



FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

South District
Post Office Box 2549
Fort Myers, Florida 33902-2549
SouthDistrict@FloridaDEP.gov

In the matter of an Application for a Permit/Water Quality Certification by:

APPLICANT:

Robert Gunther
Bocilla Island Seaport, Inc,
f/k/a Highpoint Tower Technology, Inc.
800 S. Osprey Avenue, Building B
Sarasota, FL 34236
c/o Hans Wilson and Associates, Inc.
johanna@hanswilson.com

FILE No.: 0152558-002

LEASE NO.: 360009065 and 360025815

COUNTY: Lee

PROJECT NAME:

Bocilla Island Seaport Marina Renovation

CONSOLIDATED NOTICE OF INTENT TO ISSUE ENVIRONMENTAL RESOURCE PERMIT AND INTENT TO GRANT LEASE TO USE SOVEREIGN SUBMERGED LANDS

The Department of Environmental Protection (Department) gives notice of its intent to issue an Environmental Resource Permit (ERP) in accordance with Part IV of Chapter 373, Florida Statutes (F.S.), and Chapter 62-330, Florida Administrative Code (F.A.C.) (draft copy of permit attached). Issuance of the ERP constitutes certification of compliance with state water quality standards pursuant to section 401 of the Clean Water Act U.S.C. § 1341. Additionally, issuance of the ERP permit also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act, 16 U.S.C. § 1456.

The Department of Environmental Protection (Department) also gives notice of its intent to grant lease modifications to use sovereign submerged lands for the proposed activity, under Article X, Section 11 of the Florida Constitution, Chapter(s) 253, and 258, F.S., Title 18, F.A.C., and the policies of the Board of Trustees, as described, below subject to any fees, special lease, easement, or consent of use conditions. The actual terms of the lease modification will be formally executed at a later date and shall include provisions for rents and such other provisions as normally are included in such lease.

I. DESCRIPTION OF THE PROPOSED ACTIVITY

The applicant, Robert Gunther, applied on May 7, 2019 to the Department of Environmental Protection for a permit, water quality certification to replace 480 linear feet of seawall, remove 19 existing finger piers providing mooring for 35 slips along the existing seawall, remove 875 square feet of dock with 15 slips and remove a 460 square foot boat ramp staging dock with 6 slips. The docks will be replaced with a (1,320 sf.) fixed access dock with railing leading to a (150 sf.) aluminum ramp connecting to a (640 sf.) floating dock; a fixed wooden dock (700 sf.) with ten (10) (900 sf.) finger piers; a floating dock (1,080 sf.) with six (720 sf.) floating finger piers and six floating finger piers (840 sf.), a (500sf.) fixed dock adjacent to the existing boat ramp for staging of boat ramp vessels and mooring, a (300 sf.) fixed dock and to install channel markers to nearest marked channel. The work also includes a fishing pier finger renovation of a fixed dock (175 sf.). The total proposed over-water area is 7,305 square feet. No changes are proposed to the existing upland land use. The activities are located in Charlotte Harbor (Back Bay), Class II Outstanding Florida Waters, Prohibited for shellfish harvesting, and Charlotte Harbor, Class II Outstanding Florida Waters, Conditionally approved for shellfish harvesting and part of Pine Island Sound Aquatic Preserve. Those activities include 49,062 square feet of preemption of state-owned sovereignty submerged lands

The activities authorized by this permit are located at 8421 & 8491 Main Street, Bokeelia, FL 33922, Parcel ID 25-43-21-00-00007.0000 & 25-43-21-00-00007.0000, in Section 25, Township 43S, Range 21E, in Lee County.

II. AUTHORITY FOR REVIEW

The Department is authorized to grant this permit pursuant to Part IV of Chapter 373, F.S., and Chapter 62-330, F.A.C. The activity is not exempt from the requirement to obtain an Environmental Resource Permit. Pursuant to Operating Agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C., the Department is responsible for reviewing and taking final agency action on this activity.

The activity also requires a proprietary authorization, as it is located on sovereign submerged lands owned by the Board of Trustees. The activity is not exempt from the need to obtain a proprietary authorization. Pursuant to Article X, Section 11 of the Florida Constitution, Sections 253.002 and 253.77, F.S., Sections 18-21.0040, 18-21.0051, 18-20, 62-330.075, F.A.C., the policies of the Board of Trustees, and the Operating Agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C., the Department is responsible for reviewing and taking final agency action on this request for proprietary authorization.

III. BACKGROUND/BASIS FOR ISSUANCE

A. General

The site was originally registered as a grandfathered facility, GSR No.360027. The facility was brought under lease January 16, 1996. The lease was modified on December 10, 1999, to reflect

a change in upland ownership to Highpoint Tower Technology, Inc. The docking facility received extensive damage from Hurricane Charley on August 13, 2004. Emergency permit No. 36-238658-001 was issued for the repair of the fishing pier in Charlotte Harbor and the docking structures in Back Bay. The facility has been subject to several lease modifications, in 1998, 1999, 2008, and 2017. The last modification and lease renewal for No. 360025815 (2017) was listed to operate a 10-slip docking facility, fishing pier with 3-slip mooring area, and boat ramp to be used exclusively for mooring of recreational vessels in conjunction with an upland restaurant and office building, without fueling facilities, with a sewage pump out facility and without liveaboards. The last modification for No. 360009065 was for a 50-slip docking facility and boat ramp for mooring, launching and retrieving of recreational vessels adjacent to an upland vacant lot which is accessory to an upland commercial marina and restaurant without fueling facilities, with a sewage pump out facility and without liveaboards. Recent permitting actions by the Department include exemption verifications for replacing the existing boat ramp (0223131-002) in 2016 and for seawall replacement (0152558-001) in 2018.

The project area is subject to two leases, lease No. 360009065 which covers most of the docking area on the south side of the project (Back Bay), and lease No. 360025815 which includes a portion of the SE area on Back Bay and a fishing pier on the north side on Charlotte Harbor. The existing submerged land lease No.: 360009065 (27,828 sf. total) will be modified to eliminate the lease area associated with the finger piers along the seawall and "L" dock and expand the 26,342 sf. lease area to 36,580 sf for docks A-E, which is a net increase of 10,238 sf.. The slip count for this lease will increase to a total of 59, a net increase of 9 slips. These 9 slips are generated from the proposed mooring reconfiguration.

Lease No.: 360009065 will also be modified to expand the lease area associated with the existing boat ramp and staging dock (1,486 sf. existing) to accommodate the proposed 500 sf. dock for additional staging and mooring with a new lease area of 4,386 sf. which is a net increase of 2,900 sf. Lease No. 360009065 will be modified to add a lease area to accommodate a proposed 5' wide x 60' long fixed dock extending from the seawall. The additional lease area will be 2,019 sf. The 3 slips proposed for this dock are included in the 59 total slips proposed for this lease. This will result in a net increase of 3 slips (total 66) across both leases for the facility.

Submerged land lease No.: 360025815 will be modified to exclude the existing boat ramp staging dock (6 slips). The portion of this lease associated with the existing Charlotte Harbor Fishing Pier/Dock will be modified for the new finer pier and slip layout, with the existing portion being 3,025 sf. and the proposed lease being 3,171 sf. for a net increase of 146 sf. The portion of this lease associated with the existing East Mooring Dock in Back Bay will not be modified. There are 13 total slips associated with lease No.: 360025815. The 6 slips associated with the existing Boat Ramp Staging Dock will be transferred to lease No.: 360009065 for the new boat ramp dock (59 total slips for lease 360009065). The remaining 7 slips will still be a part of lease No. 360025815 with 3 associated with the Charlotte Harbor Fishing Pier/Dock and 4 associated with the East Mooring Dock.

The project also includes 24 wet slips in a privately owned mooring basin and 21 dry slips associated with the boat ramp parking area. The existing total project wide slip count is 105, with 84 wet slips and 21 dry slips, and project totals will not change in the proposed conditions.

In order to satisfy public interest requirements, the permittee is required to contribute \$10,000 to the Friends of Charlotte Harbor Aquatic Preserve.

The project area within Back Bay was subject to a submerged resources survey by Department staff on July 24, 2020. No seagrasses or other resources were observed.

Noticing was required pursuant to 253.115(5)(i) F.S., for the modifications to Lease No. 360009065. Notices were mailed on July 29, 2020. The notice was posted on social media by one of the recipients which resulting in greater distribution of the notice. The modifications to Lease No. 360025815 did not meet the criteria in 18-21.004(1)(m), F.A.C requiring notice.

Numerous comments were received as a result of the noticing. The primary objection of adjacent property owners was the extension of the docks into Back Bay, which was viewed as a violation of riparian rights and obstruction of view. Other commenters expressed concerns about increases boat traffic and associated safety concerns, the lack of a marked channel in Back Bay from the docking area, possible damage to sea grasses and marine life, impacts to water quality in Back Bay, increased traffic on the existing road to the project location, that project boundaries has been incorrectly calculated, that the project is part of an undisclosed larger plan of development, and that the project should have been noticed to all property owners in the area.

The applicant was requested to provide a response to the comments received to date. A response to comments was provided on November 23, 2020. A summary of responses to major concerns is provided below:

Land use/development – The applicant acknowledges past plans for development on the upland portion of the property, but currently is not proposing any changes to the existing land use of a commercial marina.

Traffic – The current land use is not proposed to be changed and the total slip count for the facility is not proposed to be changed.

Wastewater – No upland development is currently proposed.

Boat traffic/safety – The total slip count for the facility is not proposed to be changed. The applicant has agreed to provide a marked channel to the nearest exiting channel to address safety concerns.

Manatee/wildlife protection – The Florida Fish and Wildlife Conservation Commission has reviewed the project and provided specific permit conditions to address Manatee Protection.

Water quality/marina operation concerns – The applicant has provided a Marina Management Plan, not in place for the existing facility, which will become part of the permit conditions. The plan addresses several best management practices and operation procedures that should reduce waste and decrease the chance for discharge of pollutants through facility operation.

Riparian Rights – Two adjoining property owners objected regarding encroachment of riparian rights. Paragraph 18-21.004(3)(d), F.A.C. requires that all structures must be set back a minimum of 25 feet inside the applicant's riparian rights lines. Additional analysis provided by the applicant demonstrated that the nearest structure for the Back Bay site was 67 feet inside the riparian rights line and the Charlotte Harbor site was 473 feet inside the riparian rights line. In addition, subparagraph 18-20.004(5)(a)(1), F.A.C. limits dock extensions not more than 20% of the width of the waterbody or 500 feet. The proposed Back Bay dock extends a maximum of 380 feet into the waterbody. This complies with the referenced subparagraph.

B. Specific Regulatory Basis for Issuance

The Department has determined, based on the information currently on file and the general and specific conditions included within the attached draft permit, the applicant has provided reasonable assurance that the construction, including the direct, secondary and cumulative impacts, will comply with the provisions of Part IV of Chapter 373, F.S., and the rules adopted thereunder, including the Conditions for Issuance of an environmental resource permit, as provided in Chapter 62-330, F.A.C., and Applicant's Handbook, Volumes I and II (as applicable). The construction and operations of the activity will not result in violations of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C. and will not degrade ambient water quality in Outstanding Florida Waters pursuant to Rule 62-4.242, F.A.C. The applicant has also demonstrated that the construction of the activity, including a consideration of the direct, secondary and cumulative impacts, is clearly in the public interest, pursuant to Section 373.414(1)(a), F.S.

C. Specific Proprietary Basis for Issuance

Through the above and based on the general and/or specific conditions to the lease, the applicant has met all applicable requirements for proprietary authorizations to use sovereign submerged lands, pursuant to Article X, Section 11 of the Florida Constitution, Chapter(s) 253 and 258, F.S., associated rule(s) 18-21 and 18-20, F.A.C., and the policies of the Board of Trustees. The applicant has provided reasonable assurance that the activity:

- (1) will clearly be "in the public interest";
- (2) will maintain essentially natural conditions;
- (3) will not cause adverse impacts to fish and wildlife resources or public recreation or navigation; and
- (4) will not interfere with the riparian rights of adjacent property owners.

IV. PUBLICATION OF NOTICE

The Department has determined that the proposed activity, because of its size, potential effect on the environment or the public, controversial nature, or location, is likely to have a heightened public concern or likelihood of request for administrative proceedings. Therefore, pursuant to Subsection 373.413(4), F.S. and section 5.5.5.3 of Applicant's Handbook, Volume I, you (the applicant) are required to publish at your own expense this Notice of Intent to Issue. The notice is required to be published one time, in the legal ad section in a newspaper or newspapers of general circulation in the areas affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. The applicant shall provide proof of publication to:

Florida Department of Environmental Protection
South District
Post Office Box 2549
Fort Myers, FL 33902-2549
SD_ERP_Permit@floridadep.gov

The proof of publication shall be provided to the above address within 30 days of issuance of intended agency action, or within 21 days of the date of publication, whichever occurs sooner. Failure to publish the notice and provide proof of publication within the allotted time shall be grounds for denial of the permit and lease to use sovereign submerged lands.

VI. RIGHTS OF AFFECTED PARTIES

The Department will issue the permit and sovereign submerged land lease 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 subsequent order of the Department. Because the administrative hearing process is designed to formulate final agency action, the subsequent order may modify or take a different position than this action.

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, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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 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, or via electronic correspondence at 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, 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.

Executed in Orlando, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon Iglehart
Director of District Management
South Florida District

Enclosures:

Notice for Publication
Draft permit and associated attachments

CERTIFICATE OF SERVICE

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

U.S. Army Corps of Engineers, [Fort Myers](#)
Lee County Property Appraiser, dataservices@leepa.org
DEP, Office of General Counsel (agency_clerk@dep.state.fl.us)
FWC, Imperiled Species Management Section
FWCConservationPlanningServices@myfwc.com;
Scott Wilkinson, scottl948@yahoo.com
Claudia Bringe, bbringe@comcast.net
Kathy Zorn, kathy@bhgrepristine.com
Sally Eastman, seastman722@yahoo.com
Sheldon Friedman, shelly_friedman@yahoo.com
Don and Dawn Marano, dawnmarano@comcast.net
Michael Steel, Bokeeliamike@yahoo.com
Seagull Bay Property Owners Association, segullbaysecretary@gmail.com
Bocilla Island Club, bicboard@bocillaislandclub.com
Steve Boutelle, sboutelle@leegov.com
Rufus Lemaire, rufuslemaire@yahoo.com
Connie D'Allessio, Connie.dalessio@gmail.com

Jennifer Ford, jford@afblaw.com
Kenneth West, kwest57@gmail.com
Gary Shelton, gpskelton07@aol.com
Patricia Ahrens, pahrens1@comcast.net
Clifford N. Cleaver, kip16917@gmail.com
Andrew and Patricia Duda, aduda@reagan.com
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hfox@umich.edu
midwestmeteor@earthlink.net
annastober@gmail.com
uniscapel@embarqmail.com
rogergpica@gmail.com
jamiebrush@gmail.com
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petebouchard@comcast.net
phil@bluewaterpi.com
masteiny70@gmail.com
mikeaden@mac.com

Kenneth G. Oertel, Bob Gunther, Bill Morris, Dave DePew, c/o Oerthel, Fernandez, Cole & Bryant,
P.A., P.O. Box 11110, Tallahassee, FL 32302-1110
Patricia A. Doherty, P.O. Box 1386, Winter Park, FL 32970
Patricia Martin, 16890 Fishermans CV, Bokeelia, FL 33922
Frank and Janet Sedlarik, 16927 Captains Dr. Bokeelia, FL 33922

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.

