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## A Hole So Foul

### Somehow no one noticed that a monstrous gash was illegally being dug into the bottom of Biscayne Bay

By Kirk Nielsen

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Craig Grossenbacher still can't believe his eyes when he looks at the aerial photograph and sees a five-acre swath of sea grass gouged out from the floor of Biscayne Bay. The trench is on the south side of the Port of Miami, along Fisherman's Channel. That is the path by which most cargo ships enter and exit the port.

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photo Courtesy Derm



Billing taxpayers by the ton, the port's dredgers obliterated another slice of fisherman's paradise and manatee habitat

It was February of last year when Grossenbacher, a biologist at Miami-Dade's Department of Environmental Resources Management (DERM), made the discovery. He was reviewing one of dozens of aerial photos he scans annually to keep tabs on Biscayne Bay. And he knew the location well. In 1994 port officials had proposed to deepen and widen that section of the channel, known as the South Turning Basin, the area where captains turn their ships around and head for the ocean. DERM approved the deepening but not the widening. It appeared, however, that the dredgers had widened it anyway, in violation of county, state, and federal laws. "This is the largest unauthorized sea-grass-destruction case ever investigated by DERM," declares Grossenbacher, chief of DERM's coastal resources section. "At the very least there was gross negligence."

He soon learned that sea grass was not the only thing to have disappeared. Important documents pertaining to the dredging were nowhere to be found.

DERM launched an investigation and divers confirmed Grossenbacher's fears. Dutra Construction, a California-based dredging company, had unlawfully scooped out several football fields' worth of sea grass and several tons of the bay's coral-rock floor below the grass. In April 1999 DERM issued violation notices to Dutra chairman Bill Dutra, port director Charles Towsley, and Luis Ajamil of Bermello Ajamil and Partners (B&A), whose engineering work for the seaport dates back to the early Eighties, the start of Carmen Lunetta's controversial seventeen-year reign as port director. DERM's dredging permit listed Ajamil as the "engineer of record," meaning it was his responsibility to ensure the plans were properly followed. The criminal investigation division of the U.S. Environmental Protection Agency also began to investigate.

If you are a port director, then you really dig dredging, especially in shallow-water ports like Miami's. More dredging means deeper channels. Deeper channels mean bigger ships. Bigger ships mean more revenue. Lunetta dug and dug throughout the Eighties and into the Nineties to keep the big cargo ships arriving in Miami's depth-challenged waters. Otherwise shippers might decide

to send their heavily laden vessels to a place such as Freeport, in the Bahamas, which already has dredged down to 50 feet.

By the mid-Nineties Fisherman's Channel was about 36 feet deep. And so in 1994, DERM approved the port's application to deepen it to 42 feet. The digging, which was projected to cost \$40 million, commenced in late 1994. It continued until January 1997, when Dutra filed for bankruptcy.

Later that year Lunetta resigned amid a federal investigation charging him and two businessmen at the port with embezzlement, fraud, and theft of funds. But before he left, Lunetta approved \$9.9 million in payments to Dutra for work it never completed. (Last year federal Judge Donald Middlebrooks dismissed all charges against Lunetta and the two businessmen: Neal Harrington, head of Continental Stevedoring & Terminals; and Calvin Grigsby, owner of Fiscal Operations, manager of the port's gantry cranes.)

Details of the actual dredging remain murky. DERM's April 1999 violation notice ordered Luis Ajamil personally to submit copies of documents detailing inspections of the project. Ajamil wrote back four days later, saying B&A had no such records. In fact, he stated, the port never asked him to undertake engineering or inspection once the dredging began. His former employer, Post Buckley Schuh & Jernigan, had produced the design and work plans, he added. "We pulled the permit two years before the project started," Ajamil told *New Times* last week. "The port went ahead and developed the project without our involvement whatsoever, either engineering or inspections or anything like that."

