

# GARLICK ENVIRONMENTAL ASSOCIATES, INC.

SPECIALIZING IN: REGULATORY PERMITS • WETLANDS/UPLAND JURISDICTIONAL DELINEATIONS • SUBMERGED LAND LEASES • ECOLOGICAL INVENTORY ASSESSMENTS • CONSERVATION AND OTHER EASEMENTS • EXPERT WITNESS AND ENVIRONMENTAL LITIGATION SERVICES • MITIGATION • CULTURAL RESOURCE ANALYSIS • CREATIVE MARINA, DOCK, AND SUBDIVISION DESIGN

## LETTER OF TRANSMITTAL

May 4, 2020

Tracey L. Wheeler  
Regulatory Project Manager  
US Army Corps of Engineers  
415 Richard Jackson Boulevard  
Suite 411  
Panama City Beach, FL 32407

RE: Construction of a Dock / 2-Boat Lifts  
Franklin County, 2215 Sea Gull Way  
GEA File No. 20-030 / Hugh P. Whitehead III

The proposed project is located in Section 29, Township 9 South, Range 6 West, 2215 Sea Gull Way, St George Island, Franklin County, FL. The waterbody at the project site is Apalachicola Bay, Class II, OFW, AP. The existing conditions at the project is an undeveloped parcel. The attached application is for the construction of a Single-Family Residential Dock.

The proposed access walkway of the dock will be constructed 438 ft. in length and 4 ft. in width. The proposed project will also include a boardwalk over an existing wetland area, which will be constructed 149 ft. in length and 4 ft. in with. The proposed boardwalk will be constructed 5 ft. above the wetland area. The proposed dock will include a terminus, which will be constructed 8 ft. in width and 20 ft. in length. At and near the location of the terminus, two (2) uncovered boat lifts will be constructed on side of the proposed access walkway and adjacent to the terminus. One boat lift will be constructed 30' x 14', adjacent to the terminus and the other will be constructed 20' x 12', adjacent to the access walkway. Submerged vegetation occurs within the alignment of the proposed dock, as shown on the attached drawings. The proposed dock, boardwalk and terminus consists of 2508 sq. ft.

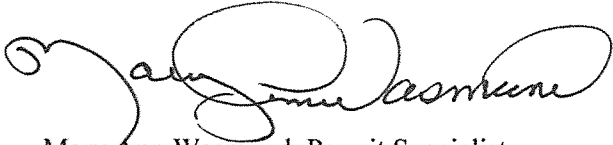
The uplands of the parcel will have a toilet facility before any vessel will be moored at the proposed dock. There will be no overnight occupancy at the proposed dock, nor vessel overnight occupancy.

The materials to be used to construct the proposed dock will be transported to the site by truck. The piles will be jettied. However, provisions will include maintaining State Water Quality standards for turbidity by installing turbidity curtains. A barge will assist in the construction of the proposed dock and piling placements. The depth of water at the location of the proposed mooring areas and terminus is -4.00 feet at Mean Low Water (MLW). The Mean High Water and Mean Low Water Lines are indicated on the attached drawings.

Attached is a copy of the contract between Benjamin F. Johnson VI and Hugh P. Whitehead III indicating purchase of the subject riparian upland property. The upland area is presently zoned as residential and no changes are proposed.

If you have any questions or need any additional assistance, please do not hesitate to call us at (805) 653-8899 or email us [dan@garlickenv.com](mailto:dan@garlickenv.com) or [maryann@garlickenv.com](mailto:maryann@garlickenv.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Ann Wasmund". The signature is fluid and cursive, with a large loop at the beginning and end.

Mary Ann Wasmund, Permit Specialist  
Garlick Environmental Associates, Inc.

Attachments

cc: Hugh P. Whitehead III

**U.S. Army Corps of Engineers (USACE)**  
**APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT**  
 33 CFR 325. The proponent agency is CECW-CO-R.

Form Approved -  
 OMB No. 0710-0003  
 Expires: 01-08-2018

The public reporting burden for this collection of information, OMB Control Number 0710-0003, is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at [whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil](mailto:whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR APPLICATION TO THE ABOVE EMAIL.

**PRIVACY ACT STATEMENT**

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned. System of Record Notice (SORN). The information received is entered into our permit tracking database and a SORN has been completed (SORN #A1145b) and may be accessed at the following website: <http://dpcl.dod.defense.gov/Privacy/SORNs/Index/DOD-wide-SORN-Article-View/Article/570115/a1145b-ce.aspx>

**(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)**

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
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**(ITEMS BELOW TO BE FILLED BY APPLICANT)**

5. APPLICANT'S NAME First - <i>Hugh</i> Middle - <i>P</i> Last - <i>Whitehead</i> Company - E-mail Address - <i>Scott@whiteheadassoc.com</i>	8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required) First - <i>DAN</i> Middle - Last - <i>GARLICK</i> Company - <i>GARLICK Environmental Assoc. Inc</i> <i>MARYANN@garlickenv.com</i> E-mail Address - <i>dan@garlickenv.com</i>
6. APPLICANT'S ADDRESS: Address - <i>3209 Chateau Court NW</i> City - <i>Atlanta</i> State - <i>GA</i> Zip - <i>30805</i> Country - <i>USA</i>	9. AGENT'S ADDRESS: Address - <i>P.O. Box 385</i> City - <i>Apalachicola</i> State - <i>FL</i> Zip - <i>32328</i> Country - <i>USA</i>
7. APPLICANT'S PHONE NOS. w/AREA CODE a. Residence      b. Business      c. Fax <i>404-510-8770</i>	10. AGENTS PHONE NOS. w/AREA CODE a. <del>Residence</del> Cell      b. Business      c. Fax <i>850-899-5252</i> <i>850-653-8899</i> <i>653-9656</i>

**STATEMENT OF AUTHORIZATION**

11. I hereby authorize, *GARLICK Environ-* to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

\_\_\_\_\_  
 SIGNATURE OF APPLICANT

*05-05-2020*  
 DATE

**NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY**

12. PROJECT NAME OR TITLE (see instructions) <i>Whitehead Single Family Dock</i>	
13. NAME OF WATERBODY, IF KNOWN (if applicable) <i>Apalachicola Bay</i>	14. PROJECT STREET ADDRESS (if applicable) Address <i>2215 Sea Gull Way</i> City - <i>ST George Island</i> State - <i>FL</i> Zip - <i>32328</i>
15. LOCATION OF PROJECT Latitude: °N      Longitude: °W	
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions) State Tax Parcel ID <i>29-095-06w-7339-0000-0160</i> Municipality Section - <i>29</i> Township - <i>9 South</i> Range - <i>6 West</i>	

17. DIRECTIONS TO THE SITE

Coming off bridge onto St George Island, turn right and continue for 6 .5 miles. The Site is on the right side within St George Island Plantation.

18. Nature of Activity (Description of project, include all features)

Construction of a Single Family Residential Dock with (2) boat lifts (see attached drawings)

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

To have access to the water.

**USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED**

20. Reason(s) for Discharge

N/A

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards
-------------------------------	-------------------------------	-------------------------------

N/A

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres N/A

or

Linear Feet N/A

23. Description of Avoidance, Minimization, and Compensation (see instructions)

N/A



24. Is Any Portion of the Work Already Complete?  Yes  No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

a. Address- Robert Ramsey 2113 Woodley Circle  
 City - Lexington State - Ky Zip - 40502

b. Address- Stephanie A. Mason Trustee 6961 County Road 20  
 City - Mount Gilead State - OH Zip - 43338

c. Address-

City - State - Zip -

d. Address-

City - State - Zip -

e. Address-

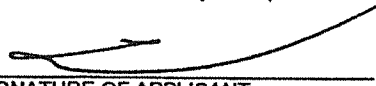

City - State - Zip -

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED

\* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.


 SIGNATURE OF APPLICANT     
 05-05-2020     
 DATE     
 
 SIGNATURE OF AGENT     
 5-5-20     
 DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.



Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion Summary Checklist (Must be submitted with all projects)

Permitting Agency's Internal Use Only: Date checklist sent to NMFS, Reviewer Last Name, Application #, Checklist Version, Indicate the agency issuing the permit/authorization, Is this a re-verification, edit, or modification to a consultation previously submitted under JaxBO?, If yes to above, enter date of previous Tier II consultation, If another NMFS programmatic BO was used for the proposed project, please select name of programmatic BO used, The Corps Project Manager or Delegated Authority has reviewed and confirmed that the proposed project meets all PDCs.

2215 Sea Gull Way Project Street Address, 29 37' 16.91" Latitude, St George Island City, 84 57" 4.35 Longitude, Franklin County (Florida), Municipality (Puerto Rico & USVI)

Select all activities used for the entire proposed project: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, Superseding Process

Table with 5 columns: Geographic Area, Is the project located in the geographic area?, Select DCH Unit, Are Essential Features Present?, If Essential Features are present, enter area of impact. Rows include Smalltooth Sawfish DCH Limited Exclusion Zones, Gulf Sturgeon DCH Migratory Restriction Zones, Atlantic Sturgeon DCH Exclusion Zone, etc.

Is the Project in or near areas with mangroves, seagrasses, corals, or hard bottom habitat? Does it comply with PDCs for Mangroves, Seagrasses, Corals, and Hard Bottom for All Projects (AP.3)

Table with 3 columns: Resource, Present in the project footprint?, Square Feet of Impact. Rows include Mangroves, Nonlisted Seagrass, Johnson's Seagrass, Listed Corals, Nonlisted Corals, Hardbottom.

2,508.00 SF of Overwater Impacts (area of structure over/above the water surface, e.g., docks or canopies), 15.00 SF of Total In-water Impacts (area of substrate that is permanently changed below MHW, e.g., by seawall, riprap, or cross-sectional area of piles)

Applicant agrees to adhere to PDCs for In-Water Activities (AP.1) as described in AP.7 through AP.11, Applicant agrees to perform all activities during daylight hours (AP.6), Is the project within the boundary of the Florida Keys National Marine Sanctuary (FKNMS)?, If within the boundaries of FKNMS, received NOAA authorization?

To be completed by applicant or agent if permit is issued by a delegated authority (FDEP, Miami-Dade, etc.) Please enter full name of applicant or applicant's representative: Dan Garlick

Comments: Construction of a single family residential dock with 2 boat lifts.

1 Checklist Version: Select 1 if it is the first time you are submitting the consultation. Select 2 if you made an error or the project has changed and you need to resubmit the checklist. 2 The project may be located in two different Loggerhead DCH Units. Select all that apply. If there are more than two, please add to the Comments section.



US Army Corps of Engineers.

Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion (JAXBO)

Activity 2: Pile Supported

<b>Agency internal use:</b>			
<input type="text"/>	Date checklist sent to NMFS (MM/DD/YY)	<input type="text"/>	PM Last Name
<input type="text"/>		<input type="text"/>	Application #
<input type="text"/>		<input type="text"/>	Checklist Version

Proposed Activity (Select all that apply):

- Dock New
- Dock Repair
- Dock Replacement
- Mooring/Dolphin piles
- Mooring buoys
- Mooring fields
- Chickees
- ATONS/PATONS
- Boatlift
- Temporary structures/buoys
- Other (Provide description in Comments box at bottom)

Single-family Select the type/use of the structure

Enter information about the proposed activity:

<input type="text"/> 0	Total number of existing dry slips	<input type="text"/> 0	Total number of existing wet slips
<input type="text"/> 0	Total number of proposed dry slips	<input type="text"/> 2	Total number of proposed wet slips

Piling Installation Data: Enter data as appropriate for different pile types used. JAXBO does not cover installation of metal piles or sheet piles with impact hammer (AP 2: Section 2.2).