Barbara Browning

Clerk

February 19, 2021

Date

NOTICE OF INTENT TO ISSUE PERMIT

The Department of Environmental Protection gives notice of its intent to issue a permit to Robert Gunther, Bocilla Island Seaport, Inc, f/k/a Highpoint Tower Technology, Inc. 800 S. Osprey Avenue, Building B, Sarasota, FL 34236, to replace 480 linear feet of seawall, remove 19 existing finger piers providing mooring for 35 slips along the existing seawall, remove 875 square feet of dock with 15 slips and remove a 460 square feet boat ramp staging dock with 6 slips. The docks will be replaced with a (1,320 sf.) fixed access dock with railing leading to a (150 sf.) aluminum ramp connecting to a (640 sf.) floating dock; a fixed wooden dock (700 sf.) with ten (10) (900 sf.) finger piers; a floating dock (1,080 sf.) with six (720 sf.) floating finger piers and six floating finger piers (840 sf.), a (500sf.) fixed dock adjacent to the existing boat ramp for staging of boat ramp vessels and mooring, a (300 sf.) fixed dock and to install channel markers to nearest marked channel. The work also includes a fishing pier finger renovation of a fixed dock (175 sf.). The total proposed over-water area is 7,305 square feet. No changes are proposed to the existing upland land use. The activities authorized by this permit are located at 8421 & 8491 Main Street, Bokeelia, FL 33922, Parcel ID 25-43-21-00-00007.0000 & 25-43-21-00-00007.0000, in Section 25, Township 43S, Range 21E, in Lee County.

The Department will issue the environmental resource permit and lease modifications sovereign submerged lands, unless a timely petition for an administrative proceeding is filed pursuant to the provisions of Sections 120.569 and 120.57, F.S. The actual terms of the lease modifications will be formally executed at a later date and shall include provisions for rents and such other provisions as normally are included in such leases. 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.

The application file is available online and can be accessed through the Department's Information Portal at: https://prodenv.dep.state.fl.us/DepNexus/public/electronic-documents/ERP_152558/facility!search. If you have any questions or are experiencing difficulty viewing the electronic application, please call South District DEP Office at (239)344-5600, or by email at SouthDistrict@floridadep.gov

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.

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.

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 is not available in this proceeding.

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.



FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

South District
Post Office Box 2549
Fort Myers, Florida 33902-2549
SouthDistrict@FloridaDEP.gov

Permittee/Authorized Entity:

Robert Gunther
Bocilla Island Seaport, Inc,
f/k/a Highpoint Tower Technology, Inc.
800 S. Osprey Avenue, Building B
Sarasota, FL 34236

002: Bocilla Island Seaport Marina Renovation

Authorized Agent:

Hans Wilson
Hans Wilson & Associates, Inc.
1938 Hill Avenue
Fort Myers, FL 33901
johanna@hanswilson.com

Environmental Resource Permit

**State-owned Submerged Lands Authorization – Granted Pending Document
Execution**

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

Permit No.: 0152558-002 EI
Lease No.: 360009065 and 360025815

Permit Issuance Date: DRAFT
Permit Construction Phase Expiration Date: DRAFT

Consolidated Environmental Resource Permit and Recommended Intent to Grant Sovereignty Submerged Lands Authorization

Permittee: Robert Gunther
Permit No: 0152558-002 EI

PROJECT LOCATION

The activities authorized by this permit are located at 8421 & 8491 Main Street, Bokeelia, FL 33922, Parcel ID 25-43-21-00-00007.0000 & 25-43-21-00-00007.0000, in Section 25, Township 43S, Range 21E, in Lee County.

PROJECT DESCRIPTION

The permittee is authorized to replace 480 linear feet of seawall, remove 19 existing finger piers providing mooring for 35 slips along the existing seawall, remove 875 square feet of dock with 15 slips and remove a 460 square feet boat ramp staging dock with 6 slips. The docks will be replaced with a (1,320 sf.) fixed access dock with railing leading to a (150 sf.) aluminum ramp connecting to a (640 sf.) floating dock; a fixed wooden dock (700 sf.) with ten (10) (900 sf.) finger piers; a floating dock (1,080 sf.) with six (720 sf.) floating finger piers and six floating finger piers (840 sf.), a (500sf.) fixed dock adjacent to the existing boat ramp for staging of boat ramp vessels and mooring, a (300 sf.) fixed dock and to install channel markers to nearest marked channel. The work also includes a fishing pier finger renovation of a fixed dock (175 sf.). The total proposed over-water area is 7,305 square feet. No changes are proposed to the existing upland land use. The activities are located in Charlotte Harbor (Back Bay), Class II Outstanding Florida Waters, Prohibited for shellfish harvesting, and Charlotte Harbor, Class II Outstanding Florida Waters, Conditionally approved for shellfish harvesting and part of Pine Island Sound Aquatic Preserve. Those activities include 49,062 square feet of preemption of state-owned sovereignty submerged lands. Authorized activities are depicted on the attached exhibits.

In order to satisfy public interest requirements, the permittee is required to contribute \$10,000 to the Friends of Charlotte Harbor Aquatic Preserve.

AUTHORIZATIONS

002: Bocilla Island Seaport Marina Renovation

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

As staff to the Board of Trustees under Sections 253.002, F.S., the Department has determined that the activity qualifies for and requires a lease modification, as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions herein.

The final documents required to execute the lease modification will be sent to the lessee by the Department's Division of State Lands for execution. The Department intends to issue the lease modification, upon satisfactory execution of those documents, including payment of required fees and compliance with the conditions in this permit. **You may not begin construction of the activities described until you receive a copy of the executed lease modification from the Department.**

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 shall be required from the Corps. You must apply separately to the Corps using their *APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT*, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at:

<https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book/>.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

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 CONDITIONS

The activities described must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**

- **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.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit, as described.

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 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.

SPECIFIC CONDITIONS - PRIOR TO ANY CONSTRUCTION

2. Prior to any construction, the Permittee shall contribute \$10,000 to the Friends of Charlotte Harbor Aquatic Preserve and provide receipt of this contribution to the Department.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

3. All CCA-treated pilings associated with the permitted activity shall be wrapped with impermeable plastic or PVC sleeves with a minimum of 30 mil thickness. The sleeves shall be installed concurrently with the installation of the pilings, shall extend from at least 6 inches below the level of the substrate to at least 2 feet above the mean high-water line. Pilings which must be replaced during the life of the facility shall meet the requirements of this condition.
4. The turbidity 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 Class II Outstanding Florida Waters, and do not contribute to impacts of adjacent 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 Class II Outstanding Florida Waters:
 1. Immediately cease all work contributing to the water quality violation;

2. 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
3. Notify the Submerged Lands and Environmental Resource Permitting program of the DEP South District Office within 24 hours of the time the violation is first detected.

SPECIFIC MANATEE PROTECTION CONDITIONS

5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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

11. The Permittee shall install permanent manatee educational signs, which shall be maintained for the life of the facility, no later than 60 days after construction commencement. The number and types of signs, as well as the on-site locations shall be approved by the Florida Fish and Wildlife Conservation Commission (FWC) prior to installation. A proposal for FWC sign approval shall be submitted to ImperiledSpecies@myfwc.com in accordance with information provided at FWC's website: <http://www.myfwc.com/wildlifehabitats/managed/manatee/education-formarinas/>. Signs shall be replaced in accordance with FWC guidance by the Permittee if outdated, damaged or faded.
12. The Permittee shall install bins for the disposal or recycling of monofilament line or other used fishing gear, which shall be maintained for the life of the facility, no later than 60 days after construction commencement. Educational signs encouraging the use of these bins shall be posted. A proposal for the location of the bin and the sign shall be submitted to ImperiledSpecies@myfwc.com. Signs shall be replaced in accordance with FWC guidance by the Permittee if outdated, damaged or faded.
13. The total number of boat slips, inclusive of all mooring, parking and upland storage, shall be limited to 84 wet and 21 dry slips. This shall be enforced through the use of signage and included in the Marina Management Plan.

SPECIFIC CONDITIONS LISTED SPECIES

14. This permit does not authorize the permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a "take" permit cannot be issued. Requests for further information or review can be sent to FWCConservationPlanningServices@MyFWC.com.

SPECIFIC CONDITIONS – OPERATION AND MAINTENANCE ACTIVITIES

15. The permittee shall implement the procedures in the Marina Management Plan. The Marina Management Plan approved by the Department is attached to this permit. Changes to the Marina Management Plan shall require written approval by the Department.
16. The permittee shall ensure that all boat slip users are provided a copy of the Marina Management Plan.

17. No liveaboard vessel shall be moored in any boat slip at the docking facility. A liveaboard shall be defined as a vessel docked at the facility that is inhabited by person or persons for any two consecutive days or a total of seven days within a thirty-day period.
18. A dockmaster trained in all phases of marina operations shall be required to be at the docking facility at least during normal working hours (8:00 a.m. to 5:00 p.m., seven days per week) after completion of construction and occupancy of the docking facility.
19. No fuel storage shall be allowed on the docking structures.
20. Boat mooring at the docking facilities shall be limited to no more than a total of 84 vessels and mooring outside of designated slips is prohibited.
21. Any vessel moored at the docking facility, on either a temporary or permanent basis, shall be wholly located within its designated wet slip and no portion of a vessel may extend beyond the leased premises. Vessel length shall be measured as overall length including all parts and accessories such as outboard motors, bow pulpits, and swim platforms

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.

NOTICE OF RIGHTS

FLAWACC 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 Orlando, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jon M. Iglehart
District Director
South District Office

Attachments:

20 project drawing(s)

Marina Management Plan (6 pages)

'Post Issuance' forms: <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/forms-environmental-resource>

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments, including all copies, were sent to the addressee and to the following listed persons:

U.S. Army Corps of Engineers, Fort Myers Office, fdep.other@usace.army.mil

Lee County Property Appraiser, dataservices@leepa.org

Larry Nall, Aquatic Preserve Society, larryenall@hotmail.com

FWC, Imperiled Species Management Section

FWCConservationPlanningServices@myfwc.com;

U.S. Army Corps of Engineers, Fort Myers

DEP, Office of General Counsel (agency_clerk@dep.state.fl.us)

Scott Wilkinson, scott1948@yahoo.com

Claudia Bringe, bbringe@comcast.net

Kathy Zorn, kathy@bhgrepristine.com

Sally Eastman, seastman722@yahoo.com

Sheldon Friedman, shelly_friedman@yahoo.com

Don and Dawn Marano, dawnmarano@comcast.net

Michael Steel, Bokeeliamike@yahoo.com

Seagull Bay Property Owners Association, segullbaysecretary@gmail.com

Bocilla Island Club, bicboard@bocillaislandclub.com

Steve Boutelle, sboutelle@leegov.com

Rufus Lemaire, rufuslemaire@yahoo.com

Connie D'Allessio, Connie.dalessio@gmail.com

Jennifer Ford, jford@afblaw.com

Kenneth West, kwest57@gmail.com

Gary Shelton, gpskelton07@aol.com

Patricia Ahrens, pahrens1@comcast.net

Clifford N. Cleaver, kip16917@gmail.com

Andrew and Patricia Duda, aduda@reagan.com

Catherine and Tony Greenleaf, surferdog2004@yahoo.com

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perkshari@hotmail.com

nadine@vettedcommunications.com

hfox@umich.edu

midwestmeteor@earthlink.net

annastober@gmail.com

uniscapel@embarqmail.com

rogergpica@gmail.com

Permittee: Robert Gunther

Permit No: 0152558-002 EI

Page 11 of 12

Permit Expiration: **DRAFT**

jamiebrush@gmail.com
leoma@leomalovegrove.com
erica@hanswilson.com
petebouchard@comcast.net
phil@bluewaterpi.com
masteiny70@gmail.com
mikeaden@mac.com

Kenneth G. Oertel, Bob Gunther, Bill Morris, Dave DePew, c/o Oerthel, Fernandez, Cole & Bryant,
P.A., P.O. Box 11110, Tallahassee, FL 32302-1110
Patricia A. Doherty, P.O. Box 1386, Winter Park, FL 32970
Patricia Martin, 16890 Fishermans CV, Bokeelia, FL 33922
Frank and Janet Sedlarik, 16927 Captains Dr. Bokeelia, FL 33922