But DERM's project file suggested otherwise. It contained a 1994 B&A drawing of the area to be dredged and a letter from Ajamil to DERM, dated November 16, 1994, stating the Port of Miami had retained him as the engineer of record for the project. The construction permit itself, which Dutra and Lunetta signed, names Ajamil as the engineer for the approved plans. "Bermello and Ajamil brought the permit back to DERM and we executed it," says Grossenbacher. That was in September 1995.

Armed with that information, DERM director John Renfrow wrote back to Ajamil on April 29, 1999, pointing out the discrepancy. Renfrow warned that his agency would take further enforcement action if B&A failed to comply with the orders issued in the violation, which included submitting a restoration plan for the destroyed sea grass within 30 days. "We already responded that we're not the engineer of record," grumbled Ajamil. "We supplied all the records we had, which is what they wanted. We'll see where it takes us from there. I'm of the opinion that they should say, "Thank you and adios."

DERM's investigation has dredged up even more vexing evidence. In 1996 Lunetta sought once again to widen the turning basin. As part of the application, B&A submitted an ecological survey indicating the location of various sea-grass beds in the area the port wanted to widen. But in reality there was no sea grass there at the time. Dutra had already excavated it without DERM's knowledge. "How could there be sea-grass beds in the assessment if they had already been destroyed?" Grossenbacher wonders. "We now know this illegal dredging occurred between 1995 and 1997. The application that was submitted made no mention that the area they were seeking to dredge had already been dredged."

DERM also has detected eighteen mysterious piles of coral rock on the ocean bottom between the mouth of Government Cut and a federally authorized offshore disposal site about four miles east of Virginia Key. DERM had received complaints from charter-boat captains who reported they

observed dredging contractors "dumping this material in unapproved locations offshore," Grossenbacher says. But the agency did not investigate the complaints until it discovered the dredging violation. "We believe the anomalies are piles of dredge spoil, piles of rock. We haven't established yet that the material came from this project. It's possible." If it turns out to be true, the dumpers could face federal criminal charges for breaking U.S. environmental laws.

Dutra workers returned to the channel in January of last year after the county made a deal with Safeco, a company that had insured the dredging project. Safeco agreed to finance a resumption of the dredging and to reimburse the port for the \$9.9 million Dutra had overbilled. Dutra resumed work for six months and then pulled out of the job, saying its arsenal could not compete with the resilience of coral rock.

Today, a year and a half after sending out the violation notices, DERM cannot get Ajamil, Dutra, or anyone else to fess up or provide answers. Under county law the agency could fine the port, Dutra, and Ajamil up to \$25,000 per day for each day that has passed since the illegal dredging began. The Florida Department of Environmental Protection, which also has been looking into the matter, could levy additional penalties. "We are asking them for more information," Grossenbacher says, including records of engineers who conducted routine inspections during the dredging. He also has asked Post Buckley Schuh & Jernigan to help clarify whether its former employee -- Ajamil -- was the engineer of record. He believes the company has ignored him. PBS&J's general counsel Becky Schaffer says she is not aware of DERM's investigation.

DERM regulators also are growing impatient with port officials, who have taken a year and a half to come up with a plan to refill the damaged five-acre area and replenish the destroyed sea grass or restore some other ravaged portion of the bay.

Towsley says his staff is still working on that. "There are fairly complex environmental issues," he observes. "Part of it was, Can you go back and plant sea grasses in those areas or not? Some biologists say that mitigations of sea grasses just don't work." He does not want to be held responsible for the misdeeds of others, though. "I can't account for what happened here before," he says, adding that after he took over in January 1998, "I made it very clear to my staff that everything gets done according to Hoyle."

Nonetheless Towsley raises the possibility that Dutra's crews made an honest mistake: "Dredging projects are not an exact science." It would appear that also applies to DERM's system for monitoring a fellow county agency with a penchant for digging next to fragile ecosystems.

Still the desire to dig keeps churning. Although the current debacle remains unresolved, Towsley has filed a new application to continue dredging the southern turning basin and other areas. State and county environmental officials are evaluating the request.