Pile	Pile Type 1	Pile Type 2	Pile Type 3	Pile Type 4
<input type="text"/> 79	Number of Piles	<input type="text"/>	Number of Piles	<input type="text"/>
<input type="text"/> 0	Size of each Pile (sq.ft.)	<input type="text"/>	Size of each Pile (sq.ft.)	<input type="text"/>
<input type="text"/>	Pile Material	<input type="text"/>	Pile Material	<input type="text"/>
<input type="text"/>	Installation Method	<input type="text"/>	Installation Method	<input type="text"/>

Open-Water Project in Open-Water or Confined-Space Environment (AP.2: Section 2.2)?

NA Select Noise PDC Category (AP.2.) as detailed in (Section 2.2).

For commercial/multi-family/public facilities and marine events which of the following signs will be posted (A2.2.) Select all that apply:

- Save Sea Turtle/ Sawfish/ and Dolphin Sign
- Help Protect North American Right Whale
- Report Sturgeon
- U.S. Caribbean

For commercial/multi-family/public docking facilities/monofilament recycling bins will be installed. (A2.3)

North Atlantic Right Whale Educational Sign Zone: Is the North Atlantic right whales handout included as special condition of permit (A2.4)?

Does the project include a municipal or commercial fishing pier?

Is dock within visible distance of an ocean beach?  If yes: is turtle-friendly lighting installed as required by JAXBO (A2.8)?

Will project construction take place on uplands or from floating equipment (e.g. barge) as required (A2.9)?

Dock Construction Scenario included as a special condition (A2.17)?

For projects located in Designated Critical Habitat; please complete applicable section below:

No Is the project located in the geographic area of Smalltooth Sawfish Critical Habitat?

Is project located in smalltooth sawfish limited exclusion zone?

Yes Is the project located in the geographic area of Gulf Sturgeon Critical Habitat?

50-1,400 ft Enter width of the area (e.g. channel/ bay) if in a the Gulf sturgeon critical habitat migratory restriction zone (Section 2.1.1.2)

1. Creating a pilot Select additional noise restrictions required as special condition in Gulf sturgeon critical habitat migratory restriction zones (A2.11).

No Is the project located in the geographic area of Acropora Critical Habitat?

Are essential features present?

Is hardbottom present in project footprint? (AP.14).

No Is the project located in the geographic area of Johnson's Seagrass Critical Habitat?

Water depths (insert range of water depths where project will occur as minus MLW)

Project includes a new marina or multifamily facility (A2.14)?

Does the project include repair/replacement and reconfiguration of existing marinas or multi-family facilities?

If project is repair/replacement and reconfiguration of existing marinas or multi-family facilities then select all that apply under JAXBO (A2.14):

Occurs within same overall footprint (out to the perimeter of the facility including the outer limits of the structure and permitted mooring locations).

Does not increase the total aerial extent (i.e. area of coverage from the dock structures) of the existing facility.

Does not affect Johnson's seagrass.

No Is the project located in the geographic area of Nearshore Reproductive Habitat of NWA DPS of Loggerhead Sea Turtle Critical Habitat?

Does the project include the installation of a structure other than ATONs (A2.15)?

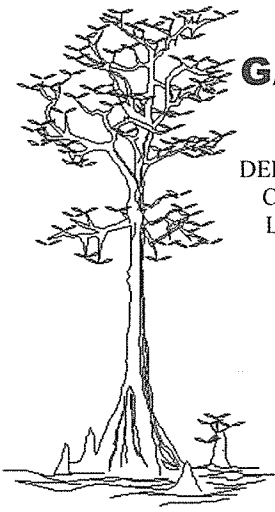
No Is the project located near sea turtle nesting beaches in the geographic area of U.S. Caribbean Sea Turtle Critical Habitat?

Does the project include the installation of a structure other than ATONs near sea turtle nesting beaches (A2.16)?

Comments:

Construction of a Single Family Residential Dock

Please note this checklist does not contain all of the PDCs. Please refer to the Biological Opinion to confirm the project meets all PDCs prior to completing this checklist. Notes in parenthesis refer to corresponding section of JAXBO.



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MARINA, DOCK, AND SUBDIVISION DESIGN

### FIELD WORKSHEET

GEA JOB:20-030

DATE:4-30-20

TIME:3PM

SITE:whitehead 2215 Seagull Franklin

INSPECTOR:D garlick

JOB TYPE:

EA/LPS/SAV/HCP-dock

### AMBIENT CONDITIONS REPORT:

Temp 72F/water level 0.05 MLW weather clear

TRANSECTS: see map

FLORA: Halodule

DEPTH: 0—4 ft at proposed terminus

MAP SOURCE: google earth, drone and wading

NOTES: see map

ATTACH MAP: yes/no

P.O. BOX 385  
APALACHICOLA, FL 32329-0385  
(850) 653-8899  
FAX (850) 653-9656  
garlick@garlickenv.com



**PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.**

P. O. BOX 385, APALACHICOLA FLORIDA 32329-0385 (850) 653-8899 FAX (850) 653-9656 garlick@garlickenv.com

LB No. 7415

APPLICANT/CLIENT: Hugh P. Whitehead III

JOB: 20-030

WATERBODY/CLASS: Apalachicola Bay / Class II / OFW / AP

DEP:

PURPOSE: Environmental Permitting

COE:

PROJECT LOCATION / USGS: St George Island / Franklin County

OTHER:

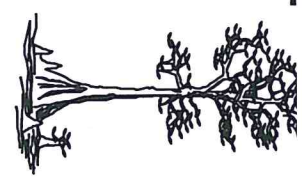
LATITUDE: 29° 37' 16.91"

DATE: May 4, 2020

LONGITUDE: 84° 57' 4.35"

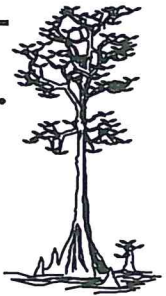
SHEET: 1/5

SECTION: 29 TOWNSHIP: 9 South RANG: 6 West



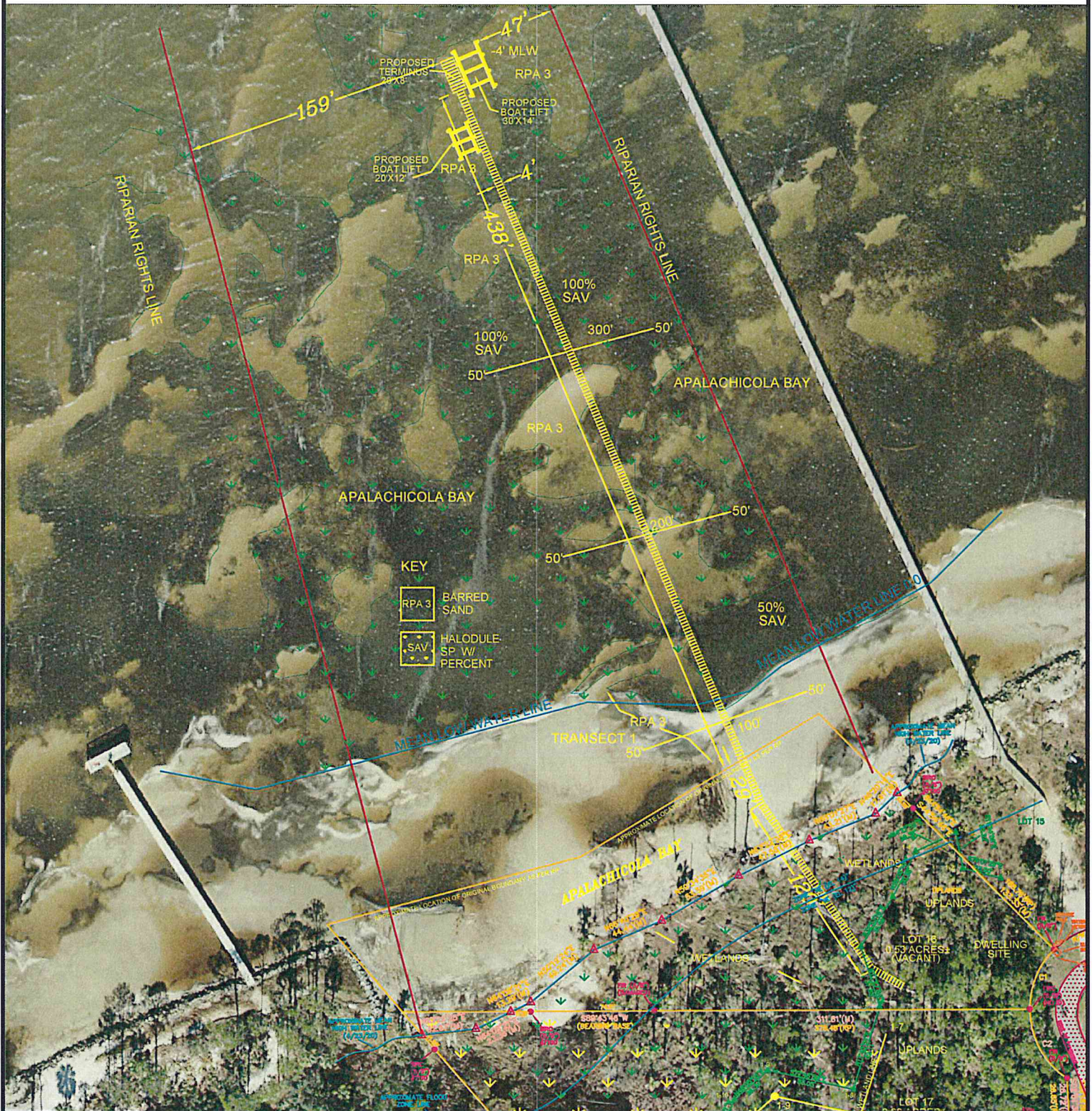


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APPLICANT/CLIENT: Hugh P. Whitehead III  
WATERBODY/CLASS: Apalachicola Bay / ClassII / OFW / AP  
PURPOSE: Environmental Permitting  
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LONGITUDE: 84° 57' 4.35"  
SECTION: 29 TOWNSHIP: 9 South      RING: 6 West