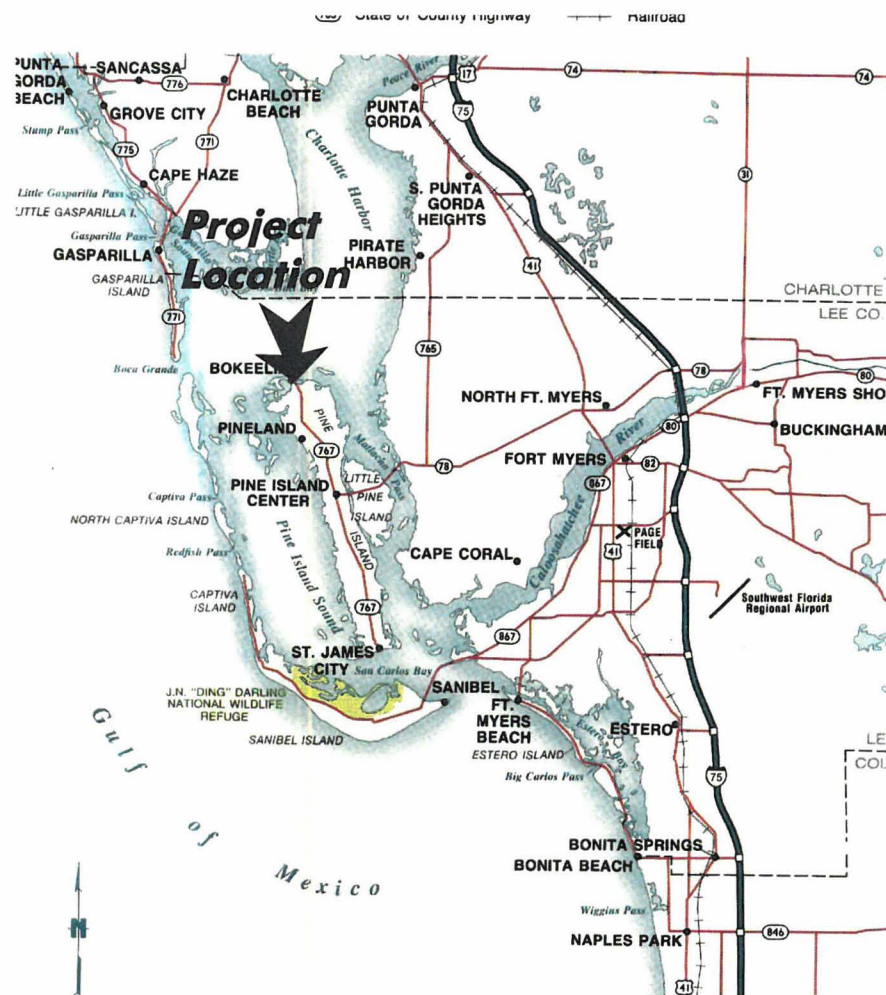
FILING AND ACKNOWLEDGMENT

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

Clerk

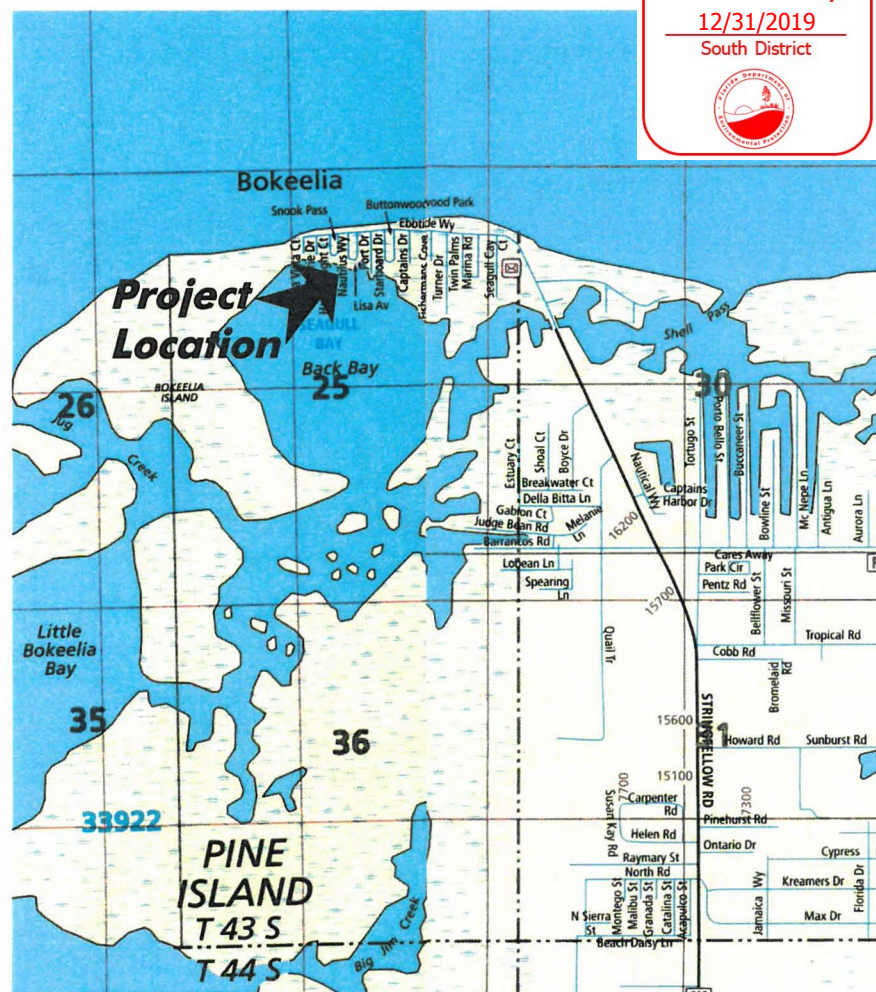
Date

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E



Vicinity Map

SCALE: $1'' = 10 \text{ mi.}$



Location Map

SCALE: $1'' = 1/2 \text{ mi.}$

Received
Electronically
12/31/2019
South District



PERMIT USE ONLY, NOT FOR CONSTRUCTION

December 30, 2019 10:08:15 a.m.
Drawing: GUNTH3MASTERHW.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

12-30-19

jon

Bocilla Island Seaport

SHEET

 $\frac{1}{19}$

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

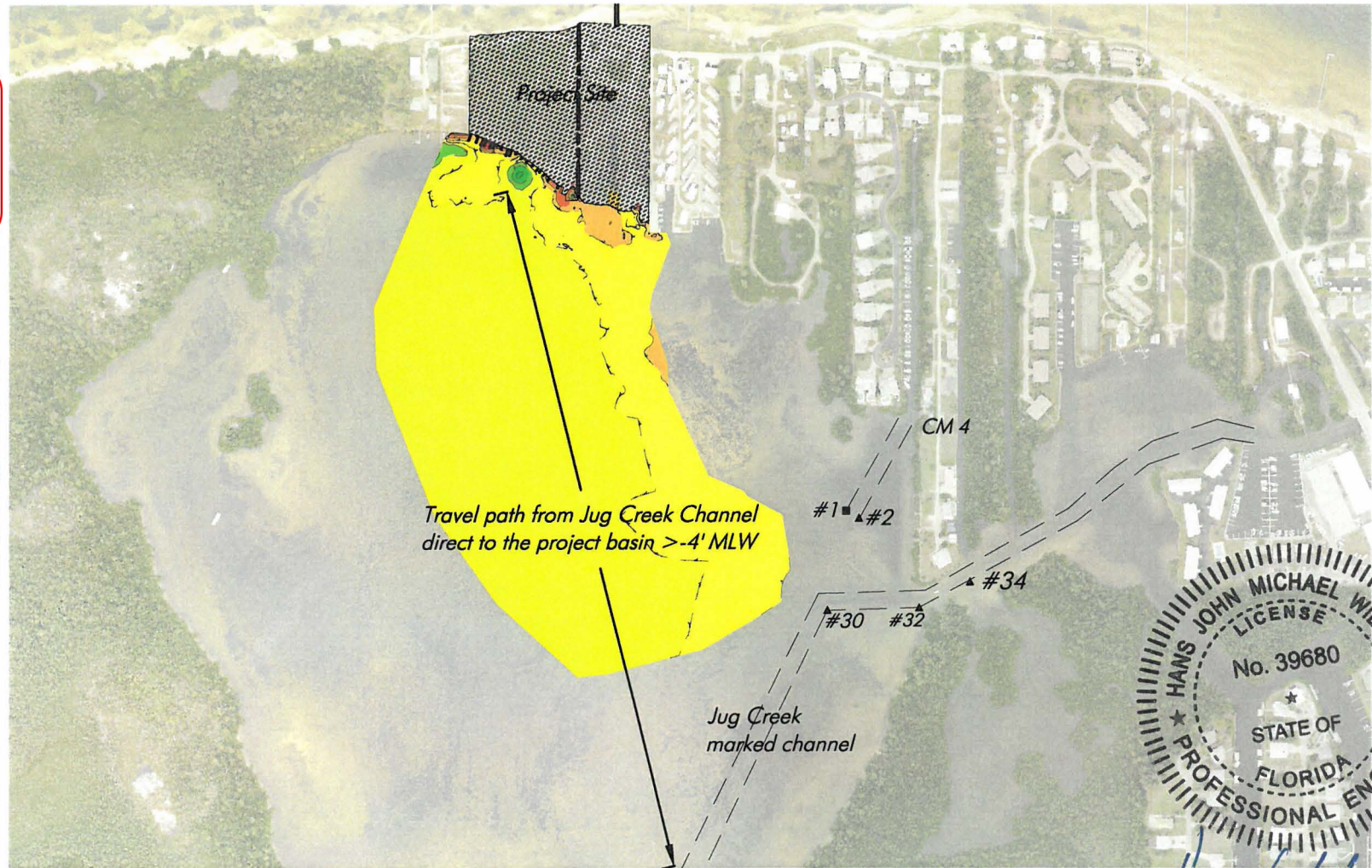
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Lee County Aerial 2016

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Electronically
12/31/2019
South District



Contour Legend	
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	-1 to -2
	-2 to -3
	-3 to -4
	-4 to -5
	-5 to -6
	-6 to -7
	> -7



Note: Bathymetric survey performed by HWA on 1-6-17. Depths reference Mean Low Water, per Dep Tidal Station 872-5541 MHW El. = -0.05 NAVD, MLW El. = -1.39 NAVD

Bathymetric Survey - Back Bay

SCALE: 1" = 600'



Hans Wilson
HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
CA. LIC. NO. 8519
DATE: December 30, 2019 10:08:15 a.m.
Drawing: GUNTH3MASTERHW.DWG

PERMIT USE ONLY, NOT FOR CONSTRUCTION



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MARINE and ENVIRONMENTAL CONSULTANTS

12-30-19

jon hjmw

Bocilla Island Seaport

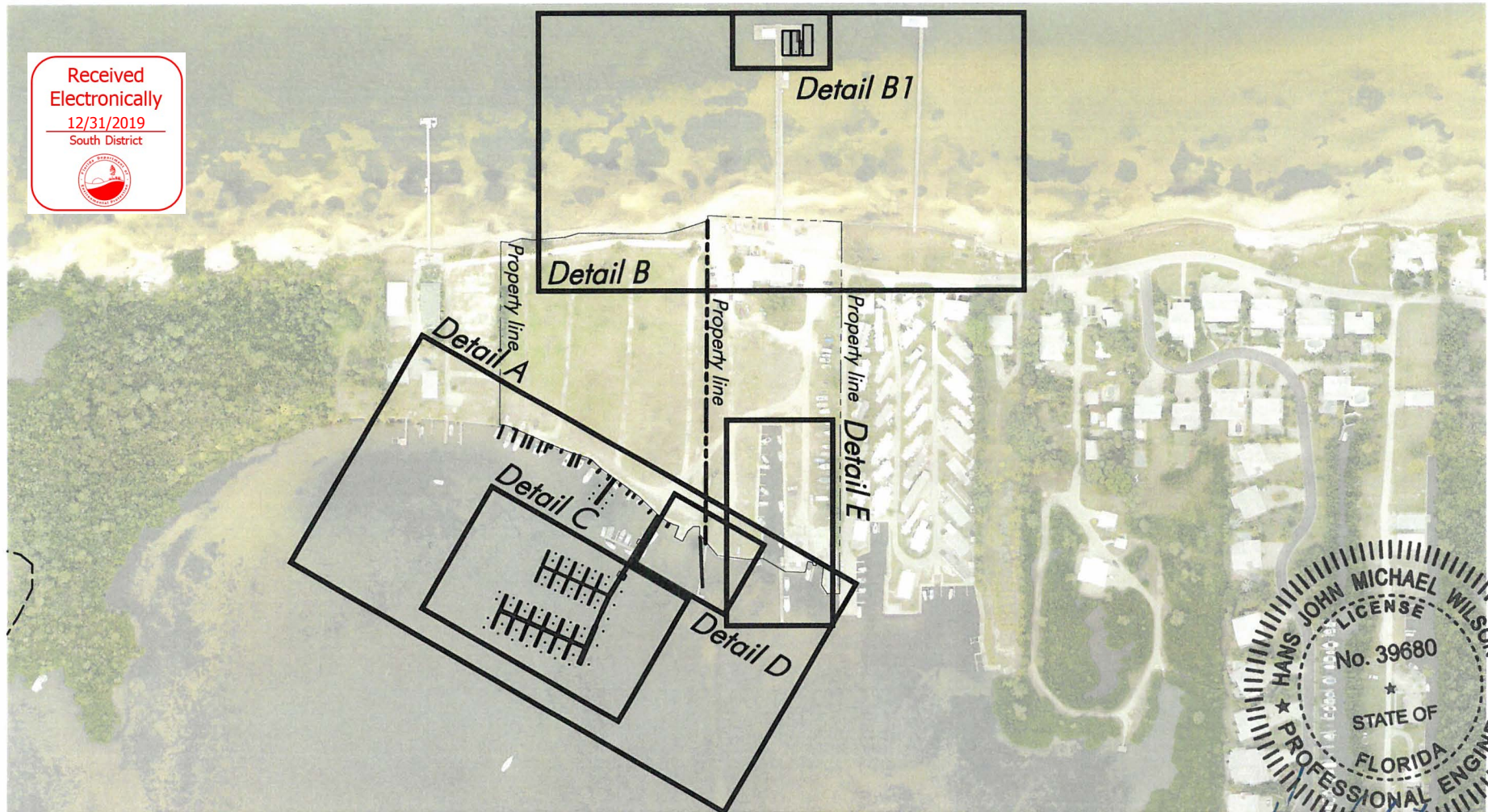
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2/19

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

Lee County Aerial 2016

0 150 300
SCALE FEET



Project Site Plan

SCALE: 1" = 300'

PERMIT PLANS, NOT FOR CONSTRUCTION



Hans J.M. Wilson
HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
CA. LIC. NO. 8519
DATE: December 30, 2019 10:08:15 a.m.
Drawing: GUNTH3MASTERHW.DWG



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MARINE and ENVIRONMENTAL CONSULTANTS

12-30-19

jon hjmw

Bocilla Island Seaport

SHEET

3/19

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

Lee County Aerial 2016

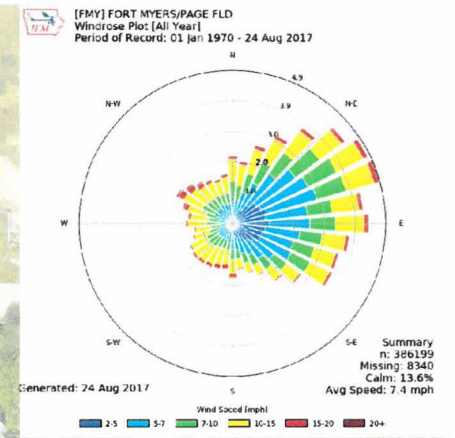
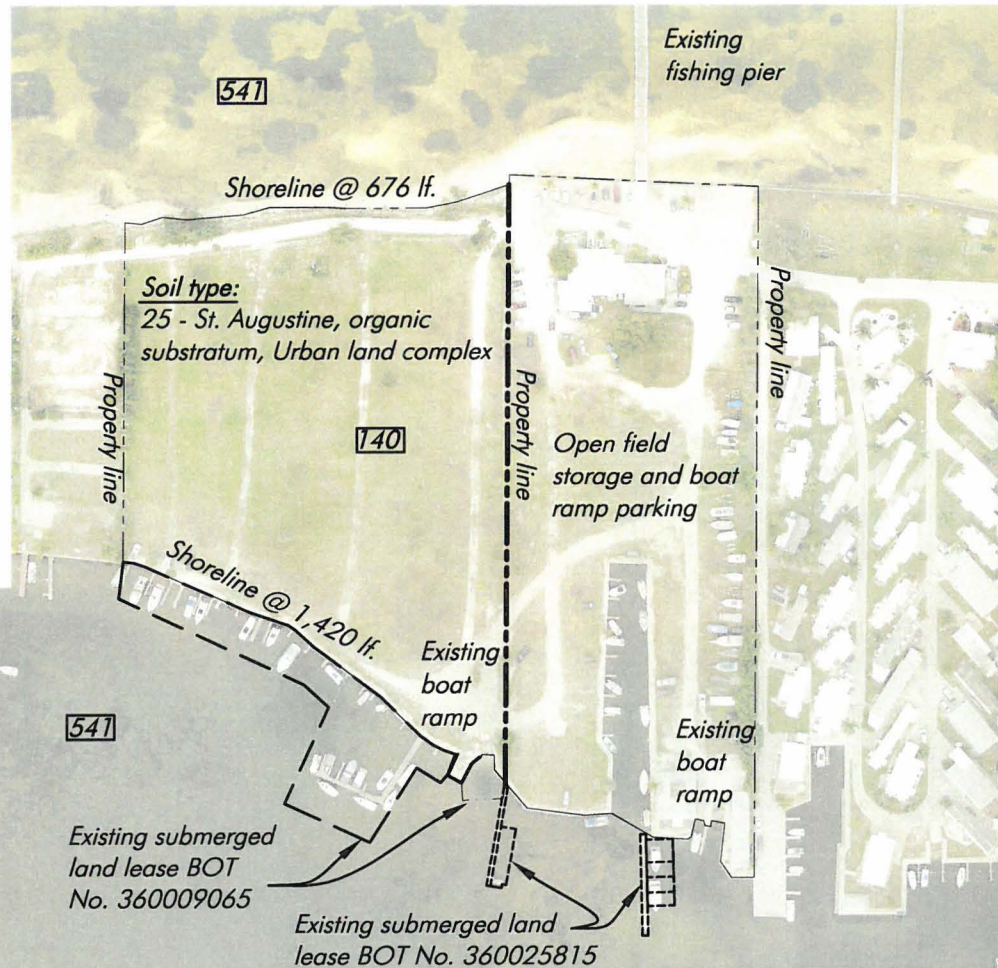
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SCALE FEET

Note: Soil information per Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at <http://websoilsurvey.nrcs.usda.gov/>. Accessed 8-15-16

Note: FLUCCS codes per FDEP Map Direct website, <http://ca.dep.state.fl.us/mapdirect>. Accessed 7-21-16.
FLUCFCS codes based on 1999 FDOT Florida Land Use, Cover and Forms Classification System. Acreages estimated for property in question from MapDirect information.



