



Florida Department of Environmental Protection

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Rick Scott
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VIA ELECTRONIC MAIL

Permittee/Authorized Entity:

Charlotte County
410 Taylor Street
Punta Gorda, FL 33950

Gulf Cove Access Channel Dredging

Authorized Agent:

Coastal Engineering Consultants, Inc.
3106 South Horseshoe Drive
Naples, FL 34104
kthoemke@cecifl.com

CORRECTED

**Environmental Resource Permit
State-owned Submerged Lands Authorization – Granted**

**U.S. Army Corps of Engineers Authorization – Separate Corps Authorization
Required**

Permit No.: 08-0336110-001

**Permit Issuance Date: October 26, 2015
Permit Construction Phase Expiration Date: October 26, 2015**

Consolidated Environmental Resource Permit and State-owned Submerged Lands Authorization

Permittee: Charlotte County BOCC
Permit No: 08-0336110-001

PROJECT LOCATION

The activities authorized by this permit are located at Gulf Cove Waterways and the Myakka River, north of SR 776 near El Jobean in Sections 18, 19, 29, 30, 31, 32, 33, Township 40 South, Range 21 East in Charlotte County.

PROJECT DESCRIPTION

The permittee is authorized to construct 40-foot wide navigational channels, to a depth of -5.0 feet mean low water (-6.2 feet NAVD 1988), within the Myakka River, Class II Outstanding Florida Waters, conditionally restricted for shellfish harvesting, by mechanically dredging approximately 49,000 cubic yards of material, to be deposited on an upland disposal site, and to install navigation aids. Those activities include the removal of 49,000 cubic yards of sediment from state-owned sovereignty submerged lands. Authorized activities are depicted on the attached exhibits.

AUTHORIZATIONS

Gulf Cove Access Channel Dredging

Environmental Resource Permit

The Department has determined that the activity qualifies for an Environmental Resource Permit. Therefore, the Environmental Resource Permit is hereby granted, pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.).

Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S.

As staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) under Sections 253.002, F.S., the Department has determined that the activity qualifies for and requires a Letter of Consent, as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions herein.

Federal Authorization

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **may be required** from the Corps. A copy of your permit application has been forwarded to the Corps for their review. The Corps will issue their authorization directly to you or contact you if additional information is needed. If you have not heard from the Corps within 30 days from the date your application was received at the local FDEP Office, contact the

Corps at the Fort Myers Regulatory Office, for status and further information. **Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.**

Coastal Zone Management

Issuance of this authorization also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

Water Quality Certification

This permit also constitutes a: water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341

Other Authorizations

You are advised that authorizations or permits for this activity may be required by other federal, state, regional, or local entities including but not limited to local governments or municipalities. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

The activity described may be conducted only in accordance with the terms, conditions and attachments contained in this document. Issuance and granting of the permit and authorizations herein do not infer, nor guarantee, nor imply that future permits, authorizations, or modifications will be granted by the Department.

PERMIT AND SOVEREIGNTY SUBMERGED LANDS CONDITIONS

The activities described must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The General Conditions for Sovereignty Submerged Lands Authorization**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to beginning the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings herein. If you are using a contractor, the contractor also should read and understand these conditions and drawings prior to beginning any activity. Failure to comply with these conditions, including any mitigation requirements, shall be grounds for the Department to revoke the permit and authorization and to take appropriate enforcement action.

SPECIFIC CONDITIONS – ADMINISTRATIVE

1. All required submittals, such as certifications, monitoring reports, notifications, etc., shall be submitted to the Florida Department of Environmental Protection, South District Office, Submerged Lands and Environmental Resource Permitting, P.O. Box 2549, Fort Myers, FL 33902-2549 ('South District Office'), by facsimile to (850)412-0590, or via e-mail to FTMERP_Compliance@dep.state.fl.us . All submittals shall include the project name and indicated permit number when referring to this project.

Note: In the event of an emergency, the Permittee should contact the Department by calling (800)320-0519. During normal business hours, the permittee should call (239)344-5600.