JOB: 20-030  
DEP:  
COE:  
OTHER:  
DATE: May 4, 2020  
SHEET: 2/5



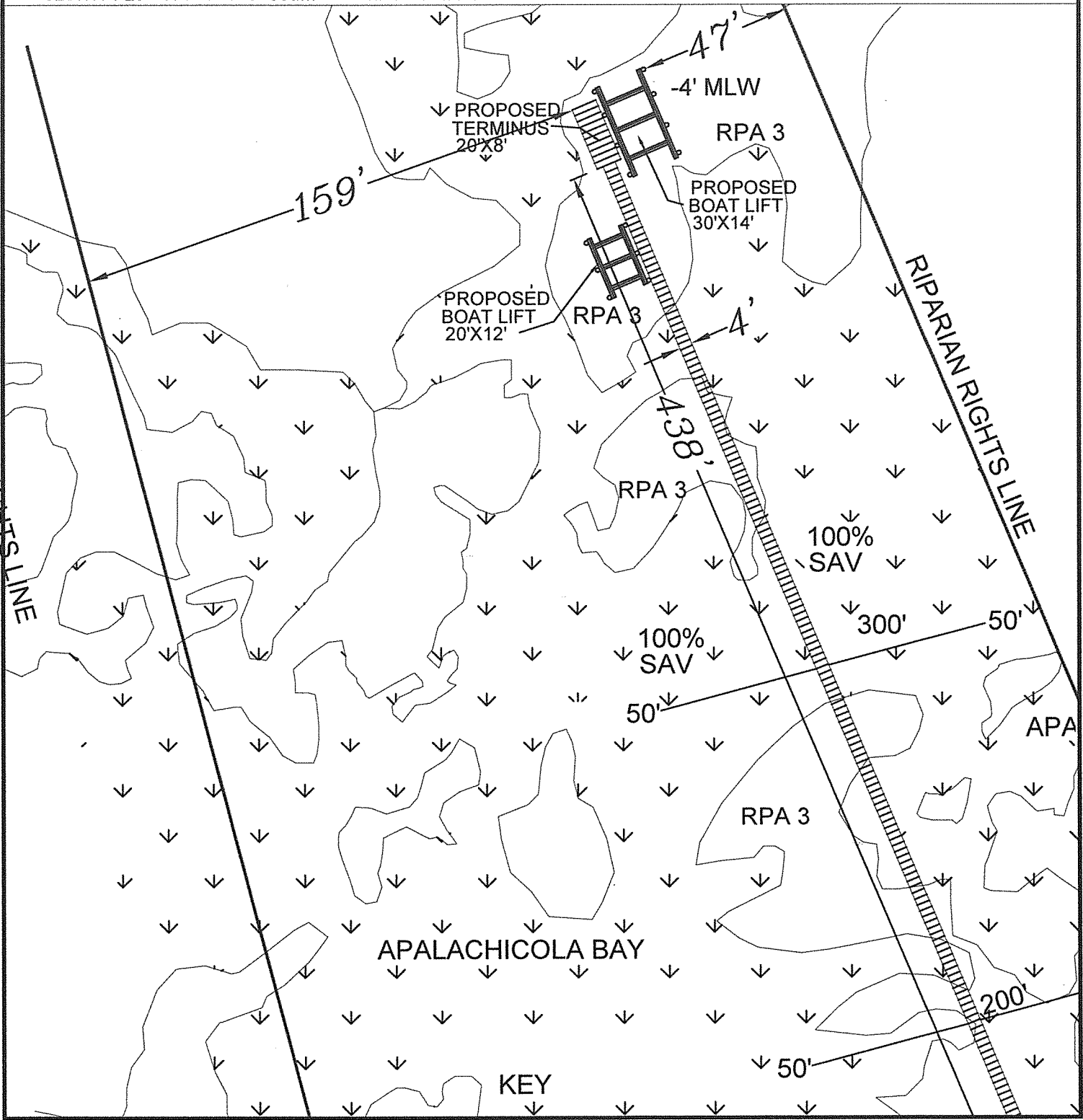


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JOB: 20-030  
DEP:  
COE:  
OTHER:  
DATE: May 4, 2020  
SHEET: 3/5



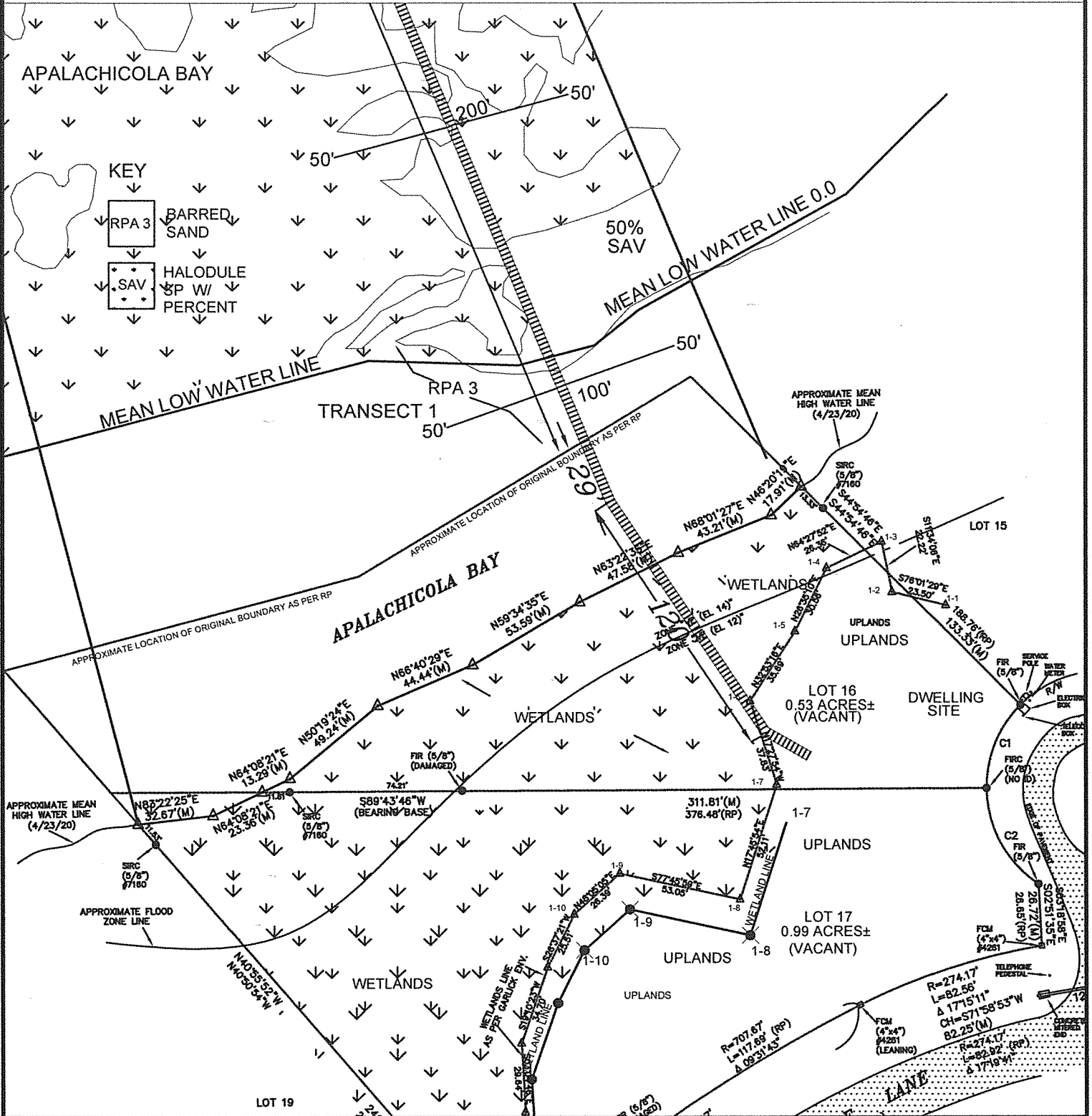
PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.



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LONGITUDE:

JOB: 20-030  
DEP:  
COE:  
OTHER:  
DATE: May 4, 2020  
SHEET: 4/5

SECTION: 29 TOWNSHIP: 9 South RANGE: 6 West





**PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.**

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LB No. 7415

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PURPOSE: Environmental Permitting

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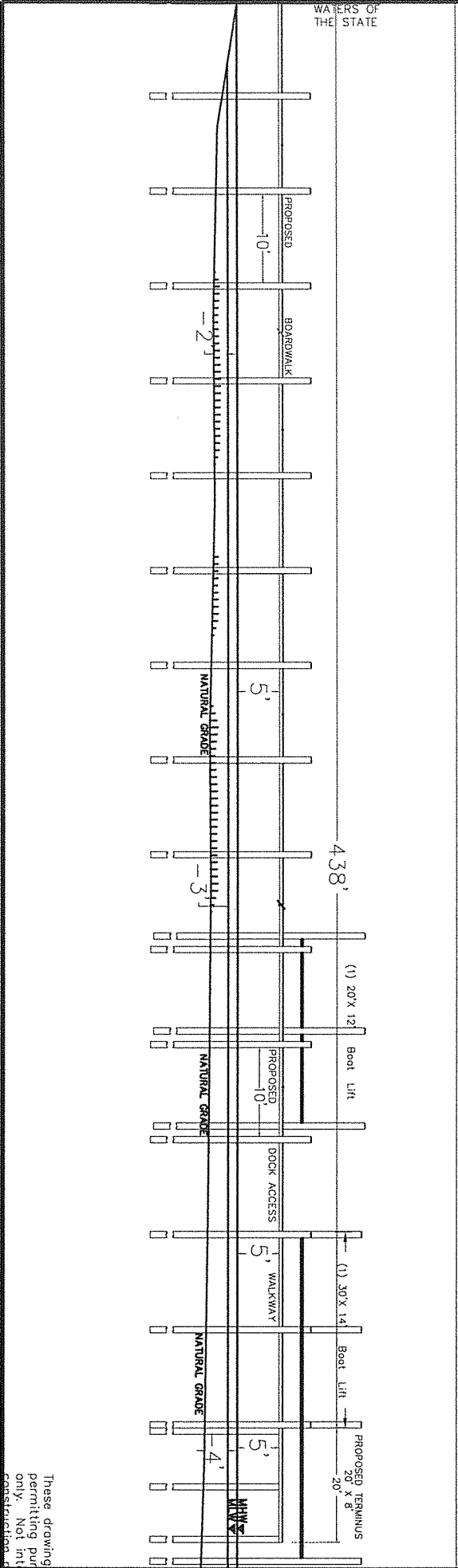
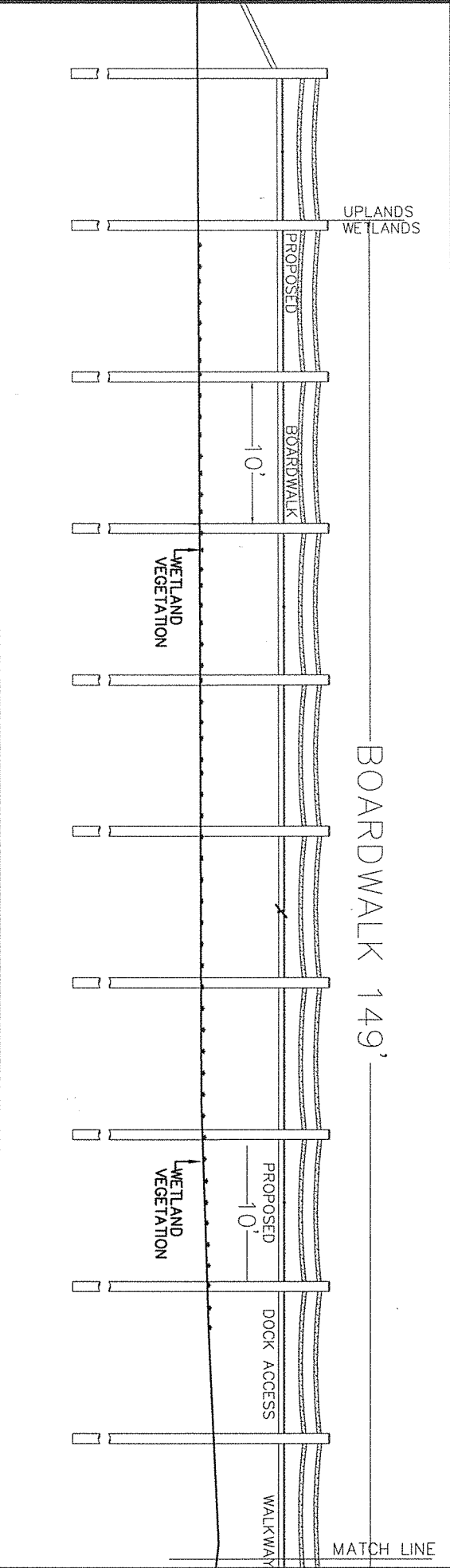
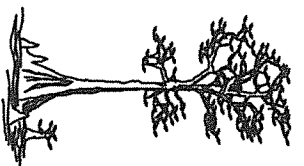
COE:

OTHER:

DATE: May 4, 2020

SHEET: 5/5

SECTION: 29 TOWNSHIP: 9 South RANG: 6 West



These drawings  
permitted pursuant  
only. Not for  
construction.