Total Shoreline @ 2,096 lf.



Hans J.M. Wilson
HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
CA. LIC. NO. 8519
DATE: December 30, 2019 10:08:15 a.m.
Drawing: GUNTH3MASTERHW.DWG

FLUCCS codes:

- 140**- Commercial and services(8.6 acres)
- 541**- Embayments opening directly to Gulf or Ocean

Soils/FLUCCS Info

SCALE: 1" = 200'

PERMIT PLANS, NOT FOR CONSTRUCTION



1938 Hill Avenue, Fort Myers, Florida 33901
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MARINE and ENVIRONMENTAL CONSULTANTS

12-30-19

jon hjmw

Bocilla Island Seaport

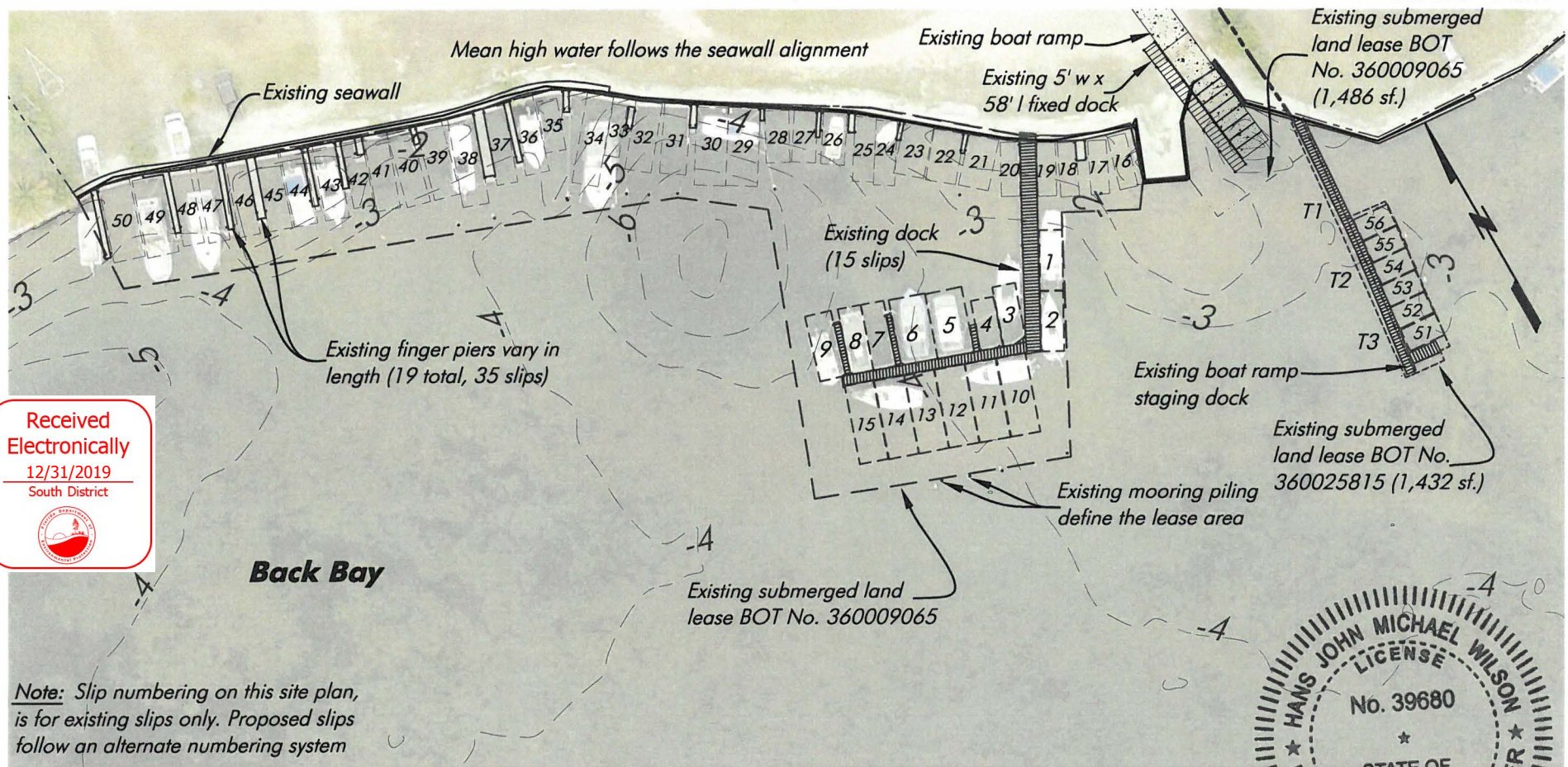
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SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

Lee County Aerial 2016

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SCALE FEET



Received
Electronically
12/31/2019
South District

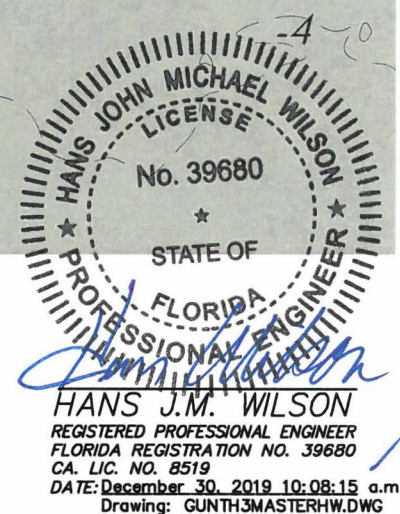


Detail A - Existing Dock Plan

SCALE: 1" = 60'

Note: Existing dock location and layout per survey by Morris-Depew and Associates dated 6-30-10. Bathymetry survey conducted by HWA on 5-25-02, depths reference Mean Low Water, per DEP Tidal Station 872-5541

PERMIT USE ONLY, NOT FOR CONSTRUCTION



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MARINE and ENVIRONMENTAL CONSULTANTS

12-30-19

jon hjmw

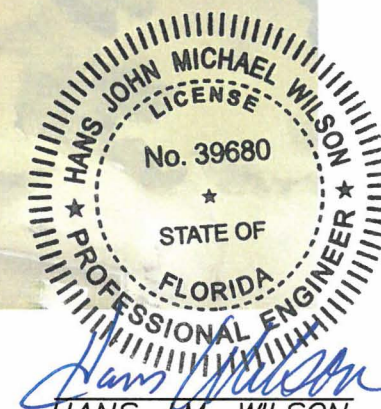
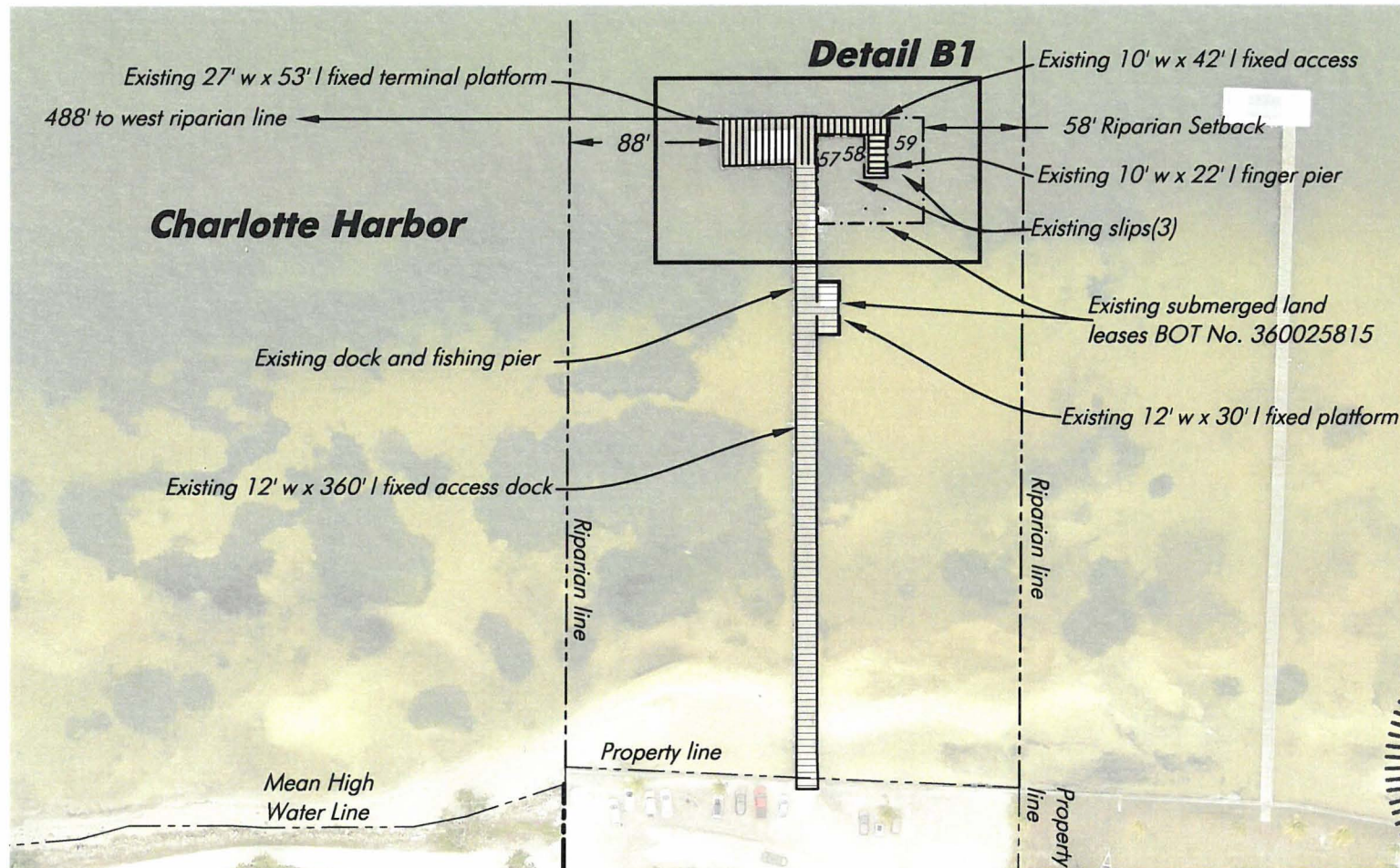
Bocilla Island Seaport

SHEET
5/19

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

Lee County Aerial 2016

0 50 100
SCALE FEET



HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
CA. LIC. NO. 8519
DATE: December 30, 2019 10:08:15 a.m.
Drawing: GUNTH3MASTERHW.DWG

Detail B - Existing Dock Plan

SCALE: 1" = 100'

Note: Slip numbering on this site plan, is for existing slips only. Proposed slips follow an alternate numbering system

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MARINE and ENVIRONMENTAL CONSULTANTS

12-30-19
jon hjmw

Bocilla Island Seaport

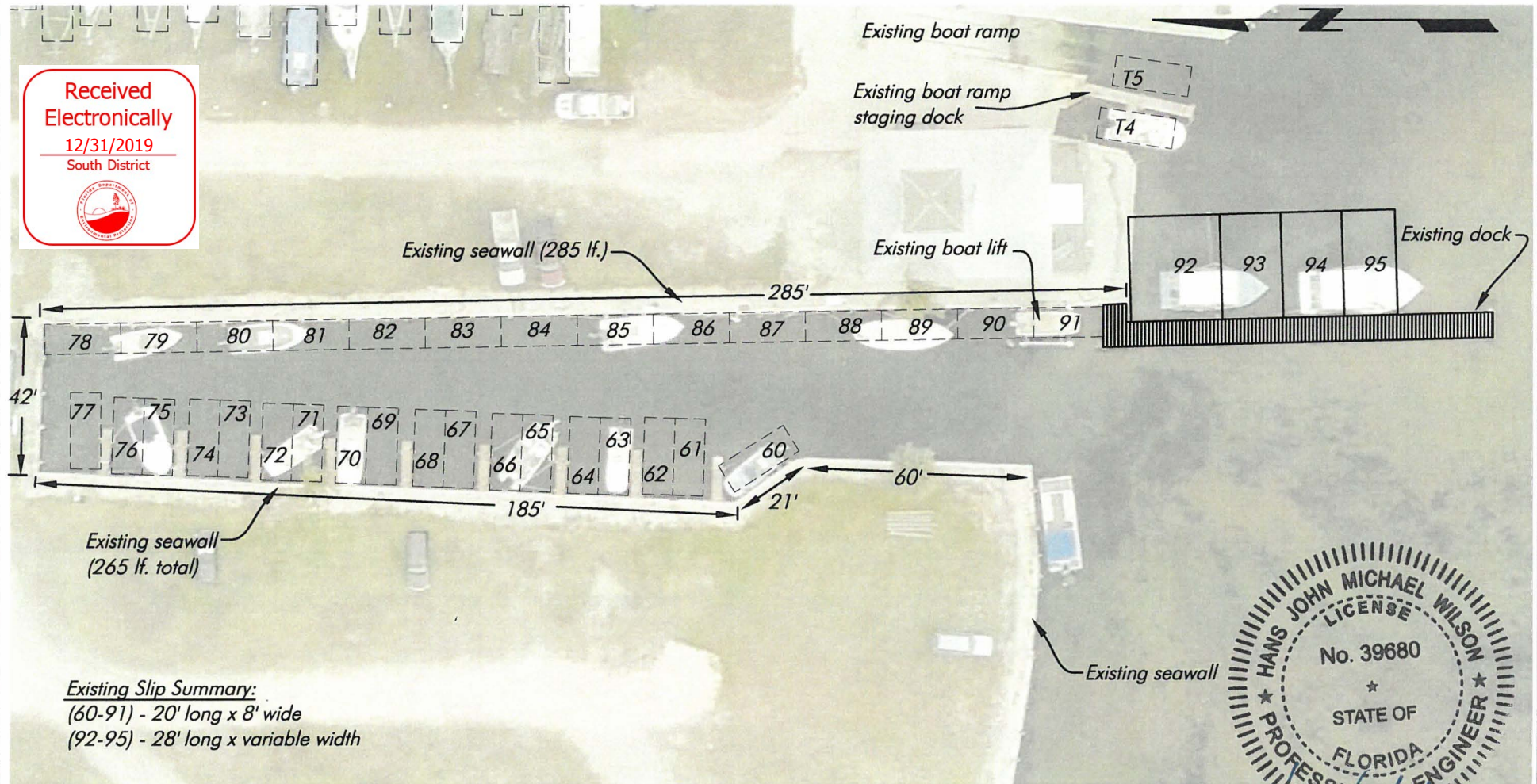
SHEET
6/19

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

Lee County Aerial 2016

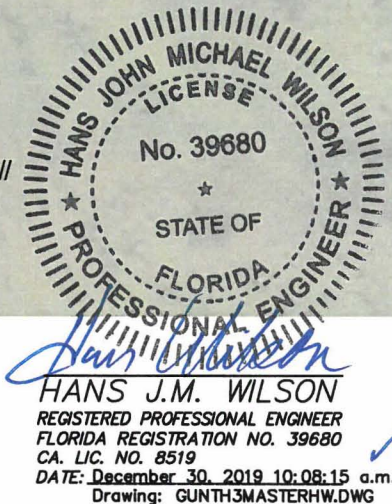
0 20 40
SCALE FEET

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Detail E - Existing Basin Plan

SCALE: 1" = 40'



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Slip Summary:

Slips allowed per Lee County: 105

Existing:

Wet Slips: 95 total slips

Boat ramp (varies): 10 slips

Proposed:

Wet Slips: 84 total slips

Boat ramp (varies): 21 slips

Proposed Piling Count:

(192) 10" dia. wooden piles for dock structure

(336) wooden piles for boat lifts/mooring piling

Total wooden piling = 528

(40) 14" sq. precast concrete anchor piling

Over-water Area Summary:

Existing:

Existing seawall finger piers to be removed - 700 sf.

