Permit VI-R1 (SGPG) program allows the State to process Federal authorizations for certain activities. The proposed activity, as outlined on your application and attached drawings, **does not qualify** for Federal authorization by the State under the SPGP, so a **separate** permit or authorization may be required from the U.S. Army Corps of Engineers (Corps). If you have not already done so, we recommend that you send a copy of your application to the Corps for review. The Corps will issue their authorization directly to you, or contact you if additional information is needed. **Failure to obtain Corps authorization** prior to construction could subject you to federal enforcement action by that agency. This letter does not relieve you from the responsibility of obtaining other permits (Federal, State, or local), which may be required for the project.

This letter acknowledges that the proposed activity is exempt from permitting requirements in Part IV of Chapter 373 and Section 161.041, F.S.

The Department will not publish notice of this determination, but the Department will provide you with the language to be published upon request. **Publication of this notice by you is optional and is not required for you to proceed.** However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permit.

If you wish to limit the time within which *all* substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, the enclosed publication notice in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place. A single publication will suffice.

If you wish to limit the time within which any *specific* person(s) may request an administrative hearing, you may provide such person(s), by certified mail, a copy of this determination, including the publication notice.

For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S. In the event you do publish this notice, within seven days of publication, you must provide, to the mailing address or email listed below, proof of publication issued by the newspaper as provided in Section 50.051, F.S. If you provide direct written notice to any person as noted above, you must provide, to the mailing address or email listed below, a copy of the direct written notice.

**Notice of De Minimis Exemption**  
**St. Regis Groin Repair**  
**File No. 0427114-001-BE, Sarasota County**  
**Page 6 of 10**

Mailing Address:  
Beaches Inlets and Ports Program  
Florida Department of Environmental Protection  
2600 Blair Stone Road, M.S. 3544  
Tallahassee, Florida 32399  
Email: [BIPP@DEP.State.FI.US](mailto:BIPP@DEP.State.FI.US).



Please see the attached copy of the exemption language. Note that all criteria of the rule must be met in order to qualify for this exemption. If you have any questions, please contact me at (850) 245-7594. When referring to this project, please use both the project name and the file number listed above.

**NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

**Petition for Administrative Hearing**

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing 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 agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

**Notice of De Minimis Exemption**  
**St. Regis Groin Repair**  
**File No. 0427114-001-BE, Sarasota County**  
**Page 7 of 10**

- (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.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us). Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.



**Time Period for Filing a Petition**

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within **14** days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within **14** days of publication of the notice or within **14** days of receipt of the written notice, whichever occurs first. The failure 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, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

**Extension of Time**

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us), before the deadline for filing a petition for an administrative hearing. 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.

**Mediation**

Mediation is not available in this proceeding.

**FLAWAC Review**

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

**Judicial Review**

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure



**Notice of De Minimis Exemption  
St. Regis Groin Repair  
File No. 0427114-001-BE, Sarasota County  
Page 8 of 10**

9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, 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 must be filed within 30 days from the date this action is filed with the Clerk of the Department.

**EXECUTION AND CLERKING:**

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Rachel Grundl  
Environmental Specialist III  
Office of Resilience and Coastal Protection  
Department of Environmental Protection

Attached: Drawings (2 pages, signed and sealed October, 2022)  
De Minimis Exemption Citations  
General Consent Conditions

**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy clerk hereby certifies that this permit and all attachments were sent on the filing date below to the following listed persons:

- |  |  |
|--|--|
| cc: Greg Garis, RCP  | Ashley LaVere, FWC   |
| Ivana KennyCarmola, RCP  | Alexis Cardas, FWC   |
| Sean Green, RCP  | Rachel Joffey, FWC   |
| JCP Compliance Officer, RCP                                    | Michelle Pasawicz, FWC   |
| Robert Brantley, RCP   | <a href="mailto:MarineTurtle@MyFWC.com">MarineTurtle@MyFWC.com</a>                                       |
| Ty Amorosano, RCP  | <a href="mailto:ImperiledSpecies@MyFWC.com">ImperiledSpecies@MyFWC.com</a>                               |
| Sarah Lindeman, RCP  | <a href="mailto:Fwcconservationplanningservices@MyFWC.com">Fwcconservationplanningservices@MyFWC.com</a> |
| <a href="mailto:BIPP@dep.state.fl.us">BIPP@dep.state.fl.us</a> | <a href="mailto:tampareg@usace.army.mil">tampareg@usace.army.mil</a>                                     |

**FILING AND ACKNOWLEDGMENT**

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

Diana Dukhovskaya 11/04/2022  
Clerk Date



**Notice of De Minimis Exemption  
St. Regis Groin Repair  
File No. 0427114-001-BE, Sarasota County  
Page 9 of 10**

**Attachment A**

**De Minimis Exemption Citations**

**373.406(6), F.S.:**

“Any district or the department may exempt from regulation under this part those activities that the district or department determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the district. The district and the department are authorized to determine, on a case-by-case basis, whether a specific activity comes within this exemption. Requests to qualify for this exemption shall be submitted in writing to the district or department, and such activities shall not be commenced without a written determination from the district or department confirming that the activity qualifies for the exemption.”

**62B-41.004(2)(c), F.A.C.**

(c) Structures having de minimis impacts as defined in paragraph 62B-41.002(18) (c), F.A.C.

**62B-41.002(18) (c), F.A.C.**

(c) “De Minimis Impacts” are impacts that are insignificant and do not have a measurable adverse impact either individually or cumulatively.

**Notice of De Minimis Exemption**  
**St. Regis Groin Repair**  
**File No. 0427114-001-BE, Sarasota County**  
**Page 10 of 10**

**Attachment B**

**GENERAL CONSENT CONDITIONS**

1. Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.
2. Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.
3. Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.
4. Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.
5. Construction, use, or operation of the structure or activity shall not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.
6. Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.
7. Structures or activities shall not create a navigational hazard.
8. Activities shall not interfere with the public easement for traditional uses of the sandy beaches provided in section 161.141, F.S
9. Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.
10. Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(f), F.A.C., or any other applicable law.