*Owner*



**Overview**



**Legend**

-  Parcels
-  Roads
-  City Labels

<b>Parcel ID</b>	29-09S-06W-7339-0000-0160	<b>Alternate ID</b>	06W09S29733900000160	<b>Owner Address</b>	JOHNSON BENJAMIN FRANKLIN VI
<b>Sec/Twp/Rng</b>	29-9S-6W	<b>Class</b>	VACANT		5600 PIMLICO DR
<b>Property Address</b>	2215 SEA GULL WAY	<b>Acreage</b>	n/a		TALLAHASSEE, FL 32308
<b>District</b>	1				
<b>Brief Tax Description</b>	LOT 16 HERON BAY VILL				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 5/4/2020  
 Last Data Uploaded: 5/4/2020 7:40:33 AM

Developed by  **Schneider**  
 GEOSPATIAL

### Parcel Summary

**Parcel ID** 29-09S-06W-7339-0000-0160  
**Location Address** 2215 SEA GULL WAY  
 32328  
**Brief Tax Description\*** LOT 16 HERON BAY VILL OR 228/154 ORB 236 PAGE 223 1146/463-EASEMENT  
*\*The Description above is not to be used on legal documents.*  
**Property Use Code** VACANT (000000)  
**Sec/Twp/Rng** 29-9S-6W  
**Tax District** County (District 1)  
**Millage Rate** 11.5391  
**Acreage** 0.000  
**Homestead** N

[View Map](#)

### Owner Information

**Primary Owner**  
 Johnson Benjamin Franklin Vi  
 5600 Pimlico Dr  
 Tallahassee, FL 32308

### Land Information

Code	Land Use	Number of Units	Unit Type	Frontage	Depth
000121	BAY FRONT	1.00	UT	0	0

### Valuation

	2019 Preliminary Certified	2019 Certified	2018 Certified	2017 Certified	2016 Certified
Building Value	\$0	\$0	\$0	\$0	\$0
Extra Features Value	\$0	\$0	\$0	\$0	\$0
Land Value	\$250,000	\$250,000	\$250,000	\$180,000	\$180,000
Land Agricultural Value	\$0	\$0	\$0	\$0	\$0
Agricultural (Market) Value	\$0	\$0	\$0	\$0	\$0
Just (Market) Value	\$250,000	\$250,000	\$250,000	\$180,000	\$180,000
Assessed Value	\$217,800	\$239,580	\$198,000	\$180,000	\$180,000
Exempt Value	\$0	\$0	\$0	\$0	\$0
Taxable Value	\$217,800	\$239,580	\$198,000	\$180,000	\$180,000
Maximum Save Our Homes Portability	\$32,200	\$0	\$52,000	\$0	\$0

"Just (Market) Value" description - This is the value established by the Property Appraiser for ad valorem purposes. This value does not represent anticipated selling price.

### TRIM Notices

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### Parcel Summary

**Parcel ID** 29-095-06W-7339-0000-0170  
**Location Address** 2219 SEAGULL WAY  
 32328  
**Brief Tax Description\*** LOT 17 HERON BAY VILL OR 228/154 318/192 369/7 1146/463-EASEMENT  
 \*The Description above is not to be used on legal documents.  
**Property Use Code** VACANT (000000)  
**Sec/Twp/Rng** 29-9S-6W  
**Tax District** County (District 1)  
**Millage Rate** 11.5391  
**Acreage** 0.000  
**Homestead** N

[View Map](#)

### Owner Information

**Primary Owner**  
 Matwiczuk Thomas & Melanie  
 3880 Peabody Drive  
 Bloomfield Hill, MI 48302

### Land Information

Code	Land Use	Number of Units	Unit Type	Frontage	Depth
000135	RD BAYSIDE PLANTATIO	1.00	UT	0	0

### Sales

Multi Parcel	Sale Date	Sale Price	Instrument	Book	Page	Qualification	Vacant/Improved	Grantor	Grantee
N	02/13/1992	\$21,250	WD	369	7	Qualified (Q)	Vacant	A JACKSON S & L	MATWICZYK

### Valuation

	2019 Preliminary Certified	2019 Certified	2018 Certified	2017 Certified	2016 Certified
Building Value	\$0	\$0	\$0	\$0	\$0
Extra Features Value	\$0	\$0	\$0	\$0	\$0
Land Value	\$55,000	\$55,000	\$42,500	\$42,500	\$50,000
Land Agricultural Value	\$0	\$0	\$0	\$0	\$0
Agricultural (Market) Value	\$0	\$0	\$0	\$0	\$0
Just (Market) Value	\$55,000	\$55,000	\$42,500	\$42,500	\$50,000
Assessed Value	\$46,750	\$51,425	\$42,500	\$42,500	\$50,000
Exempt Value	\$0	\$0	\$0	\$0	\$0
Taxable Value	\$46,750	\$51,425	\$42,500	\$42,500	\$50,000
Maximum Save Our Homes Portability	\$8,250	\$0	\$0	\$0	\$0

"Just (Market) Value" description - This is the value established by the Property Appraiser for ad valorem purposes. This value does not represent anticipated selling price.

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*Adjacent Neighbor*



- Legend**
-  Parcels
  -  Roads
  -  City Labels

Parcel ID	29-09S-06W-7339-0000-0150	Alternate ID	06W09S29733900000150	Owner Address	RAMSEY ROBERT
Sec/Twp/Rng	29-9S-6W	Class	VACANT		2113 WOODLEY CIRCLE
Property Address	2209 SEAGULL WAY	Acreage	n/a		LEXINGTON, KY 40502
District	1				
Brief Tax Description	LOT 15 HERON BAY VILL				

*(Note: Not to be used on legal documents)*

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 GEOSPATIAL

### Parcel Summary

**Parcel ID** 29-095-06W-7339-0000-0150  
**Location Address** 2209 SEAGULL WAY  
 32328  
**Brief Tax Description\*** LOT 15 HERON BAY VILL OR 228/154 ORB 236 PAGE 223 852/93 1043/551 1146/463-EASEMENT 1167/683 1168/561 1188/233  
\*The Description above is not to be used on legal documents.  
**Property Use Code** VACANT (000000)  
**Sec/Twp/Rng** 29-95-6W  
**Tax District** County (District 1)  
**Millage Rate** 11.5391  
**Acreage** 0.000  
**Homestead** N

[View Map](#)

### Owner Information

**Primary Owner**  
[Ramsey Robert](#)  
 2113 Woodley Circle  
 Lexington, KY 40502

### Land Information

Code	Land Use	Number of Units	Unit Type	Frontage	Depth
000121	BAY FRONT	1.00	UT	0	0

### Extra Features

Code	Description	Number of Items	Length x Width x Height	Units	Unit Type	Effective Year Built
0430	DOCK	1	0 x 0 x 0	2,284	SF	2016
1000	BOATLIFT	1	0 x 0 x 0	1	UT	2016

### Sales

Multi Parcel	Sale Date	Sale Price	Instrument	Book	Page	Qualification	Vacant/Improved	Grantor	Grantee
N	03/15/2017	\$100	QC	1188	233	Unqualified (U)	Vacant	RAMSEY	RAMSEY
N	05/18/2016	\$100	QC	1168	561	Unqualified (U)	Vacant	TAMRAM,LLC	RAMSEY
N	05/05/2016	\$240,000	WD	1167	683	Qualified (Q)	Vacant	MONTPELIER HOLDINGS,LLC	TAMRAM,LLC
N	08/15/2011	\$100	WD	1043	551	Unqualified (U)	Vacant	MONTFORT JR	MONTPELIER HOLDINGS,LLC
N	05/20/2005	\$927,500	WD	852	93	Qualified (Q)	Vacant	JOHNSON VI	MONTFORT JR

### Valuation

	2019 Preliminary Certified	2019 Certified	2018 Certified	2017 Certified	2016 Certified
Building Value	\$0	\$0	\$0	\$0	\$0
Extra Features Value	\$20,630	\$20,630	\$20,630	\$0	\$0
Land Value	\$250,000	\$250,000	\$250,000	\$180,000	\$180,000
Land Agricultural Value	\$0	\$0	\$0	\$0	\$0
Agricultural (Market) Value	\$0	\$0	\$0	\$0	\$0
Just (Market) Value	\$270,630	\$270,630	\$270,630	\$180,000	\$180,000
Assessed Value	\$225,280	\$247,808	\$204,800	\$180,000	\$180,000
Exempt Value	\$0	\$0	\$0	\$0	\$0
Taxable Value	\$225,280	\$247,808	\$204,800	\$180,000	\$180,000
Maximum Save Our Homes Portability	\$45,350	\$0	\$65,830	\$0	\$0

"Just (Market) Value" description - This is the value established by the Property Appraiser for ad valorem purposes. This value does not represent anticipated selling price.