Existing "L" dock to be removed - 875 sf.

Existing boat ramp staging dock to be removed - 460 sf.

Fishing pier finger pier reconfiguration - 220 sf.

Total = 2,255 sf.

Proposed:

Fixed dock, finger piers and access - 2,900 sf.

Floating dock, ramp, finger piers and access - 3,430 sf.

Boat ramp staging dock - 500 sf.

Fixed dock - 300 sf.

Charlotte Harbor Finger Pier - 175 sf.

Total = 7,305 sf.

Net Increase = 5,050 sf.

Note: Depths reference Mean Low Water,
per DEP Tidal Station 872-5541

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Existing seawall to be
replaced (entirety of west
side of boat ramp, 480 lf.)

Proposed informational signs

See Detail E
for basin plan

Existing boat ramp and fixed dock
(4) temporary slips for ramp staging

Property line

Proposed boat
ramp staging dock

Proposed submerged
land lease 4,378 sf.

0 50 100
SCALE FEET

Existing finger piers to
be removed (19 total)

Proposed submerged
land lease @ 2,020 sf.

Existing dock
to be removed

Dock A

Existing submerged
land lease

Detail D

Riparian line
between internal
properties, zero
setback

Riparian line
(agreed to by both
property owners)

Note: Each slip has the option
to install a boat lift or mooring
piling layout as shown

Proposed
submerged
land lease @
36,652 sf.

Dock B

Proposed
floating
dock

Dock C

Detail C

Detail A - Proposed Site Plan

SCALE: 1" = 100'

December 10, 2020 5:31:09 p.m.
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0 10 20
SCALE FEET

Charlotte Harbor

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Existing pier subject to
Disclaimer #40200(5058-36)

Proposed mooring piling

Proposed mooring
piling (typ.)

Remove 110 sf. of
existing wood dock from
inside of Disclaimer area.

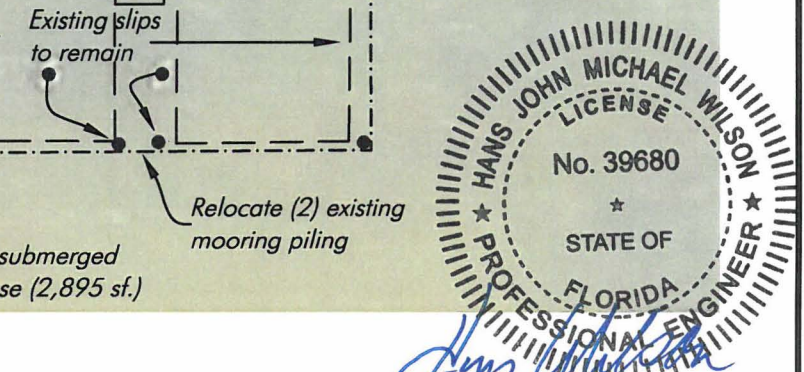
Proposed 5' w x 13' l fixed
finger pier extension

Note: Each slip has the option of a boat
lift or mooring piling layout as shown

Slip Summary:

82,83 - 48' long x 16' wide

84 - 59' long x 18' wide



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Detail B1 - Proposed Reconfiguration

SCALE: 1" = 20'

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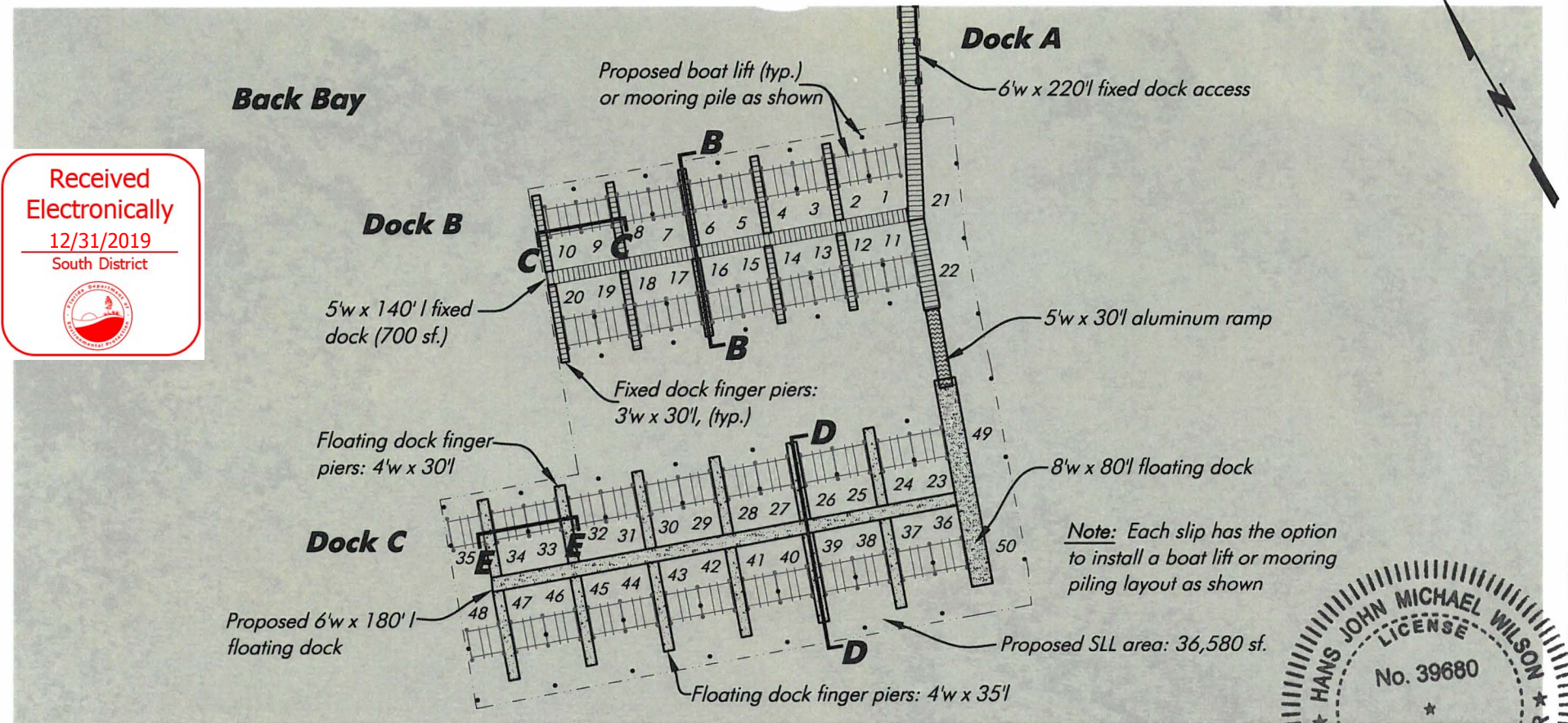
SHEET

9/19

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

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0 30 60
SCALE FEET



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Slip Summary:

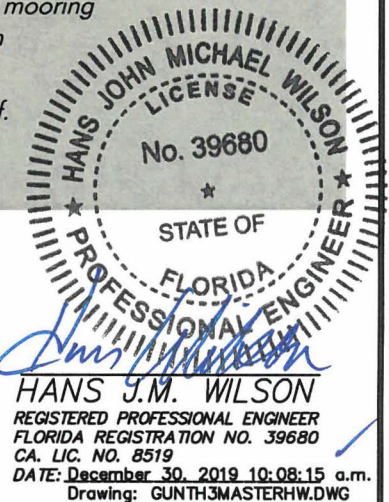
1-35, 49 - 30' long x 12' wide
36-48, 50 - 40' long x 12.5' wide

Detail C - Proposed Dock Plan

SCALE: 1" = 60'

Note: Depths reference Mean Low Water, per DEP Tidal Station 872-5541

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10/19

SECTION: 25
TOWNSHIP: 43 S
RANGE: 21 E

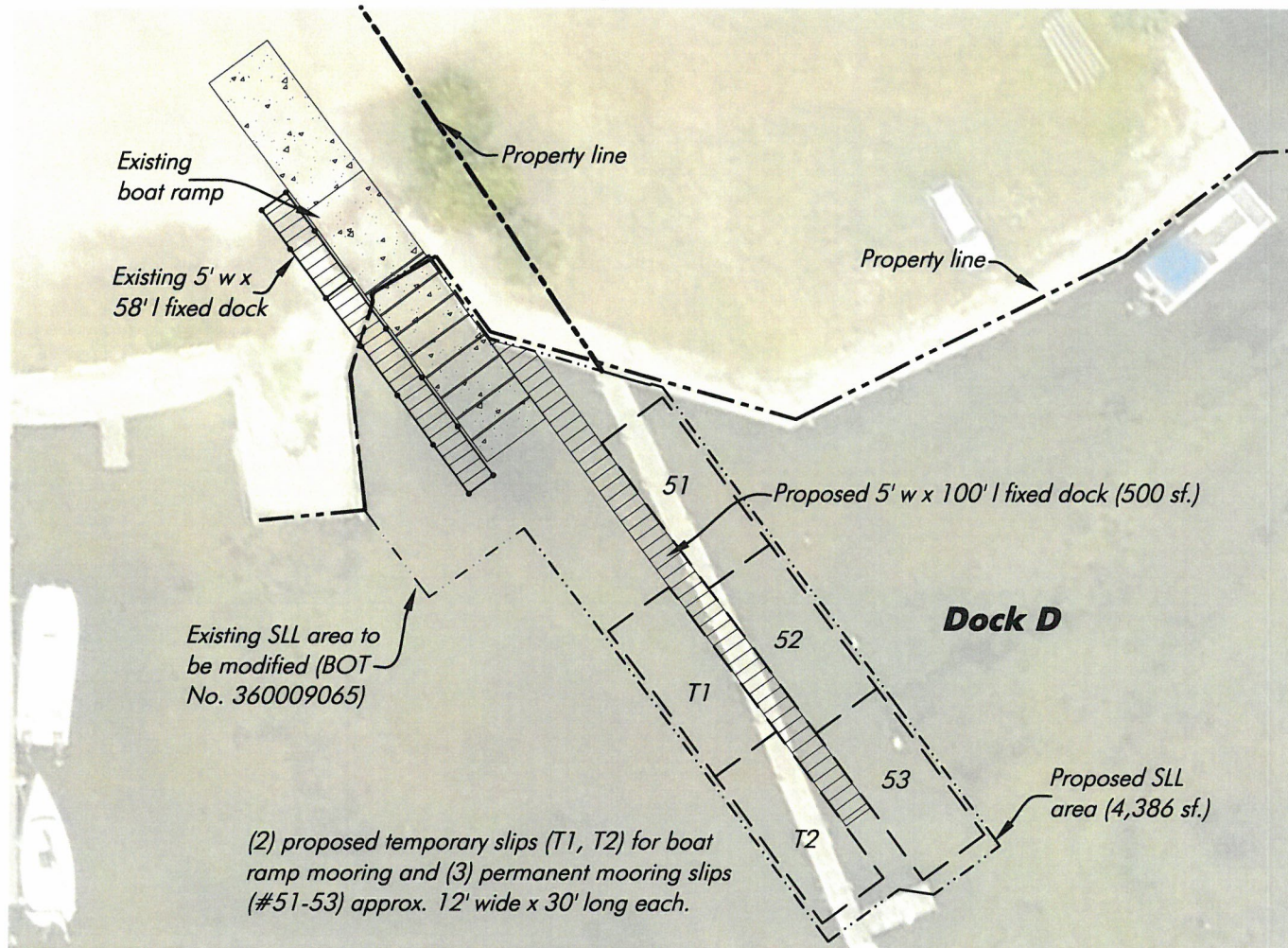
Lee County Aerial 2016

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SCALE FEET

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Detail D - Proposed Dock Plan

SCALE: 1" = 30'

Note: Each slip has the option to install a boat lift or mooring piling layout as shown

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SHEET

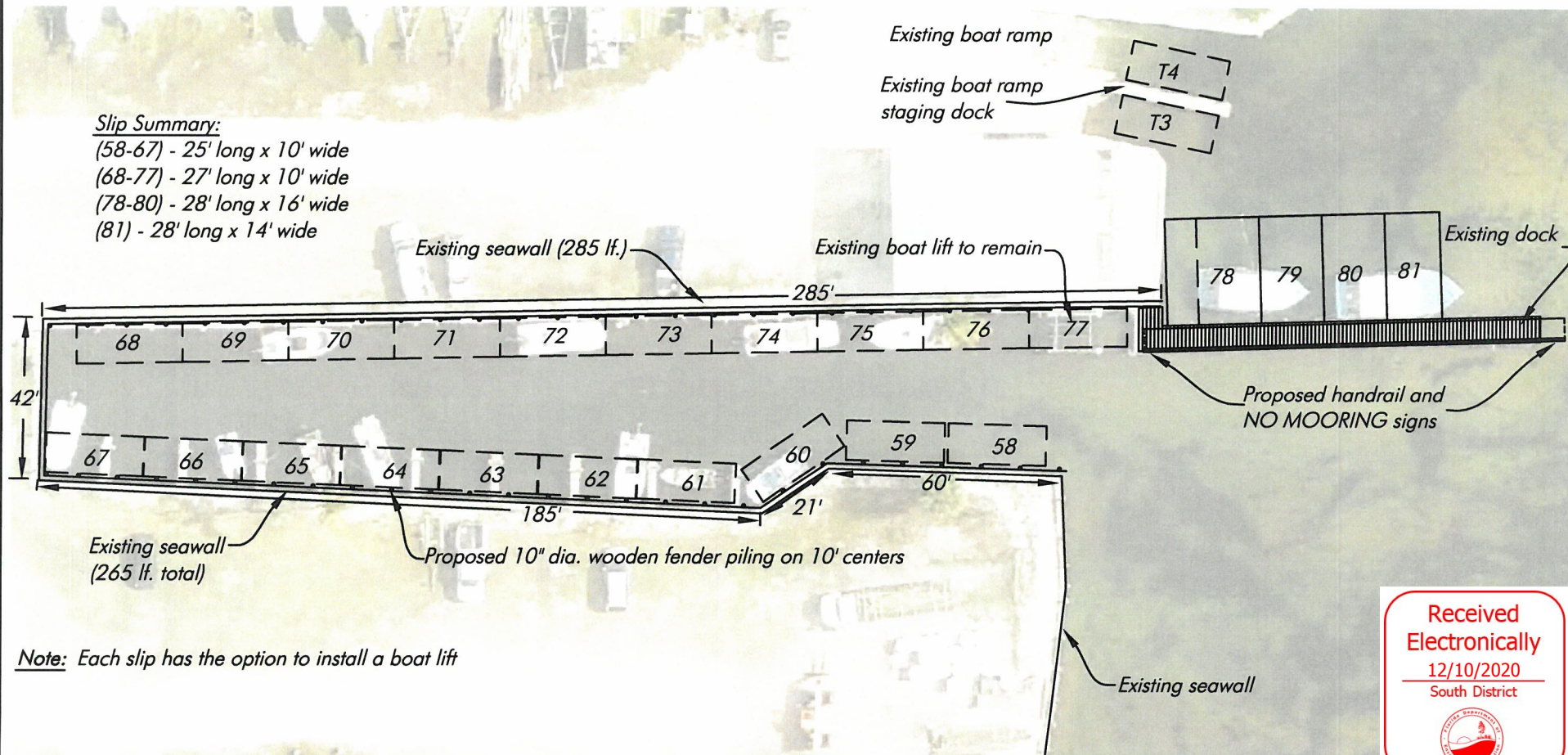
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TOWNSHIP: 43S
RANGE: 21E