2. **A variance under Section 403.201, Florida Statute**, from the provisions of Subsection 10.2.5 of the Applicants Handbook, Volume I adopted by reference in Rule 62-330.010(4), Florida Administrative Code, shall be obtained for the dredging of new and existing navigational channels. You may not begin construction of this activity until the variance has been granted by the Department.
3. **The permittee shall contact the Department of Agriculture and Consumer Services 48 hour prior to commencement of construction.**

SPECIFIC CONDITIONS-DREDGING

4. **Prior to the commencement of construction, the permittee shall designate an Environmental Compliance Officer (“ECO”)** who will be responsible for overseeing aspects of construction, ensuring compliance with the conditions of this authorization and with water quality standards as set forth in Chapter 62-302, F.A.C. The permittee shall submit the name and telephone number of the ECO to the Department prior to commencement of construction for Department review and approval. The permittee shall keep the Department informed of all changes to the ECO. The Department is willing and able to attend any pre-construction meetings with the persons performing the work authorized herein. Please use the contact information provided in Specific Condition 1 for scheduling.
5. The project shall comply with applicable State Water Quality Standards, namely:
Rule 62-302.500, F.A.C. – Surface Waters: Minimum Criteria, General Criteria;
Rule 62-302.530, F.A.C. – Table: Surface Water Quality Criteria;
Rule 62-302.700, F.A.C. –Special Protection, Outstanding Florida Waters, Outstanding Natural Resource Waters; and
Rule 62-4.242, F.A.C. – Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters; Equitable Abatement.
6. The turbidity screens and/or staked silt screens shall be maintained in functional condition, inspected daily, and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the project construction area do not exceed the ambient water quality levels of the Outstanding Florida Waters, and do not contribute to impacts of adjacent wetlands or surface waters. The following measures shall be taken by the Permittee whenever turbidity levels within waters of the State surrounding the project site exceed the ambient water quality levels of the Outstanding Florida Waters:
 - a. Immediately cease all work contributing to the water quality violation;
 - b. Modify the work procedures that were responsible for the violation and install more turbidity containment devices and repair any non-functioning turbidity containment devices; and

- c. Notify the Submerged Lands and Environmental Resource Permitting program of the DEP South District Office at (239) 332-6975 within 24 hours of the time the violation is first detected.
7. Those properties adjacent to the dredge area that are considered surface waters or wetlands, as defined in Chapter 62-340, F.A.C., and not subject to impacts authorized by this permit shall be left in their natural state. These areas shall not be used for parking, equipment storage, building supply storage or as a staging area for construction. These areas shall not be filled or cleared without prior written consent from the Department in the form of an Environmental Resource Permit or a modification of this permit.
8. If a barge is used during construction, the permittee shall ensure at least one foot of clearance is maintained between the deepest draft of the barge and the bottom at all times. The barge shall be equipped with self-contained spoil storage bins to prevent the dredged material from returning to waters of the state.
9. The dredging shall be conducted by mechanical means using a clamshell or track hoe and a self-contained spoil storage bin. All spoil material shall be placed into a self-contained truck to be transported to an approved upland spoil site. The spoil material shall be transported to an approved upland spoil site. All spoil material shall then be truck to the local landfill for final disposal.
10. **Within 30 days of completion of the permitted dredging activities, the permittee shall submit to the Department a detailed report describing the completed construction and including as-built drawings showing all structures and the bathymetry of the project area.** The submitted drawings shall be plan and cross-sectional view drawings, fully scaled and dimensioned, signed and sealed by a registered professional engineer, showing the entire project area. These drawings shall clearly indicate any deviations from the permit drawings attached to this permit. If the as-built drawings show a significant overdredge that, as determined by the Department, could potentially result in adverse effects to water quality, the permittee shall submit a plan acceptable to the Department to level the bottom surface by backfilling with clean fill material free of deleterious substances.
11. All CCA-treated or other chemically treated pilings associated with the navigational aids shall be wrapped with impermeable plastic or PVC sleeves in such a manner as to reduce the leaching of deleterious substances from the pilings, this includes future replacement of pilings. The sleeves shall be installed concurrently with the installation of the pilings, shall extend from at least 6" below the level of the substrate to at least 1' above the mean high water line and shall be maintained in perpetuity.
12. No nighttime clam shell dredging.
13. Blasting is not authorized for this project. If the construction methodology changes in the future to include blasting, a modification of the permit is needed. Specific conditions must address impacts to protected marine species developed in coordination with the Florida Fish and Wildlife Conservation Commission.