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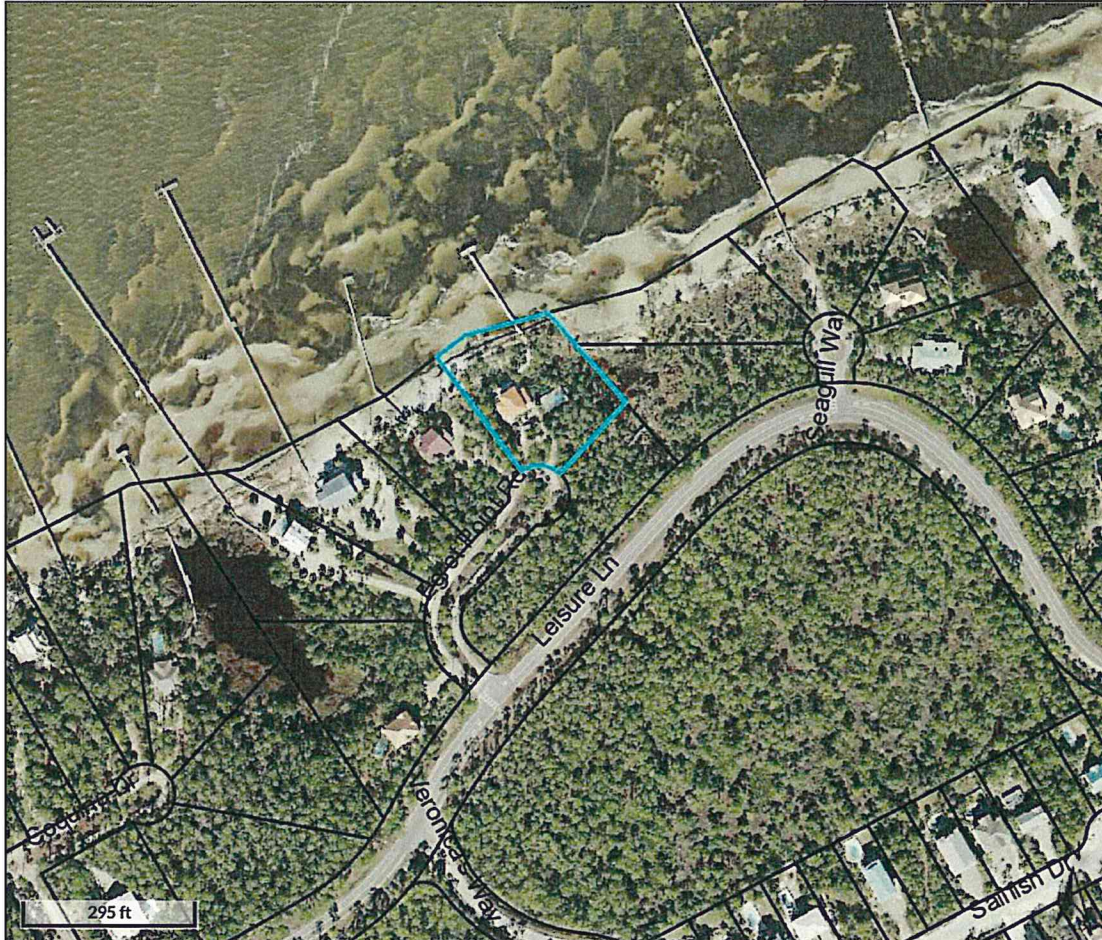
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*Adjacent Neighbor*



- Legend**
-  Parcels
  -  Roads
  -  City Labels

Parcel ID	29-09S-06W-7339-0000-0190	Alternate ID	06W09S29733900000190	Owner Address	MASON STEPHANIE A
Sec/Twp/Rng	29-9S-6W	Class	SINGLE FAM		TRUSTEE
Property Address	2205 EGRET POINT RD	Acreage	n/a		6961 COUNTY ROAD 20
					MOUNT GILEAD, OH 43338-9647
District	1				
Brief Tax Description	LOT 19 HERON BAY VILL				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 5/4/2020  
 Last Data Uploaded: 5/4/2020 7:40:33 AM

Developed by  Schneider  
 GEOSPATIAL

**Parcel Summary**

**Parcel ID** 29-095-06W-7339-0000-0190  
**Location Address** 2205 EGRET POINT RD  
 32328  
**Brief Tax Description\*** LOT 19 HERON BAY VILL OR 228/154 ORB 307/173 OR 406/82 939/492 1146/463-EASEMENT  
\*The Description above is not to be used on legal documents.  
**Property Use Code** SINGLE FAM (000100)  
**Sec/Twp/Rng** 29-9S-6W  
**Tax District** County (District 1)  
**Millage Rate** 11.5391  
**Acreage** 0.000  
**Homestead** N

[View Map](#)
**Owner Information**

**Primary Owner**  
 Mason Stephanie A  
 Trustee  
 6961 County Road 20  
 Mount Gilead, OH 433389647

**Land Information**

Code	Land Use	Number of Units	Unit Type	Frontage	Depth
000121	BAY FRONT	1.00	UT	0	0

**Residential Buildings**

**Building 1**  
**Type** SGI PILING  
**Total Area** 3,464  
**Heated Area** 2,162  
**Exterior Walls** CB STUCCO  
**Roof Cover** CLAY TILE  
**Interior Walls** DRYWALL  
**Frame Type** WOOD FRAME  
**Floor Cover** SHT VINYL; CARPET  
**Heat** AIR DUCTED  
**Air Conditioning** CENTRAL  
**Bathrooms** 3.5  
**Bedrooms** 3  
**Stories** 1.5  
**Effective Year Built** 1993

**Extra Features**

Code	Description	Number of Items	Length x Width x Height	Units	Unit Type	Effective Year Built
0080	DECK	1	9 x 26 x 0	234	UT	1993
0320	CONCRETE	1	0 x 0 x 0	1,784	UT	0
0300	STEPS	1	0 x 0 x 0	183	UT	0
0080	DECK	1	26 x 6 x 0	156	UT	0
0340	SHOWER	1	6 x 6 x 0	36	UT	0
0310	WD WALK	1	296 x 4 x 0	1,184	UT	0
0280	POOL RES ABOVE AVER	1	0 x 0 x 0	1	UT	2000
0980	POOL CAGE	1	0 x 0 x 0	1,260	UT	2000

**Sales**

Multi Parcel	Sale Date	Sale Price	Instrument	Book	Page	Qualification	Vacant/Improved	Grantor	Grantee
N	06/25/2007	\$100	WD	939	492	Unqualified (U)	Improved	WALKER	MASON TRUSTEE
N	03/10/1993	\$59,500	WD	406	82	Qualified (Q)	Vacant	ROSSER	WALKER
N	11/17/1989	\$68,000	WD	307	173	Unqualified (U)	Vacant	PONDER	ROSSER



## Valuation

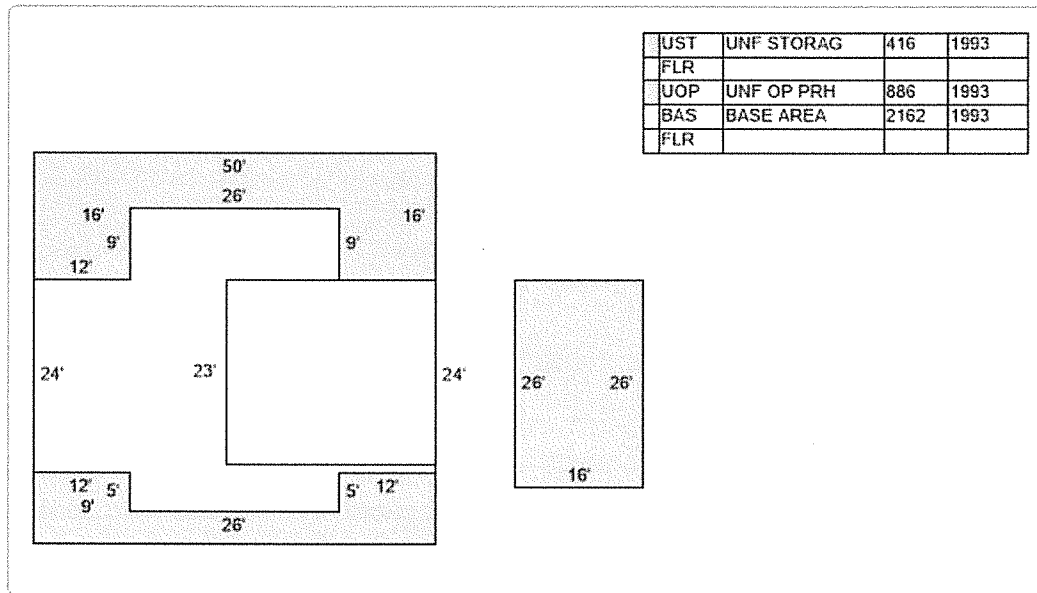
	2019 Preliminary Certified	2019 Certified	2018 Certified	2017 Certified	2016 Certified
Building Value	\$367,608	\$364,107	\$255,416	\$204,333	\$208,152
Extra Features Value	\$32,780	\$32,780	\$32,780	\$32,780	\$32,780
Land Value	\$250,000	\$250,000	\$250,000	\$180,000	\$180,000
Land Agricultural Value	\$0	\$0	\$0	\$0	\$0
Agricultural (Market) Value	\$0	\$0	\$0	\$0	\$0
Just (Market) Value	\$650,388	\$646,887	\$538,196	\$417,113	\$420,932
Assessed Value	\$504,706	\$555,177	\$458,824	\$417,113	\$420,932
Exempt Value	\$0	\$0	\$0	\$0	\$0
Taxable Value	\$504,706	\$555,177	\$458,824	\$417,113	\$420,932
Maximum Save Our Homes Portability	\$145,682	\$0	\$79,372	\$0	\$0

"Just (Market) Value" description - This is the value established by the Property Appraiser for ad valorem purposes. This value does not represent anticipated selling price.

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## Sketches



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Vacant Land Contract



1. Sale and Purchase: Benjamin Franklin Johnson, VI, Thomas Matwiczky, and Melanie Matwiczky ("Seller") and Hugh P Whitehead, III ("Buyer") (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property") described as:

Address: 2215 Seagull Way, St. George Island, FL 32328
Legal Description: Lot 16 and Lot 17 Heron Bay Village

SEC 29 /TWP 19S /RNG 6W of Franklin County, Florida. Real Property ID No.: 29-095-061W07339-0000-0160 including all improvements existing on the Property and the following additional property:

2. Purchase Price: (U.S. currency) \$ 260000
All deposits will be made payable to "Escrow Agent" named below and held in escrow by:
Escrow Agent's Name: Padgett Law Group - Lori Powell
Escrow Agent's Contact Person: Lori Powell
Escrow Agent's Address: 6267 Old Water Oak Rd, Ste 203, Tallahassee, FL 32312
Escrow Agent's Phone: 850-122-2520
Escrow Agent's Email: lori.powell@padgettlawgroup.com

(a) Initial deposit (\$0 if left blank) (Check if applicable)
[ ] accompanies offer
[X] will be delivered to Escrow Agent within 3 days (3 days if left blank) after Effective Date \$ 2500
(b) Additional deposit will be delivered to Escrow Agent (Check if applicable)
[ ] within days (10 days if left blank) after Effective Date
[ ] within days (3 days if left blank) after expiration of Feasibility Study Period
(c) Total Financing (see Paragraph 6) (express as a dollar amount or percentage) \$
(d) Other: \$
(e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations) to be paid at closing by wire transfer or other Collected funds \$ 257500
(f) [ ] (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The unit used to determine the purchase price is [ ] lot [ ] acre [ ] square foot [ ] other (specify): prorating areas of less than a full unit. The purchase price will be \$ per unit based on a calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in accordance with Paragraph 8(c). The following rights of way and other areas will be excluded from the calculation:

3. Time for Acceptance; Effective Date: Unless this offer is signed by Seller and Buyer and an executed copy delivered to all parties on or before 04/10/2020, this offer will be withdrawn and Buyer's deposit, if any, will be returned. The time for acceptance of any counter-offer will be 3 days after the date the counter-offer is delivered. The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter-offer.

4. Closing Date: This transaction will close on 05/11/2020 ("Closing Date"), unless specifically extended by other provisions of this contract. The Closing Date will prevail over all other time periods including, but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday, Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and other items.

5. Extension of Closing Date: If Paragraph 6(b) is checked and Closing Funds from Buyer's lender(s) are not available on Closing Date due to Consumer Financial Protection Bureau Closing Disclosure delivery requirements

Buyer [Signature] and Seller [Signature] acknowledge receipt of a copy of this page, which is 1 of 8 pages.
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53 ("CFPB Requirements), if applicable, then Closing Date shall be extended for such period necessary to satisfy  
54 CFPB Requirements, provided such period shall not exceed 10 days.