0 20 40
SCALE FEET

Lee County Aerial 2016

Slip Summary:

(58-67) - 25' long x 10' wide
(68-77) - 27' long x 10' wide
(78-80) - 28' long x 16' wide
(81) - 28' long x 14' wide



Note: Each slip has the option to install a boat lift

Detail E - Basin Mooring Plan

SCALE: 1" = 40'

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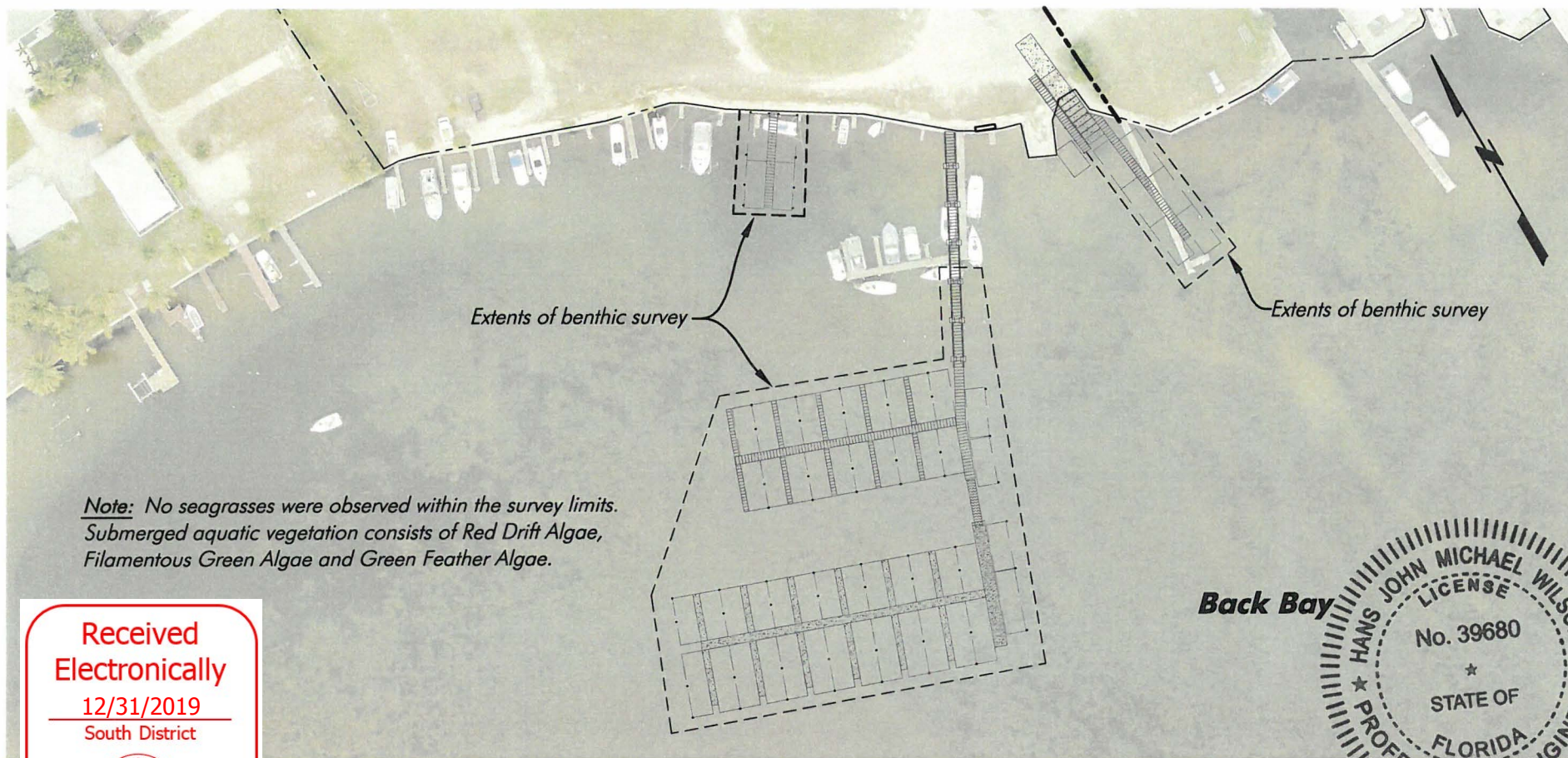
Bocilla Island Seaport

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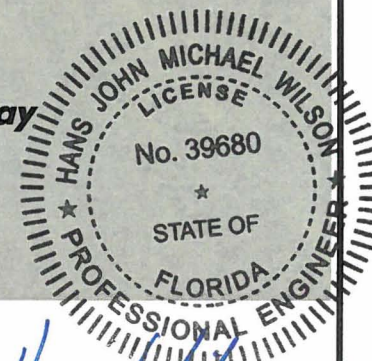
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TOWNSHIP: 43S
RANGE: 21E

Lee County Aerial 2016

0 50 100
SCALE FEET



Back Bay



Detail A - Benthic Survey

SCALE: 1" = 100'

Hans Wilson

HANS J.M. WILSON
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39680
CA. LIC. NO. 8519

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Note: Benthic survey conducted by HWA on 8-8-19.

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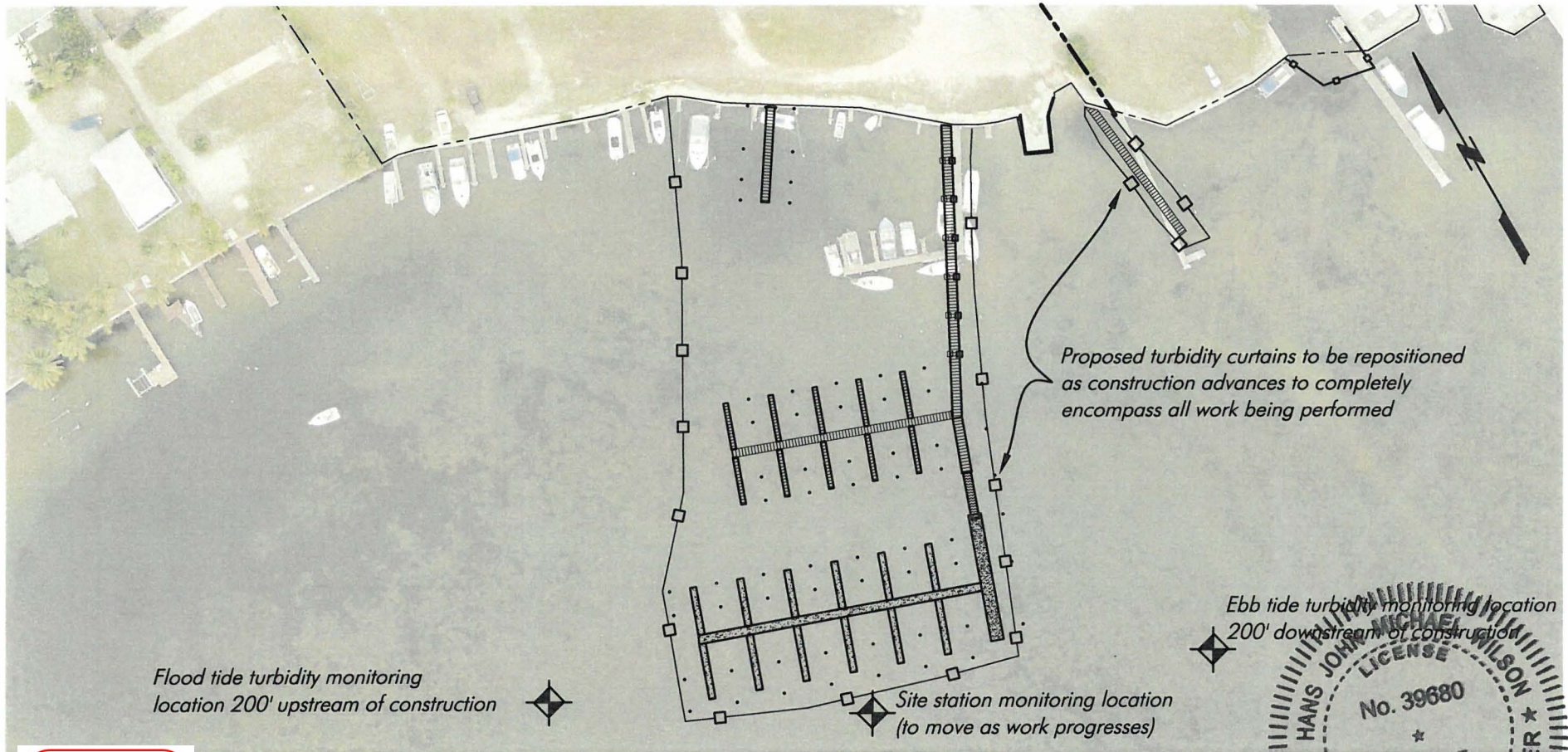
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TOWNSHIP: 43S
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Proposed Turbidity Control Plan

SCALE: 1" = 100'

Ebb tide turbidity monitoring location
200' downstream of construction

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No. 39680
STATE OF
FLORIDA
REGISTERED PROFESSIONAL ENGINEER
HANS JIM WILSON
REGISTERED PROFESSIONAL ENGINEER
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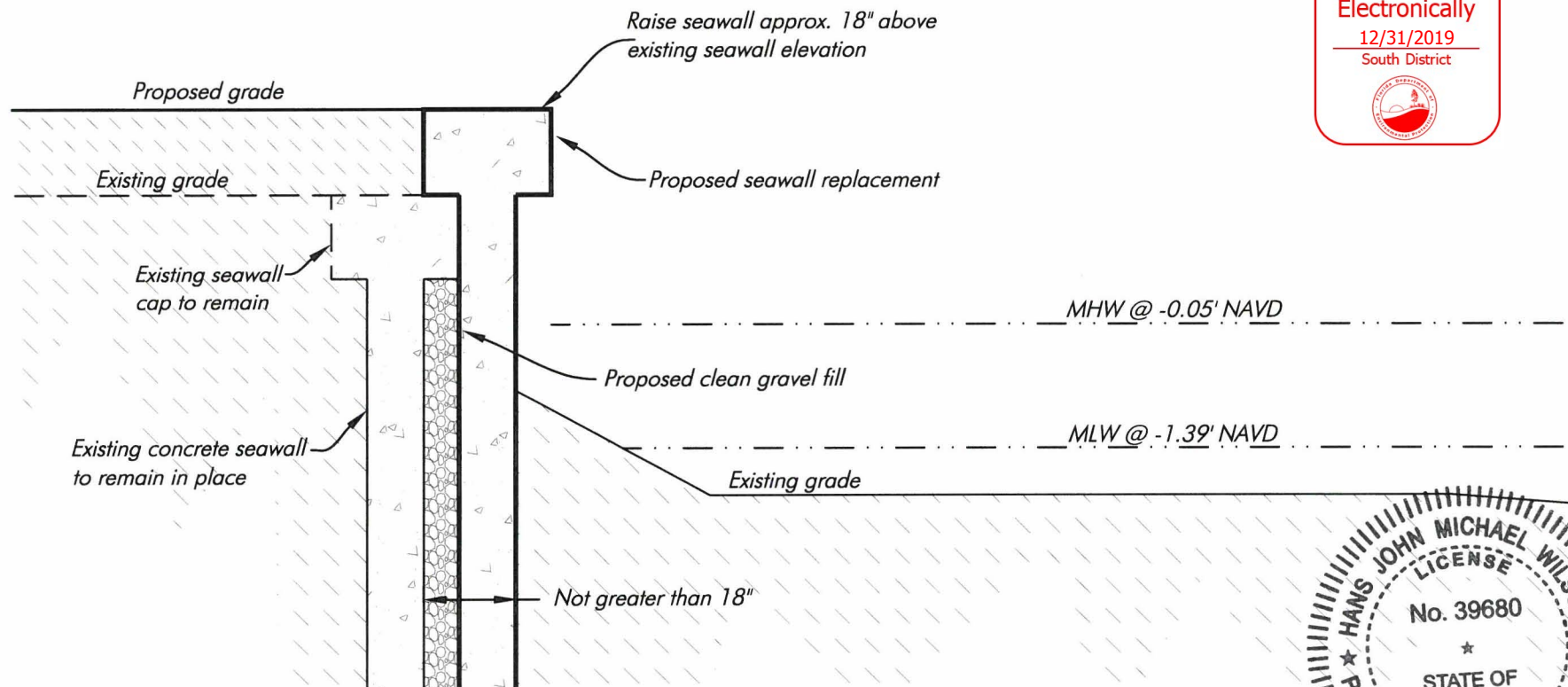
Bocilla Island Seaport

SHEET

19/19

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

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SCALE FEET

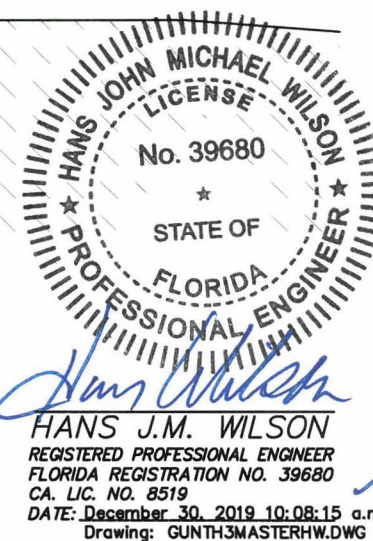


Cross-Section A-A

SCALE: 1" = 2'