SPECIFIC CONDITIONS – MONITORING/REPORTING REQUIREMENTS

14. **During active construction the ECO shall provide weekly reports to the South District Office, describing the construction accomplished to date, including a copy of the weekly dredge log, and any concerns that have arisen and how these concerns were addressed.** The ECO shall immediately notify (verbally or via email) the Department in the event of any noncompliance or water quality standards violation, and describe the measures taken to minimize this event.
15. **During all dredging and filling operations, the ECO shall monitor turbidity levels within 5 feet of the active dredge area once every four hours during dredging operations until project completion.** The active dredge area shall be that area enclosed within the floating turbidity screens. Compliance samples shall be taken within the densest portion of any visible turbidity plume within 5 feet outside of the turbidity curtains. Ambient samples shall be taken up current at mid-depth and at no time shall the ambient sample be taken within an apparent turbidity plume.
16. Compliance samples for turbidity shall be collected from surface, mid-depth and one foot above bottom. Mid-depth samples are sufficient in water that is less than five feet deep. Samples shall be collected with a Kemmerer, Van Dorn or a similar sampler that is designed to collect in situ water samples. Samples shall be analyzed immediately after collection with a turbidimeter that produces results in Nephelometric measurements. The field sample results shall be accurately recorded to the precision capabilities (decimal place) of the instrument. Field turbidimeter results shall be rounded to the next whole number (ex. 15.23 NTUs shall be recorded; however the results shall be interpreted as 16.00 NTUs). If monitoring reveals turbidity levels greater than background levels within the adjacent Outstanding Florida Waters, the permittee shall cease all work.
17. Turbidity samples and measurements must be acquired in adherence to the Department's Standard Operating Procedure (SOP) for field turbidity, available at the website: www.dep.state.fl.us/labs/qa/sops.htm. More specifically, the instruments used to measure turbidity shall be fully calibrated within one month prior to commencement of the project, and at least once a month thereafter during the project. Calibration shall be verified each morning prior to use, and after each time the instrument is turned on, using a turbidity "standard" that is different from the one used during calibration. Calibration procedures shall be recorded in a permanent logbook, and copies must be submitted with the data.
18. **Turbidity monitoring reports shall be submitted weekly** to the South District Office **until dredging completion. Monitoring reports shall** contain the following information:
 - a. Dates of sampling and analysis;
 - b. A statement describing the methods used in collection, handling, storage, and analysis of the samples;
 - c. A map indicating the sampling locations;
 - d. Turbidity data for both compliance sample and ambient (background) sample for each monitoring event, referenced in Nephelometric Turbidity Units (NTUs); and
 - e. A statement by the Environmental Compliance Officer (ECO) concerning the authenticity, precision, limits of detection and accuracy of the data.

Failure to submit reports in a timely manner constitutes a violation of the permit and may be grounds for revocation.

Monitoring reports shall also include the following information for each sample taken:

1. Time of day sample was taken;
2. Depth of water body;
3. Depth of sample;
4. Tidal stage and direction of flow; and
5. Antecedent weather conditions, including wind direction and velocity.

19. If monitoring reveals turbidity levels at the compliance sample location that appear to violate the State Water quality standards, the following measures shall be taken by the permittee:
 - a. Immediately cease all work contributing to the water quality violation. Construction activities shall not resume until corrective measures have been taken and turbidity has returned to levels compliant with Chapter 62-302, F.A.C.;
 - b. Modify the work procedures that were responsible for the violation, install more turbidity containment devices, and repair any non-functioning turbidity containment devices; and
 - c. The violation(s) shall be immediately reported verbally or via email to the Department.
 - d. Provide written notification to the Department within 24 hours of the time the violation is first detected. The report shall include the description of the corrective actions being taken or proposed to be taken. If violation(s) are noted after normal business hours, on holidays, or on weekends, the report shall be made to the Department as soon as normal business hours resume. A copy of the monitoring data sheets, which indicate violation(s), shall be forwarded immediately to the Department.

Failure to report violation(s) or to follow correct procedures before resuming work shall constitute grounds for permit revocation and may subject the permittee to formal enforcement action.