55 6. Financing: (Check as applicable)

56 (a)  Buyer will pay cash for the Property with no financing contingency.  
57 (b)  This contract is contingent on Buyer qualifying for and obtaining the commitment(s) or approval(s) specified  
58 below ("Financing") within 30 days after Effective Date (Closing Date or 30 days after Effective Date,  
59 whichever occurs first, if left blank) ("Financing Period"). Buyer will apply for Financing within 5 days  
60 after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial, and  
61 other information required by the lender. If Buyer, after using diligence and good faith, cannot obtain the  
62 Financing within the Financing Period, either party may terminate this contract and Buyer's deposit(s) will be  
63 returned.

64 (1)  New Financing: Buyer will secure a commitment for new third party financing for \$ 208,000  
65 or 80 % of the purchase price at (Check one)  a fixed rate not exceeding %  an  
66 adjustable interest rate not exceeding % at origination (a fixed rate at the prevailing interest rate  
67 based on Buyer's creditworthiness if neither choice is selected). Buyer will keep Seller and Broker fully  
68 informed of the loan application status and progress and authorizes the lender or mortgage broker to  
69 disclose all such information to Seller and Broker.

70 (2)  Seller Financing: Buyer will execute a  first  second purchase money note and mortgage to  
71 Seller in the amount of \$ \_\_\_\_\_, bearing annual interest at \_\_\_\_\_ % and payable as follows:

72  
73 The mortgage, note, and any security agreement will be in a form acceptable to Seller and will follow  
74 forms generally accepted in the county where the Property is located; will provide for a late payment fee  
75 and acceleration at the mortgagee's option if Buyer defaults; will give Buyer the right to prepay without  
76 penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on  
77 conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require Buyer to  
78 keep liability insurance on the Property, with Seller as additional named insured. Buyer authorizes Seller  
79 to obtain credit, employment, and other necessary information to determine creditworthiness for the  
80 financing. Seller will, within 10 days after Effective Date, give Buyer written notice of whether or not Seller  
81 will make the loan.

82 (3)  Mortgage Assumption: Buyer will take title subject to and assume and pay existing first mortgage to

83 LN# \_\_\_\_\_ in the approximate amount of \$ \_\_\_\_\_ currently payable at  
84 \$ \_\_\_\_\_ per month, including principal, interest.  taxes and insurance, and having a  
85  fixed  other (describe) \_\_\_\_\_  
86 interest rate of \_\_\_\_\_ % which  will  will not escalate upon assumption. Any variance in the mortgage  
87 will be adjusted in the balance due at closing with no adjustment to purchase price. Buyer will purchase  
88 Seller's escrow account dollar for dollar. If the interest rate upon transfer exceeds \_\_\_\_\_ % or the  
89 assumption/transfer fee exceeds \$ \_\_\_\_\_, either party may elect to pay the excess, failing  
90 which this contract will terminate; and Buyer's deposit(s) will be returned. If the lender disapproves Buyer,  
91 this contract will terminate; and Buyer's deposit(s) will be returned.  
92



93 7. Assignability: (Check one) Buyer  may assign and thereby be released from any further liability under this  
94 contract,  may assign but not be released from liability under this contract, or  may not assign this contract.

95 8. Title: Seller has the legal capacity to and will convey marketable title to the Property by  statutory warranty  
96 deed  special warranty deed  other (specify) \_\_\_\_\_, free of liens, easements,  
97 and encumbrances of record or known to Seller, but subject to property taxes for the year of closing; covenants,  
98 restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any  
99 other matters to which title will be subject) \_\_\_\_\_  
100 provided there exists at closing no violation of the foregoing.

101 (a) Title Evidence: The party who pays for the owner's title insurance policy will select the closing agent and pay  
102 for the title search, including tax and lien search (including municipal lien search) if performed, and all other  
103 fees charged by closing agent. Seller will deliver to Buyer, at

104 (Check one)  Seller's  Buyer's expense and  
105 (Check one)  within 30 days after Effective Date  at least 3 days before Closing Date,  
106 (Check one)

107 (1)  a title insurance commitment by a Florida licensed title insurer setting forth those matters to be  
108 discharged by Seller at or before closing and, upon Buyer recording the deed, an owner's policy in the

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amount of the purchase price for fee simple title subject only to the exceptions stated above. If Buyer is paying for the owner's title insurance policy and Seller has an owner's policy. Seller will deliver a copy to Buyer within 15 days after Effective Date.

(2)  an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update in a format acceptable to Buyer from the policy effective date and certified to Buyer or Buyer's closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to Seller, then (1) above will be the title evidence.

(b) **Title Examination:** After receipt of the title evidence, Buyer will, within 10 days (10 days if left blank) but no later than Closing Date, deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if (i) Buyer fails to deliver proper notice of defects or (ii) Buyer delivers proper written notice and Seller cures the defects within 30 days (30 days if left blank) ("Cure Period") after receipt of the notice. If the defects are cured within the Cure Period, closing will occur within 10 days after receipt by Buyer of notice of such cure. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Cure Period. If the defects are not cured within the Cure Period, Buyer will have 10 days after receipt of notice of Seller's inability to cure the defects to elect whether to terminate this contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey:** Buyer may, at Buyer's expense, have the Property surveyed and must deliver written notice to Seller, within 5 days after receiving survey but not later than 5 days before Closing Date, of any encroachments on the Property, encroachments by the Property's improvements on other lands, or deed restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a title defect and Seller's and Buyer's obligations will be determined in accordance with Paragraph 8(b).


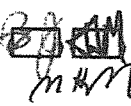
(d) **Ingress and Egress:** Seller warrants that the Property presently has ingress and egress.

9. **Property Condition:** Seller will deliver the Property to Buyer at closing in its present "as is" condition, with conditions resulting from Buyer's Inspections and casualty damage, if any, excepted. Seller will not engage in or permit any activity that would materially alter the Property's condition without the Buyer's prior written consent.

(a) **Inspections: (Check (1) or (2))**

(1)  **Feasibility Study:** Buyer will, at Buyer's expense and within 30 days (30 days if left blank) ("Feasibility Study Period") after Effective Date and in Buyer's sole and absolute discretion, determine whether the Property is suitable for Buyer's intended use. During the Feasibility Study Period, Buyer may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and investigations ("Inspections") that Buyer deems necessary to determine to Buyer's satisfaction the Property's engineering, architectural, and environmental properties; zoning and zoning restrictions; subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state, and regional growth management plans; availability of permits, government approvals, and licenses; and other inspections that Buyer deems appropriate. If the Property must be rezoned, Buyer will obtain the rezoning from the appropriate government agencies. Seller will sign all documents Buyer is required to file in connection with development or rezoning approvals. Seller gives Buyer, its agents, contractors, and assigns, the right to enter the Property at any time during the Feasibility Study Period for the purpose of conducting Inspections, provided, however, that Buyer, its agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harmless from losses, damages, costs, claims, and expenses of any nature, including attorneys' fees, expenses, and liability incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of any and all inspections or any work authorized by Buyer. Buyer will not engage in any activity that could result in a construction lien being filed against the Property without Seller's prior written consent. If this transaction does not close, Buyer will, at Buyer's expense, (i) repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in before conducting the Inspections and (ii) release to Seller all reports and other work generated as a result of the Inspections.

Before expiration of the Feasibility Study Period, Buyer must deliver written notice to Seller of Buyer's determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance of the Property as suitable for Buyer's intended use in its "as is" condition. If the Property is unacceptable to Buyer and written notice of this fact is timely delivered to Seller, this contract will be deemed terminated, and Buyer's deposit(s) will be returned.

Buyer  and Seller  acknowledge receipt of a copy of this page, which is 3 of 8 pages.

- 165 • (2)  **No Feasibility Study:** Buyer is satisfied that the Property is suitable for Buyer's purposes, including
- 166 being satisfied that either public sewerage and water are available to the Property or the Property will be
- 167 approved for the installation of a well and/or private sewerage disposal system and that existing zoning
- 168 and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency,
- 169 growth management, and environmental conditions, are acceptable to Buyer. This contract is not
- 170 contingent on Buyer conducting any further investigations.
- 171 (b) **Government Regulations:** Changes in government regulations and levels of service which affect Buyer's
- 172 intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has
- 173 expired or if Paragraph 9(a)(2) is selected.
- 174 (c) **Flood Zone:** Buyer is advised to verify by survey, with the lender, and with appropriate government agencies
- 175 which flood zone the Property is in, whether flood insurance is required, and what restrictions apply to
- 176 improving the Property and rebuilding in the event of casualty.
- 177 (d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as
- 178 defined in Section 161.053, Florida Statutes, Seller will provide Buyer with an affidavit or survey as required
- 179 by law delineating the line's location on the Property, unless Buyer waives this requirement in writing. The
- 180 Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that
- 181 govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach
- 182 nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida
- 183 Department of Environmental Protection, including whether there are significant erosion conditions associated
- 184 with the shore line of the Property being purchased.
- 185 •  Buyer waives the right to receive a CCCL affidavit or survey.

186 **10. Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be

187 conducted by mail or electronic means. If title insurance insures Buyer for title defects arising between the title



188 binder effective date and recording of Buyer's deed, closing agent will disburse at closing the net sale proceeds to

189 Seller (in local cashier's check if Seller requests in writing at least 5 days before closing) and brokerage fees to

190 Broker as per Paragraph 21. In addition to other expenses provided in this contract, Seller and Buyer will pay the

191 costs indicated below.

- 192 (a) **Seller Costs:**
- 193 Taxes on deed
- 194 Recording fees for documents needed to cure title
- 195 Title evidence (if applicable under Paragraph 8)
- 196 Estoppel Fee(s)
- 197 • Other: \_\_\_\_\_
- 198 (b) **Buyer Costs:**
- 199 Taxes and recording fees on notes and mortgages
- 200 Recording fees on the deed and financing statements
- 201 Loan expenses
- 202 Title evidence (if applicable under Paragraph 8)
- 203 Lender's title policy at the simultaneous issue rate
- 204 Inspections
- 205 Survey
- 206 Insurance
- 207 • Other: \_\_\_\_\_
- 208 (c) **Prorations:** The following items will be made current and prorated as of the day before Closing Date: real
- 209 estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases, and
- 210 other Property expenses and revenues. If taxes and assessments for the current year cannot be determined,
- 211 the previous year's rates will be used with adjustment for any exemptions.
- 212 (d) **Special Assessment by Public Body:** Regarding special assessments imposed by a public body, Seller will
- 213 pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount of the
- 214 last estimate of the assessment if an improvement is substantially completed as of Effective Date but has not
- 215 resulted in a lien before closing; and Buyer will pay all other amounts. If special assessments may be paid in
- 216 • installments,  Seller  Buyer (Buyer if left blank) will pay installments due after closing. If Seller is
- 217 checked, Seller will pay the assessment in full before or at the time of closing. Public body does not include a
- 218 Homeowners' or Condominium Association.
- 219 (e) **PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT**
- 220 **PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO**
- 221 **PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY**

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222 IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER  
223 PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE  
224 COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.

225 (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If Seller is a "foreign person" as defined by  
226 FIRPTA, Seller and Buyer will comply with FIRPTA, which may require Seller to provide additional cash at  
227 closing.

228 (g) **1031 Exchange:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with  
229 closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will cooperate  
230 in all reasonable respects to effectuate the Exchange including executing documents, provided, however, that  
231 the cooperating party will incur no liability or cost related to the Exchange and that the closing will not be  
232 contingent upon, extended, or delayed by the Exchange.