Note: All depths reference Mean Low
Water per DEP tidal station 872-5411

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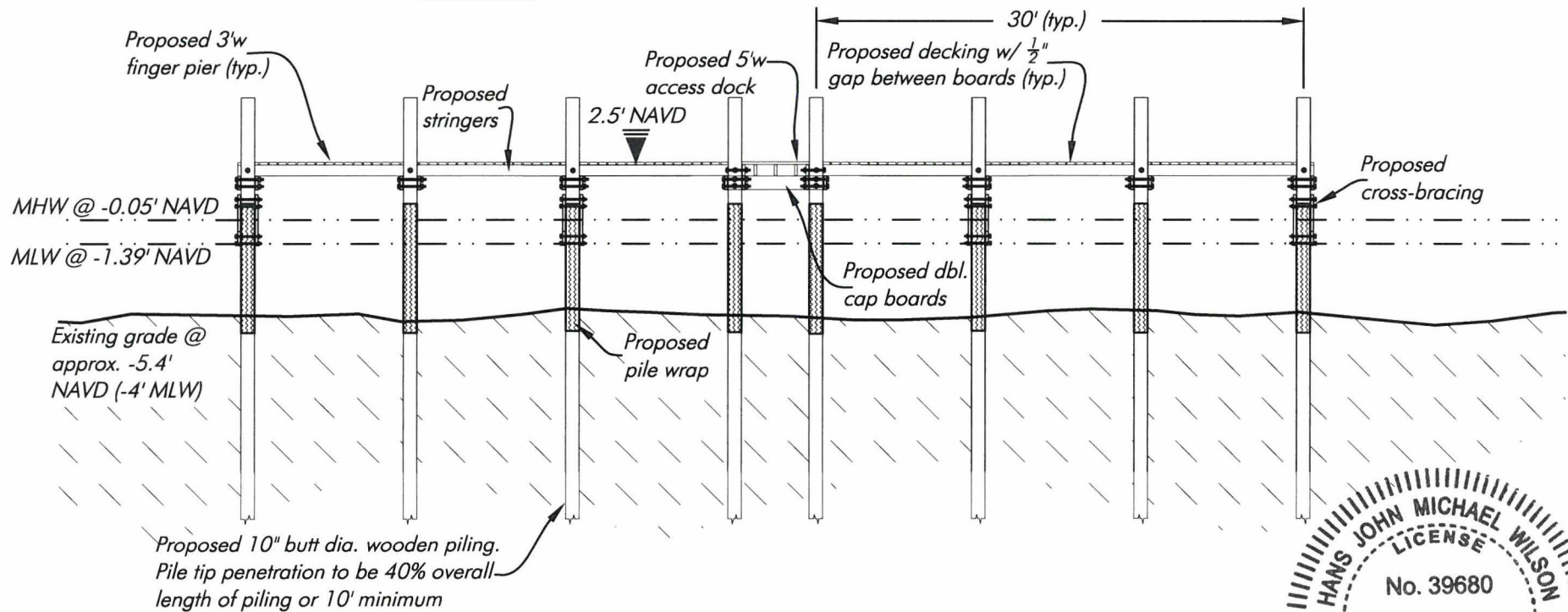
SHEET
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SECTION: 25
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0 5 10
SCALE FEET

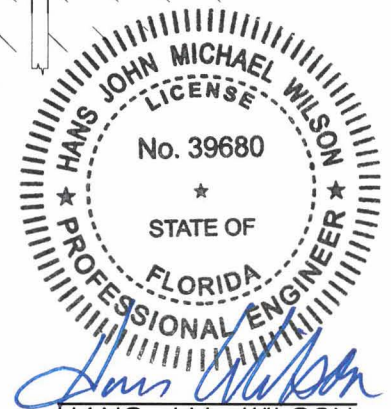


Cross-Section B-B

SCALE: 1" = 10'

Note: All depths reference Mean Low
Water per DEP tidal station 872-5411

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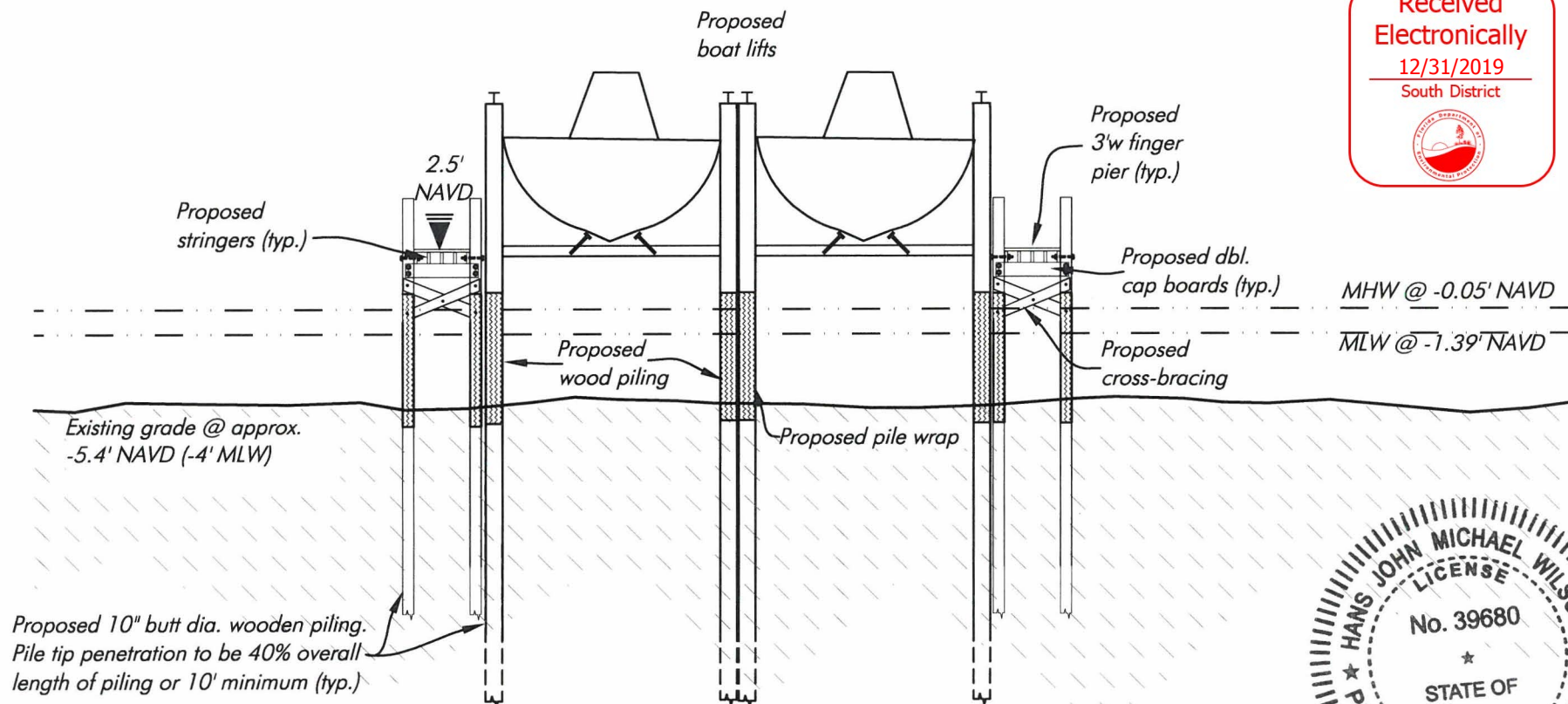
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RANGE: 21E

0 5 10
SCALE FEET

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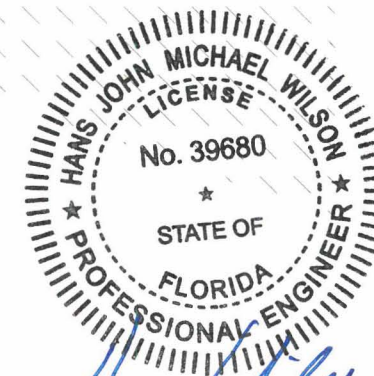


Cross-Section C-C

SCALE: 1" = 10'

Note: All depths reference Mean Low
Water per DEP tidal station 872-5411

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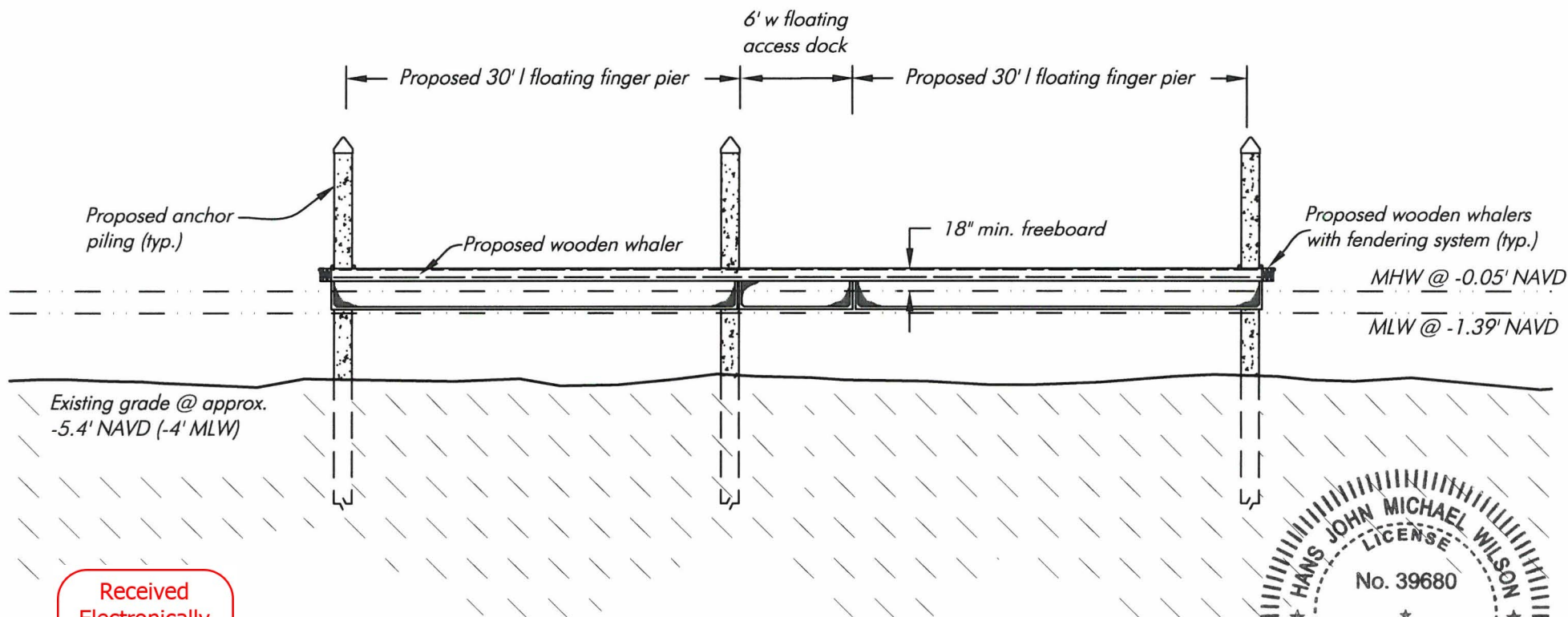
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17/19

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

0 5 10
SCALE FEET



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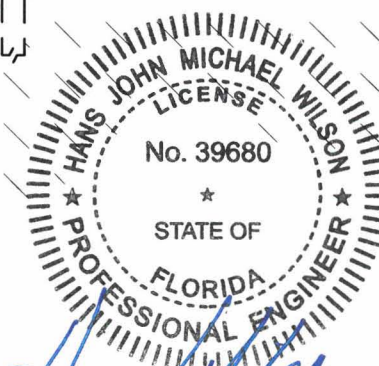


Cross-Section D-D

SCALE: 1" = 10'

Note: All depths reference Mean Low
Water per DEP tidal station 872-5411

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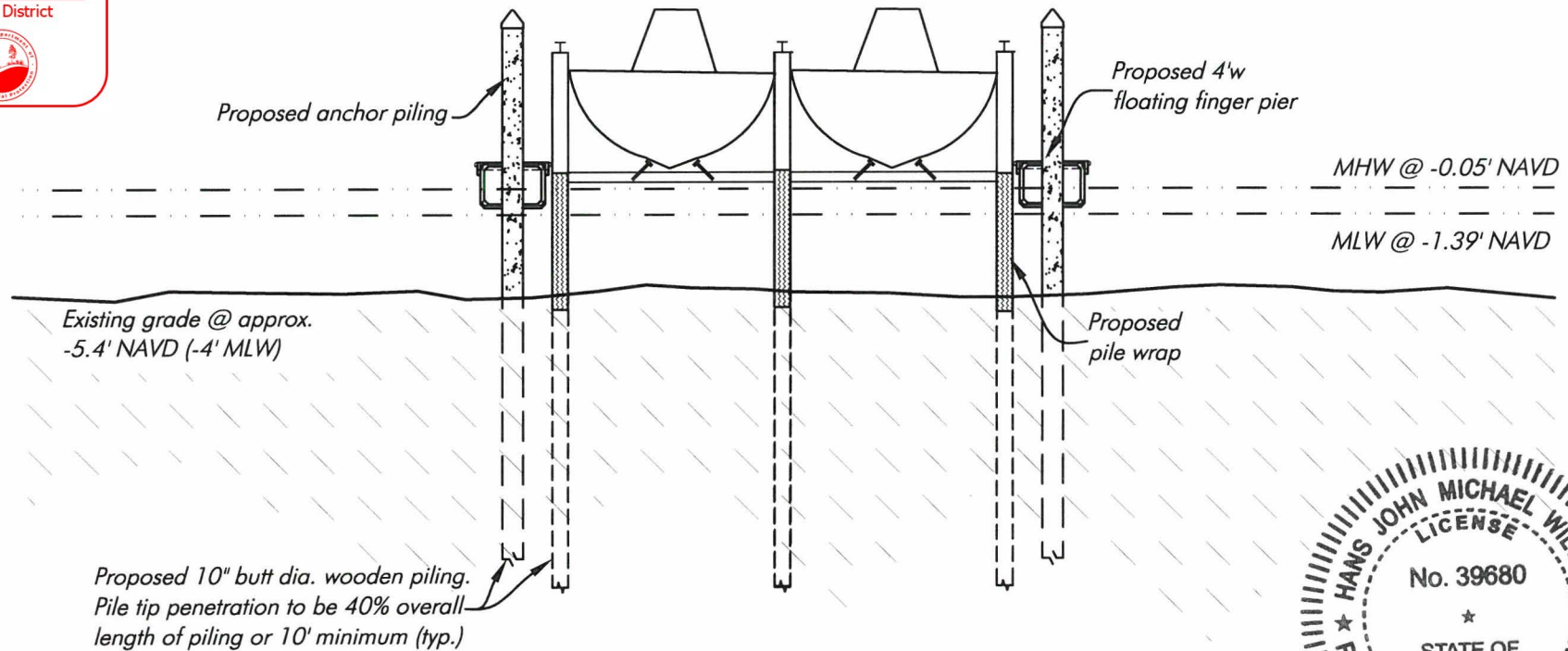
SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

0 5 10
SCALE FEET

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Mooring pile set at mid
and full length of slips in
lieu of proposed boat lifts

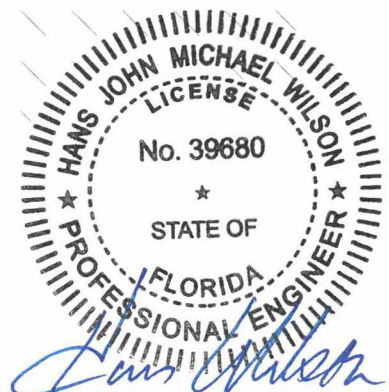


Cross-Section E-E

SCALE: 1" = 10'