SPECIFIC MANATEE PROTECTION CONDITIONS

20. **At least one dedicated observer shall be present at any given time when in-water work is being performed** and shall perform no other duties that may interfere with their ability to observe for protected marine species. Observer(s) must have prior on-the-job experience observing protected marine species (such as manatees or marine turtles) during previous dredging and in-water work where the activities were similar in nature to this project. Observer(s) shall have the authority to cease project operations 1) upon sighting a manatee within 50 feet of any in-water construction or vessel activity; and 2) if detection of protected marine species is not possible due to weather or other conditions. Movement of a work barge or other associated vessels or any in-water work must not be performed at night, when the possibility of spotting manatees is negligible. A final report shall be sent to the Florida Fish and Wildlife Conservation Commission at

ImperiledSpecies@myfwc.com, no later than 30 days after each event and/or final project completion. The report shall outline project name and permit number, names of observers and contact information, and summaries of protected marine species sightings and actions taken.

21. **In order to avoid entanglement or entrapment**, turbidity barriers shall be monitored daily. If a manatee becomes entangled or entrapped, the Florida Fish and Wildlife Conservation Commission should be notified immediately at 1-88-404-FWCC and ImperiledSpecies@myfwc.com.
22. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with, and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
23. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow routes of deep water whenever possible.
24. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers shall not impede manatee movement.
25. All on-site project personnel are responsible for observing water-related activities for the presence of manatees. All in-water operations, including vessels, shall be shutdown if a manatee comes within 50 feet of the operation. Activities shall not resume until every manatee has moved beyond the 50-foot radius of the project operation, or until 30 minutes has elapsed wherein a manatee has not reappeared within 50 feet of the operation. Animals shall not be herded away or harassed into leaving.
26. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida.
27. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. Please see the Florida Fish and Wildlife

Conservation Commission website for information on how to obtain appropriate signs:
http://www.myfwc.com/docs/WildlifeHabitats/Manatee_EducationalSign.pdf

GENERAL CONDITIONS FOR INDIVIDUAL PERMITS

The following general conditions are binding on all individual permits issued under chapter 62-330, F.A.C., except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], which is incorporated by reference in paragraph 62-330.350(1)(d), F.A.C., indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:

- a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex “Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit” [Form 62-330.310(3)]; or
 - b. For all other activities “As-Built Certification and Request for Conversion to Operational Phase” [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
- a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
 - b. Within 30 days of submittal of the as- built certification, the permittee shall submit “Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity” [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
9. This permit does not:
- a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
 - b. Convey to the permittee or create in the permittee any interest in real property;
 - c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
 - d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
12. The permittee shall notify the Agency in writing:

- a. Immediately if any previously submitted information is discovered to be inaccurate; and
 - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
 14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
 15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
 16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
 17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
 18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS AUTHORIZATION

Any use of sovereignty submerged lands is subject to the following general conditions are binding upon the applicant and are enforceable under Chapter 253, F.S.

1. Sovereignty submerged lands may be used 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 will constitute a violation. Violation of the authorization will result in suspension or revocation of the applicant's use of the sovereignty submerged lands unless cured to the satisfaction of the Board of Trustees.
2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty submerged lands or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.
3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S. and Chapter 18-14, F.A.C.
4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will 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 will not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
7. Structures or activities will not create a navigational hazard.
8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.
10. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.

11. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.
12. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
13. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.
14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

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 Rule 28-106.201, 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, any email address, any facsimile number, 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
- (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. 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 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. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication. 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, before the applicable 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

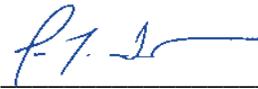
The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must 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 Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 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 action is filed with the Clerk of the Department.

Executed in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
District Director
South District Office

JMI/pc/se

Attachments:

32 pages, project drawing(s) and Design Specs

Copies furnished to:

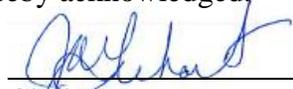
U.S. Army Corps of Engineers, File SAJ-2003-8221
FWC, Imperiled Species Management Section
Charlotte County Property Appraiser
DEP, Office of General Counsel (agency_clerk@dep.state.fl.us)
Krystle Hoenstine, Krystle.Hoenstine@dep.state.fl.us
U.S. Coast Guard

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit, including all copies, were mailed before the close of business on November 6, 2015, to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52(7), F.S., with the designated Department clerk, receipt of which is hereby acknowledged,



Clerk

November 6, 2015
Date