Mixing Zone Expansion: Florida Department of Environmental Protection Grants Variance to Port Authority

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The Florida Department of Environmental Protection ("FDEP") issued on January 6th a document styled:

Final Order Granting Variance ("Final Order")

The *Final Order* was granted to Manatee County Port Authority ("Manatee") in regard to the Port Manatee Berth 4 Extension. See OGC Case No. 22-0351.

The *Final Order* provides Manatee a variance to temporarily establish and expand a mixing zone. This is stated to extend 290 meters down current from the dredge or immediately outside of a turbidity control device such as a turbidity curtain, whichever is closer.

A mixing zone is a limited area or volume of water where initial dilution of a discharge takes place. It is the defined portion of a waterbody where a permitted wastewater discharge undergoes initial dilution. Specific water quality criteria are permitted to exceed the numeric limits for those criteria within the defined area. Water immediately outside the permitted mixing zone is required to meet all water quality criteria.

The FDEP variance is only valid during construction activities authorized in the referenced permit. The project consists of various activities involving:

- Installation of steel sheet pile bulkhead
- Installation of armored rock revetment
- Filling an area within a bulkhead/rip rap of certain materials
- Dredging activities

The Port Authority is stated to have demonstrated that the hardship needed for the variance is peculiar to the affected property and not self-imposed. Further, FDEP determined that the granting of the variance was consistent with the general intent and purpose of Chapter 403 of the federal statutes. In addition, it was demonstrated that there was no practical means known or available for the control of the pollution involved.

A copy of the *Final Order* can be downloaded here.