Note: All depths reference Mean Low
Water per DEP tidal station 872-5411

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19/19

SECTION: 25
TOWNSHIP: 43S
RANGE: 21E

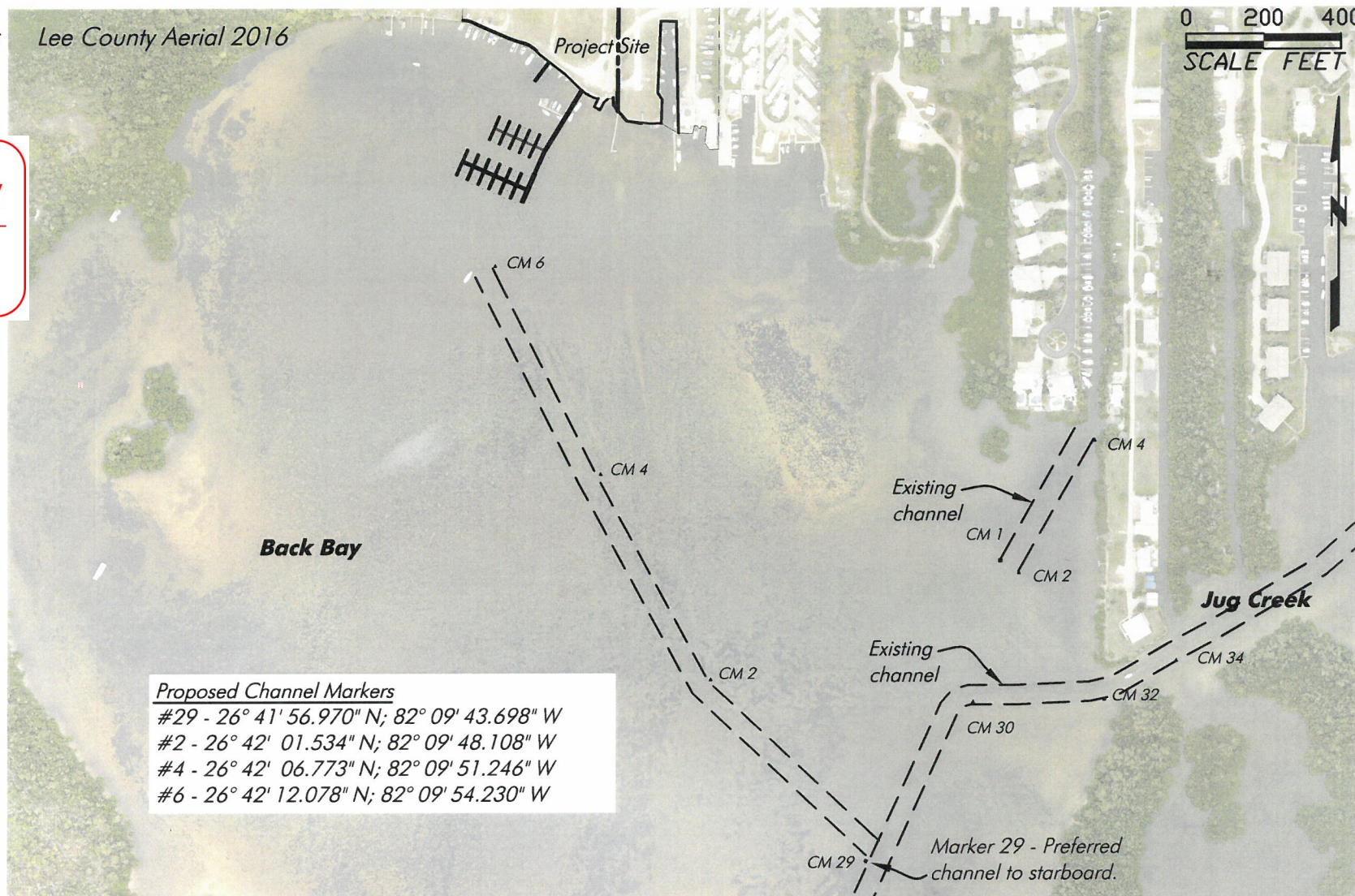
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0 200 400
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Proposed Channel Markers

#29 - 26° 41' 56.970" N; 82° 09' 43.698" W
#2 - 26° 42' 01.534" N; 82° 09' 48.108" W
#4 - 26° 42' 06.773" N; 82° 09' 51.246" W
#6 - 26° 42' 12.078" N; 82° 09' 54.230" W

Marker 29 - Preferred
channel to starboard.

Note: Bathymetric survey performed by HWA
on 1-6-17. Depths reference Mean Low
Water, per Dep Tidal Station 872-5541 MHW
El. = -0.05 NAVD, MLW El. = -1.39 NAVD

Proposed Markers - Back Bay

SCALE: 1" = 400'

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February 10, 2021 2:38:17 p.m.
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Bocilla Island Seaport

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1/1

Bocilla Island Seaport



Graphic provided by Google Earth

MARINA MANAGEMENT PLAN

Prepared by



Marine & Environmental Consultants

1938 Hill Avenue • Fort Myers, Florida 33901

(239) 334-6870 • FAX (239) 334-7810

December 2019

Marina Management Plan

Introduction: Bocilla Island Seaport (BIS) is a wet slip marina located in Charlotte Harbor and Back Bay in Bokeelia. The marina is owned by Highpoint Tower Technology and operated by Bocilla Island Seaport Inc. All slip holders are provided access to the Marina Management Plan and required to acknowledge familiarity with the plan via signing of a slip rental agreement.

The Marina Management Plan (MMP) is a program implementing Best Management Practices (BMP's) for all elements of the marina operations. The MMP contains guidelines expressly designed to eliminate the potential discharge of pollutants into State waters following closely the Florida Clean Marina Program. In addition, the facility will be required to secure a National Pollutant Discharge Elimination System (NPDES) permit as part of the marina operation.

The MMP and the overall management of activities in and adjacent to the marina are paramount to maintaining water quality standards and creating a healthy waterway that invites boating use. It is the Owner's intent to maintain clean water within the facility, which is necessary for the promotion of healthy aquatic plant and animal life, public health, and appeal of the marina and water surrounding the unique commercial island development.

It is the responsibility of the Owner to implement all provisions of the MMP. In order to provide the Department of Environmental Protection and/or the South Florida Water Management District (Agency) reasonable assurance that state water quality standards are met, the MMP implements many of the goals and objectives of the Florida Clean Marina Program with a compliance and enforcement component that exceeds the Clean Marina Program standards.

Enforcement: It is the responsibility of the Owner, or successor in title, to protect and maintain water quality standards within the marina. It is the responsibility of the Owner to identify pollution sources within the marina and surrounding area that may result in water quality violations, and to take appropriate actions to prevent such occurrences through signage and education. This requires monitoring all boaters, whether residents or guests, using the marina on a daily basis.

Upon observation of any non-compliance with the provisions of the MMP, the Owner will serve a written/verbal "Caution" statement to a resident boater, informing them of the infraction. A second infraction by the same boater, indicating the potential of a pattern for water quality violations, will result in a written "Warning" notice, informing the boater of a second infraction and potential loss of use of their slip. A third infraction by the same boater will result in the immediate termination of the use of the slip, and the boater will be given one day to remove the vessel from the marina. Guest boaters guilty of compromising water quality in the marina will be asked to leave immediately. Infractions do not have to be identical, and separate notices of violations are cumulative. All Caution, Warning, and Termination Notices will be documented in the Marina Daily Log by the Harbormaster, including the reason for the infraction.



Violations of the restrictions in the boat slip rental agreement referencing compliance with the Marina Management Plan will be forwarded to the Agency in the event of a resident or guest boater being directed to leave the premises.

Violations: The Owner reserves the right to identify any offender causing a violation within the marina, and to name said offender in any enforcement action taken by the state Agency(s). The Owner acknowledges that it has the duty to monitor its residents and guests to ensure their compliance with the MMP conditions and requirements. Should the Owner fail to enforce or improperly monitor the MMP with respect to activities of its patrons, then, the Owner acknowledges its responsibility and liability for violations of State rules, statutes, and water quality standards. Nothing herein will be construed to waive any defenses provided to the Owner in Chapters 403 and 376, Florida Statutes, in any enforcement action brought by the agencies.

Commercial Activities: All 105 slips are open to the public and rented on a first come first serve basis. Live-aboards are prohibited. The fishing pier is open to the public and is ADA accessible. Public parking is available on the upland at specific, marked locations as well as open field overflow parking.

Fueling facilities and the sale of petroleum products are currently prohibited. Minor commercial activities and vessels are authorized to use the docks such as water taxis, delivery vessels, charter fishing, and those performing minor repairs on moored vessels. Major repairs or refitting of vessels, including any activity that could result in a deposition of any petroleum products into Charlotte Harbor or Back Bay within the marina are strictly prohibited.

Discharge of Waste or Other Materials: State and Federal law prohibits discharge of any fluids, wastes or other materials, regardless of nature, except for clean bilge water or properly treated wastewater. Illegal discharges into adjacent water bodies or within the marina would adversely impact public health. If the Owner observes any such discharge, including any discharge of wastewater, in the marina, they will immediately notify the Agency or call the State Warning Point number (1-800-320-0519). In the event of an accidental discharge in the marina, the vessel captain or operator will notify the Owner immediately to ensure action will commence to contain the spilled/discharged material.

Fuel/Oil Spill Prevention: Signs will be posted at each dock showing the name and phone number of a local firm capable of immediate response, under prior arrangement, to clean any pollution spills. This information is available to all employees and boaters within the marina. The storage or placement of fuel/oil containers on the docks is strictly prohibited. One hundred (100) square feet of absorbent material and containment boom no less than one hundred fifty feet (150') in length will be located at the base of the dock in the Back Bay marina and in the Harbormasters office on the Charlotte Harbor marina. These items will be immediately available to anyone in the marina. The Owner will immediately notify SFWMD of any pollution spills. In addition, the Owner will document any pollution spills in the marina's log, immediately following the incident.



Severe Storm or Hurricane Plan: Boaters will be warned to exercise prudent and appropriate judgment in the event that a severe storm or hurricane threatens the area. Evacuation of the marina will not be required when a severe storm or hurricane threatens the area, however all resident boaters will be required to maintain proper insurances and to authorize the Harbormaster to take whatever action is necessary to protect the marina and vessels within the marina. The Harbormaster will recommend to owners that vessels be relocated to the mainland or if possible removed from the water and stored on the upland. Every effort will be made to remove vessels from the water. Those that remain will be prepared by removing loose objects, removing or securing canvass covers, and mooring in the slips to accommodate storm surges.

Solid Waste Receptacles: Solid waste receptacles located at the base of the docks will be provided and maintained by the Owner to prevent the potential discharge of any solid waste products into the water. The Owner will remove and properly dispose of all solid waste to an upland landfill or incinerator.

Hazardous Waste: The owner will provide information to renters regarding locations suitable to dispose of solvent paint waste, mercury containing bilge pump switches, old flares, used oil, old gasoline, and other potentially hazardous or toxic materials.

Boat Cleaning: The use of deleterious cleaning products containing high concentrations of chlorines, phosphates, and ammonia will be discouraged. Use of environmentally friendly cleaning method and products will be encouraged and will be available at the ships store. Fresh water will be available to clean boats after every use, minimizing the use of cleansers. Major repairs, or refitting of vessels, including any activity that could result in a deposition of any petroleum products into adjacent waters, or within the marina, will be strictly prohibited.

Hull Cleaning: Cleaning of boat hulls is allowed at the marina. Slip renters will be encouraged to use environmentally friendly cleaning products free of abrasives or harsh chemicals. All used cathodic protection (e.g. zincs, aluminum anodes) must be removed from the water during replacement.

Fish Cleaning: Fish cleaning is allowed at the fishing pier located on Charlotte Harbor and at the base of the docks in Back Bay at pre-defined locations.

Battery Management: Information will be available in the Harbormasters office to alert the public about the disposal ban on lead acid and rechargeable batteries. They include the 1-800-8-BATTERY phone number for nickel-cadmium battery recycling information. Call 352-376-6693 or check the Rechargeable Battery Recycling Corporation web site at www.call2recycle.org for information. The handling of batteries over the water surface and on the docks will include the use of containers to hold batteries during transport to minimize potential for spillage of battery acid, or loss of batteries. The storage of batteries on docks is prohibited.

Liveboards

Liveboards are prohibited at the marina.



Marina Education Plan: Standard manatee, marine turtle, and sawfish related education materials will be posted in the Harbormasters office as required by the Florida Fish and Wildlife Conservation Commission (FWCC) and to help raise boater awareness of the need to protect these resources. BIS is intent on advancing the education process and will implement a comprehensive education plan that promotes manatee protection, sawfish disentanglement procedures, boating safety, seagrass protection, wildlife identification, and knowledge about other important resources needing protection.

Education Components

Boater Kits - BIS will provide every new member, renting a slip on an annual basis, with a boater kit that contains information on safe boating, Smalltooth sawfish, marine turtles, and manatees. Boating safety information will include the most recent versions as follows:

- Complete copies of the Marina Management Plan & Hurricane Preparedness Plan.
- Boating and Angling Guide to Lee and Charlotte County which is downloadable from: <http://goboatingflorida.com/resources/lee-county-boaters-guide/>
- Information about How to Get a Boating Safety Education Identification Card, as presented at: <http://myfwc.com/boating/safety-education/id/>
- Manatee information will include FWCC's Commonly Asked Questions About Manatees, Manatee Protection Rules, The Manatee Program and Funding Sources brochure, which is downloadable from: <http://myfwc.com/wildlifehabitats/managed/manatee/>
- Sawfish information will include FAQ's, habitat identification, disentanglement procedures, and cultural impacts as available at the Florida Fish and Wildlife Conservation Commission website: <http://myfwc.com/research/saltwater/fish/sawfish/>

Other brochures that will be available at BIS will include the following, as they are made available to the public, and as resource focuses change over time. Examples would include the following:

- Help Prevent Entanglement-Protecting Marine Mammals and Marine Turtles
- Florida's Seagrass Meadows
- Lee County Boaters Guide
- The Florida Manatee-A Florida Treasure
- The Florida Manatee
- Florida's Seagrasses

Educational Signage – BIS, as a function of implementing their Resource Protection Plan, will post Manatee, Sea Turtle, and Sawfish signs at strategic locations throughout the marina for guest boaters and reminders for residents. These signs will be typically located at the base of the docks, where most passengers will pass by and in the Harbormaster's Office.



Monofilament Recovery and Recycling Program – BIS will provide monofilament line recovery bins, as promoted by the FWCC at <http://www.fishinglinerecycling.com/> at various locations around the marina.

Employee Education – The marina facility will conduct annual workshops for marina employees regarding implementation, compliance, and monitoring of the Marina Management Plan. The education program will be tailored to include methods and procedures for executing the BMP's listed in the Management Plan.

Hazardous Materials Emergency Plan: BIS will comply with the U.S. EPA Spill Prevention, Control, and Countermeasure (SPCC) Regulation, 40 CFR 112.

On-Site Pressure washing:

- Collect discharge water and remove all visible solids before discharging to a sewer system, or where permitted, to a drainage system, or receiving water.
- Perform pressure washing only in designated areas where wash water containment can be effectively achieved.
- Use no detergents or additives in the pressure wash water.
- Direct deck drainage to a collection system sump for settling and/or additional treatment.

Material Handling - Containerized material storage:

- Store containerized materials (fuels, paints, solvents, etc.) in a protected, secure location and away from drains.
- Store reactive, ignitable, or flammable liquids in compliance with the local fire code.
- Identify potentially hazardous materials, their characteristics, and use.
- Control excessive purchasing, storage, and handling of potentially hazardous materials.
- Keep records to identify quantity, receipt date, service life, users, and disposal routes.
- Secure and carefully monitor hazardous materials to prevent theft, vandalism, and misuse of materials.
- Educate personnel about proper storage, use, cleanup, and disposal of materials.
- Provide sufficient containment for outdoor storage areas for the larger of either 10 percent of the volume of all containers or 110 percent of the volume of the largest tank.
- Use temporary containment where required by portable drip pans.

Updates: The MMP is a living document that may be updated from time to time to reflect operations within the marinas. Changes will never be less restrictive, and typically will reflect the owners experience with boaters and the general public using the marina to better address pollution prevention and education. Any modification of the MMP will be submitted to the Agency prior to implementation.