233 **11. Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days  
234 or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal  
235 holidays specified in 5 U.S.C. 6103(a). Other than time for acceptance and Effective Date as set forth in Paragraph  
236 3, any time periods provided for or dates specified in this Contract, whether preprinted, handwritten, typewritten or  
237 inserted herein, which shall end or occur on a Saturday, Sunday, or national legal holiday (see 5 U.S.C. 6103)  
238 shall extend until 5:00 p.m. (where the Property is located) of the next business day. Time is of the essence in  
239 this contract.

240 **12. Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing  
241 or Seller negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain  
242 proceedings or an eminent domain proceeding is initiated, Seller will promptly inform Buyer. Either party may  
243 terminate this contract by written notice to the other within 10 days after Buyer's receipt of Seller's notification,  
244 and Buyer's deposit(s) will be returned, failing which Buyer will close in accordance with this contract and receive  
245 all payments made by the governmental authority or insurance company, if any.



246 **13. Force Majeure:** Seller or Buyer will not be required to perform any obligation under this contract or be liable to  
247 each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or  
248 prevented by an act of God or force majeure. An "act of God or "force majeure" is defined as hurricanes,  
249 earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably  
250 within the control of Seller or Buyer and which by the exercise of due diligence the non-performing party is unable  
251 in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for the period  
252 that the act of God or force majeure is in place. However, in the event that such act of God or force majeure event  
253 continues beyond 30 days, either party may terminate this contract by delivering written notice to the other; and  
254 Buyer's deposit(s) will be returned.

255 **14. Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or  
256 electronic means. Buyer's failure to timely deliver written notice to Seller, when such notice is required by  
257 this contract, regarding any contingency will render that contingency null and void, and this contract will  
258 be construed as if the contingency did not exist. Any notice, document, or item delivered to or received by  
259 an attorney or licensee (including a transactions broker) representing a party will be as effective as if  
260 delivered to or received by that party.

261 **15. Complete Agreement; Persons Bound:** This contract is the entire agreement between Seller and Buyer.  
262 Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker unless  
263 incorporated into this contract. Modifications of this contract will not be binding unless in writing, signed or  
264 initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This  
265 contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications  
266 communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding.  
267 Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If any  
268 provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully  
269 effective. Seller and Buyer will use diligence and good faith in performing all obligations under this contract. This  
270 contract will not be recorded in any public record. The terms "Seller," "Buyer," and "Broker" may be singular or  
271 plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if  
272 permitted, of Seller, Buyer, and Broker.

273 **16. Default and Dispute Resolution:** This contract will be construed under Florida law. This Paragraph will survive  
274 closing or termination of this contract.

275 (a) **Seller Default:** If Seller fails, neglects, or refuses to perform Seller's obligations under this contract, Buyer  
276 may elect to receive a return of Buyer's deposit(s) without thereby waiving any action for damages resulting

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VAC-13 Rev 2/20  
33:35 2/20

332  
 333 hspohrer@stgeorgeisland.com cynthiamiller@kw.com  
 334 **Seller's Sales Associate Email Address** **Buyer's Sales Associate Email Address**  
 335  
 336 850-899-1262 850-509-7970  
 337 **Seller's Sales Associate Phone Number** **Buyer's Sales Associate Phone Number**  
 338  
 339 Berkshire Hathaway Home Services - SGI Tallahassee  
 340 **Listing Brokerage** **Buyer's Brokerage**  
 341  
 342 FL 1520 Killearn Center Blvd., Suite 100, Tallahassee, FL 32309  
 343 **Listing Brokerage Address** **Buyer's Brokerage Address**  
 344


345 **22. Addenda:** The following additional terms are included in the attached addenda and incorporated into this Contract  
 346 (Check if applicable):  
 347\*  A. Back-up Contract  
 348\*  B. Other \_\_\_\_\_  
 349

350\* **23. Additional Terms:** Parcel ID #29-09S-06W-7339-0000-0170 is included in this contract for sale.  
 351 \_\_\_\_\_  
 352 \_\_\_\_\_  
 353 \_\_\_\_\_  
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 365 \_\_\_\_\_

366 **COUNTER-OFFER/REJECTION**

367\*  Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and  
 368 deliver a copy of the acceptance to Seller).  
 369\*  Seller rejects Buyer's offer

370 **This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before**  
 371 **signing.**

372\* **Buyer:**  DELIVERED BY MAIL  
04/20/20 4:54 PM EDT  
1985-2019/03/11/2019 **Date:** \_\_\_\_\_

373\* **Print name:** Hugh P Whitehead, III

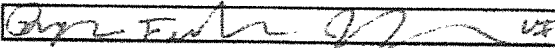
374\* **Buyer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

375\* **Print name:** \_\_\_\_\_



376 **Buyer's address for purpose of notice:**

377\* **Address:** 3209 Chateau Ct. NW, Atlanta, GA 30305

378\* **Phone:** 4045108770 **Fax:** \_\_\_\_\_ **Email:** scott@whiteheadassoc.com

379\* **Seller:**  **Date:** 4/10/20

380\* **Print name:** Benjamin Franklin Johnson, VI

381\* **Seller:**   **Date:** 10 APR 20

382\* **Print name:** Thomas Matwiczyc MELANIE H. MATWICZYK

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


383 Seller's address for purpose of notice:

384\* Address: 5600 Pimlico Dr. Tallahassee, FL 32308

385\* Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

386\* Effective Date: 04/10/2020 (The date on which the last party signed or initialed and delivered the  
387 final offer or counter-offer.)

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# FLORIDA DEPARTMENT OF Environmental Protection

Northwest District  
160 W. Government Street, Suite 308  
Pensacola, FL 32502

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Noah Valenstein**  
Secretary

## **Permittee/Authorized Entity:**

Scott Whitehead  
3209 Chateau Court NW  
Atlanta, Georgia 30805  
[Scott@whiteheadassoc.com](mailto:Scott@whiteheadassoc.com)

## **Whitehead Dock**

## **Authorized Agent:**

Dan Garlick  
P.O. Box 385  
Apalachicola, Florida 32329  
[Dan@garlickenv.com](mailto:Dan@garlickenv.com)

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

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

Franklin County  
Permit No.: 0387512-001-EI/19

**Permit Issuance Date: June 15, 2020**  
**Permit Construction Phase Expiration Date: June 15, 2025**

# **Consolidated Environmental Resource Permit and Sovereignty Submerged Lands Authorization**

**Permittee/Grantee: Scott Whitehead**  
**Permit No: 0387512-001-EI/19**

## **PROJECT LOCATION**

The activities authorized by this permit and sovereignty submerged lands authorization are located at 2215 Sea Gull Way St. George Island, Florida 32328, Parcel ID 29-09S-06W-7339-0000-0160, in Section 09, Township 10 South, Range 07 West in Franklin County, at 29°37'17.5368" North Latitude, 84°57'4.6076" West Longitude.

## **PROJECT DESCRIPTION**

The permittee is authorized to construct a single-family dock that consists of an 87 foot by 4 foot wetland boardwalk, a 500 foot by 4 foot access pier, a 20 foot by 8 foot terminal platform, and 2 uncovered boatlifts. The project is within the Apalachicola Bay Aquatic Preserve, a Class II Outstanding Florida Waterbody, Approved Shellfish Harvesting Area. Those activities include the preemption of approximately 2,820 square feet of state-owned sovereignty submerged lands. Authorized activities are depicted on the attached exhibits.

## **AUTHORIZATIONS**

### **Whitehead Dock**

#### Environmental Resource Permit

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

#### Sovereignty Submerged Lands Authorization

The activity is located on sovereignty submerged lands owned by the State of Florida. It therefore also requires authorization from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.77, F.S. and Chapter 258, F.S. As staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) under Sections 253.002, F.S., the Department has determined that the activity qualifies for and requires a Letter of Consent, as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions herein.

During the term of this Letter of Consent you shall maintain satisfactory evidence of sufficient upland interest as required by paragraph 18-21.004(3)(b), F.A.C. If such interest is terminated or the Board of Trustees determines that such interest did not exist on the date of issuance of this Letter of Consent, this Letter of Consent may be terminated by the Board of Trustees at its sole option. If the Board of Trustees terminates this Letter of Consent, you agree not to assert a claim or defense against the Board of Trustees arising out of this Letter of Consent.

### 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 U.S. Army Corps of Engineers (Corps). You must apply separately to the Corps using the federal application form (ENG 4345). More information about Corps permitting may be found online in the Jacksonville District Regulatory Division Sourcebook. **Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.**

Authority for review – an agreement with the Corps 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 / SOVEREIGNTY SUBMERGED LANDS CONDITIONS**

The activities described must be conducted in accordance with:

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

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

Department to revoke the permit and authorization and to take appropriate enforcement action. Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit and sovereignty submerged lands authorization, as described.

### **SPECIFIC CONDITIONS – ADMINISTRATIVE/EMERGENCIES**

1. The construction phase expires at 11:59 p.m. on the date indicated on the cover page of this permit.
2. For emergencies involving a serious threat to the public health, safety, welfare, or environment, the emergency telephone contact number is (800) 320-0519 (State Warning Point). The Department telephone number for reporting nonthreatening problems or system malfunctions is (850) 595-0663, day or night.
3. The mailing address for submittal of forms for the “Construction Commencement Notice”, “As-Built Certification ...”, “Request for Conversion of Stormwater Management Permit Construction Phase to Operation and Maintenance Phase”, or other correspondence is FDEP, SLERP, 160 W. Government Street, Suite 308, Pensacola Florida, 32502.

### **SPECIFIC CONDITIONS – PRIOR TO ANY CONSTRUCTION**

4. Prior to installation of turbidity screens or initiation of construction activities, the permittee shall use PVC pipes to clearly delineate the extent of seagrass beds in the vicinity of the construction area. The PVC pipes shall be removed within 72 hours of construction completion and once turbidity have returned to background.
5. Prior to the initiation of any work authorized by this permit, floating turbidity screens with weighted skirts that extend within 1 ft. of the bottom shall be placed around the active construction area of the site. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure turbidity levels outside the construction area do not degrade the ambient water quality of Outstanding Florida Waters outside of the turbidity screens occurs. Turbidity shall be monitored as described in the monitoring portion of this permit.
6. Best management practices for erosion control shall be implemented prior to construction commencement and shall be maintained prior to construction commencement and shall be maintained at all times during construction to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Rule 62-302, F.A.C. Methods shall include, but are not limited to the use of staked hay bales, staked filter cloth, sodding, seeding, staged construction and the installation of turbidity screens around the immediate project site.

### **SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES**

7. All wetland areas or water bodies which are adjacent to the specific limits of construction authorized by this permit shall be protected from erosion, sedimentation, siltation, scouring, excess turbidity or dewatering.
8. Any damage to wetlands outside of the authorized impact areas as a result of construction shall be immediately reported to the Department at (850)595-8300 and repaired by reestablishing the pre-construction elevations and replanting vegetation of the same species, size, and density as that in the adjacent areas. The restoration shall be completed within 30 days of completion of

construction, and the Department shall be notified of its completion within that same 30-day period.

9. The following measures shall be taken by the permittee whenever turbidity levels within waters of the State surrounding the project site exceed the ambient water quality levels of the Outstanding Florida Waters:

- a. Immediately cease all work contributing to water quality violation.
- b. Modify the work procedures that were responsible for the violation, and install more turbidity containment devices and repair any non-functioning turbidity containment devices.
- c. Notify the Department of Environmental Protection, Submerged Lands & Environmental Resources Program, Compliance and Enforcement Section, Northwest District Office, 160 W Government Street, Pensacola, Florida 32502-5794, in writing or by telephone at (850)595-8300 within 24 hours of the time of the violation is first detected.

10. There shall be no stock piling of tools, materials, (i.e. lumber, pilings, riprap, and debris) within wetlands, along the shoreline within the littoral zone, or elsewhere within the water/waters of the state.

11. All watercraft associated with the construction of the permitted structure shall only operate within waters of sufficient depths so as to preclude bottom scouring and prop dredging.

12. Construction equipment shall not be repaired or refueled in wetlands or elsewhere within waters of the state.

13. All cleared vegetation, excess lumber, scrap wood, trash, garbage and any other type of debris shall be removed from wetlands/waters of the state within 14 days of completion of the work authorized.

14. No dredging or filling of submerged grass beds is authorized by this permit.

15. The following construction sequence shall be adhered to for all boardwalks, piers and docking structures. Structures shall be built progressively, commencing at the shoreline and continuing waterward. No more than three sets of pilings shall be installed at a time. The decking then will be installed on those pilings, and the finished decking will be used to transport the remaining tools and materials. No impacts shall occur outside the footprint of the permitted dock.

16. All 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/ordinary high water line. Pilings which have to be replaced during the life of the facility shall meet the requirements of this condition.

17. Pilings within areas containing seagrasses shall be spaced at least ten feet apart and shall be installed by vibrating, pounding or hand-auguring them in place. Jetting of pilings within seagrass areas shall be prohibited. Sediments that accumulate on top of the adjacent seagrasses shall be removed by hand to prevent burial of the plants.

18. To protect benthic and wetland resources when present, the elevation of the decking shall be a minimal of 5 feet above mean high water and/or wetland grade. If planks are used, there shall be a minimum of 1/2-inch spacing between deck planks.

19. This permit does not authorize the construction of additional structures not illustrated on the permit drawings. Examples of additional structures, which are not authorized by this permit include but not limited to: walkways, doors, awnings, and decking around or under the bottom of the pile-supported structures.

#### **SPECIFIC CONDITIONS – OTHER LISTED SPECIES**

20. 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](mailto:FWCConservationPlanningServices@MyFWC.com).

#### **SPECIFIC CONDITIONS – OPERATION AND MAINTENANCE ACTIVITIES**

21. Overboard discharges of trash, human or animal waste, or fuel shall not occur at the dock.

22. Fish cleaning stations, boat repair facilities and fueling facilities on structures over the water are prohibited.

23. The waterward corners of the dock shall be marked by a sufficient number of reflectors so as to be visible from the water at night by reflected light. The reflectors shall not be green or red in color.

24. To protect benthic and wetland resources when present, the elevation of the decking shall be maintained at a minimum of five feet above mean high and/or wetland grade for the life of the facility. If planks are used, there shall be a minimum of 1/2-inch spacing between deck planks maintained for the life of the facility.

25. All future replacement pilings shall be non-CCA-leaching (recycled plastic, concrete, greenheart, or wrapped with impermeable plastic or PVC sleeves).

26. All future authorized replacement pilings for support of the docking structures shall be spaced at least ten feet apart and shall be installed by vibrating, pounding, or hand-auguring them in place. Jetting of pilings within seagrass area shall be prohibited.

27. After restroom facilities are located in the uplands, mooring is allowed under the following conditions:

- a. No more than two boats are authorized to be moored at the dock
- b. There shall be a minimum 12-inch clearance between the deepest draft of the vessel (with the motor in the down position) and the top of submerged resources at mean low water.

## **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.

### **SPECIAL CONSENT CONDITIONS**

1. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.

2. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.

3. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to

comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.

4. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.

5. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

#### **GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS AUTHORIZATION**

Any use of sovereignty submerged lands is subject to the following general conditions, which are binding upon the applicant and are enforceable under Chapter 253, F.S. and Chapter 258, F.S.

1. Sovereignty submerged lands may be used only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use will constitute a violation. Violation of the authorization will result in suspension or revocation of the applicant's use of the sovereignty submerged lands unless cured to the satisfaction of the Board of Trustees.

2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty submerged lands or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.

3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S. and Chapter 18-14, F.A.C.

4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.

5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.

6. Structures or activities will not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.

7. Structures or activities will not create a navigational hazard.

8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.

9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.

10. The applicant agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the applicant's use and construction of structures on sovereignty submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.

11. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.

12. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.

13. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.

14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

## **NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until a 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, 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, or via electronic correspondence at [Agency\\_Clerk@FloridaDEP.gov](mailto:Agency_Clerk@FloridaDEP.gov). 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. You cannot justifiably rely on the finality of this decision unless notice of this decision and the right of substantially affected persons to challenge this decision has been duly published or otherwise provided to all persons substantially affected by the decision. While you are not required to publish notice of this action, you may elect to do so pursuant to Rule 62-110.106(10)(a).

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. If you do not publish notice of this action, this waiver will not apply to persons who have not received written notice of this action.

#### 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@FloridaDEP.gov](mailto:Agency_Clerk@FloridaDEP.gov), before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### Mediation

Mediation is not available in this proceeding.

#### FLAWAC Review

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

#### Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S. by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Thank you for applying to the Submerged Lands and Environmental Resource Permit Program. If you have any questions regarding this matter, please contact Una Johnson at the letterhead address, at (850) 595-0585, or at [Martha.U.Johnson@FloridaDEP.gov](mailto:Martha.U.Johnson@FloridaDEP.gov).

**EXECUTION AND CLERKING**

Executed in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



---

Kimberly R. Allen  
Permitting Program Administrator

KRA:muj

**Attachment:**

Project Drawings and Design Specs., 5 pages

Copies of 62-330 forms may be obtained at: <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 were sent on the filing date below to the following listed persons:

Kimberly R. Allen, DEP, [Kim.Allen@FloridaDEP.gov](mailto:Kim.Allen@FloridaDEP.gov)

Wade Dandridge, DEP, [Wade.Dandridge@FloridaDEP.gov](mailto:Wade.Dandridge@FloridaDEP.gov)

Jonathan Brucker, Apalachicola Bay Aquatic Preserve, [Jonathan.Brucker@FloridaDEP.gov](mailto:Jonathan.Brucker@FloridaDEP.gov)

Mary Ann Wasmund, [maryann@garlickenv.com](mailto:maryann@garlickenv.com)

Franklin County, [michael@franklincountyflorida.com](mailto:michael@franklincountyflorida.com)

**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.



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**Clerk**

June 15, 2020

**Date**



PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.

P. O. BOX 385, APALACHICOLA FLORIDA 32329-0385

(850) 653-8899

FAX (850) 653-9656

garlick@garlickenv.com

LB No. 7415

APPLICANT/CLIENT: Hugh P. Whitehead III

WATERBODY/CLASS: Apalachicola Bay / Class II / OFW / AP

PURPOSE: Environmental Permitting

PROJECT LOCATION / USGS: St George Island / Franklin County

LATITUDE: 29° 37' 16.91"

LONGITUDE: 84° 57' 4.35"

SECTION: 29 TOWNSHIP: 9 South

RNG: 6 West

JOB: 20-030

DEP:

COE:

OTHER:

DATE: May 4, 2020

SHEET: 1/5

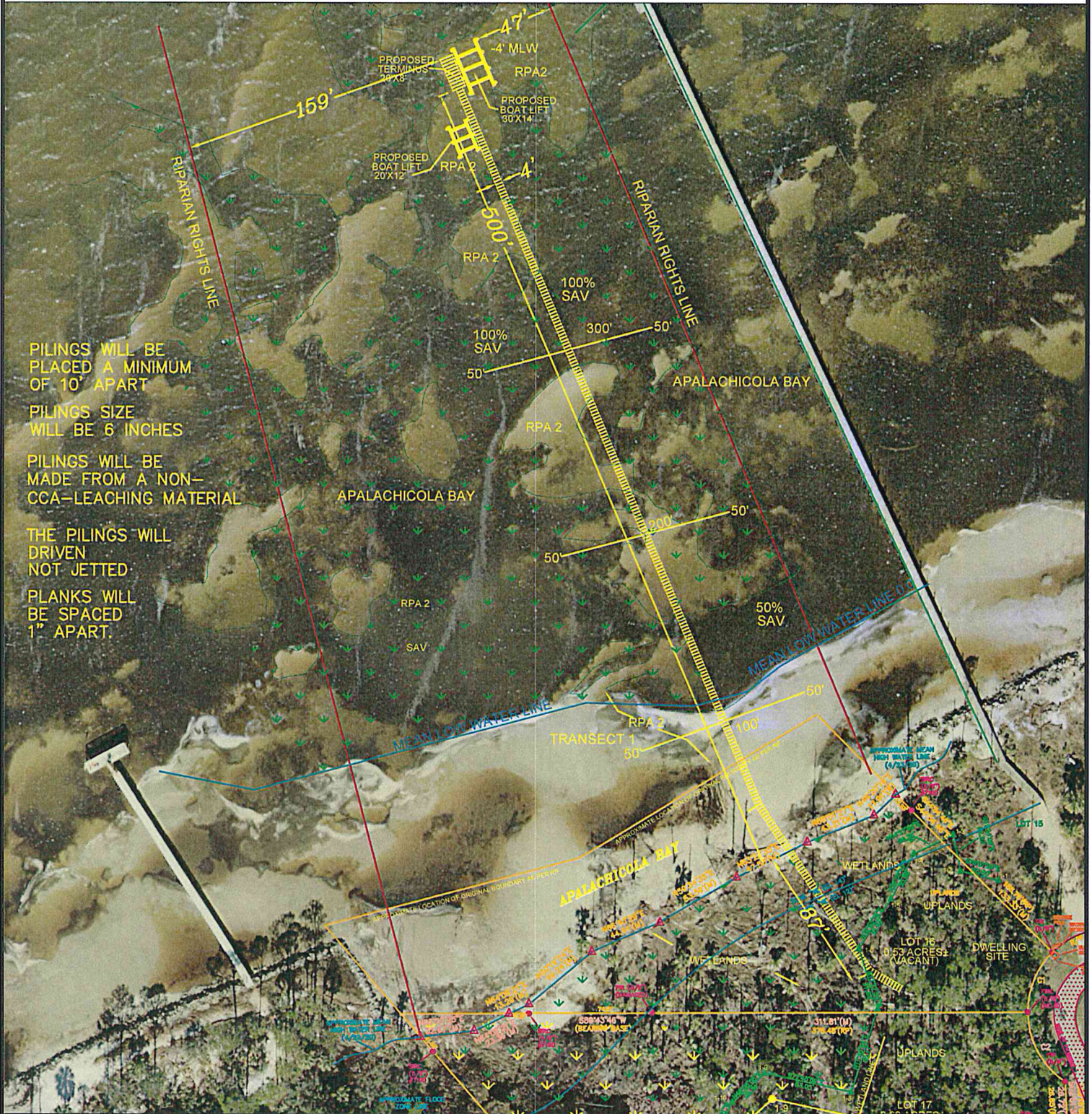




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**OTHER:** Rev. 5-28-20  
**DATE:** May 4, 2020  
**SHEET:** 2/5



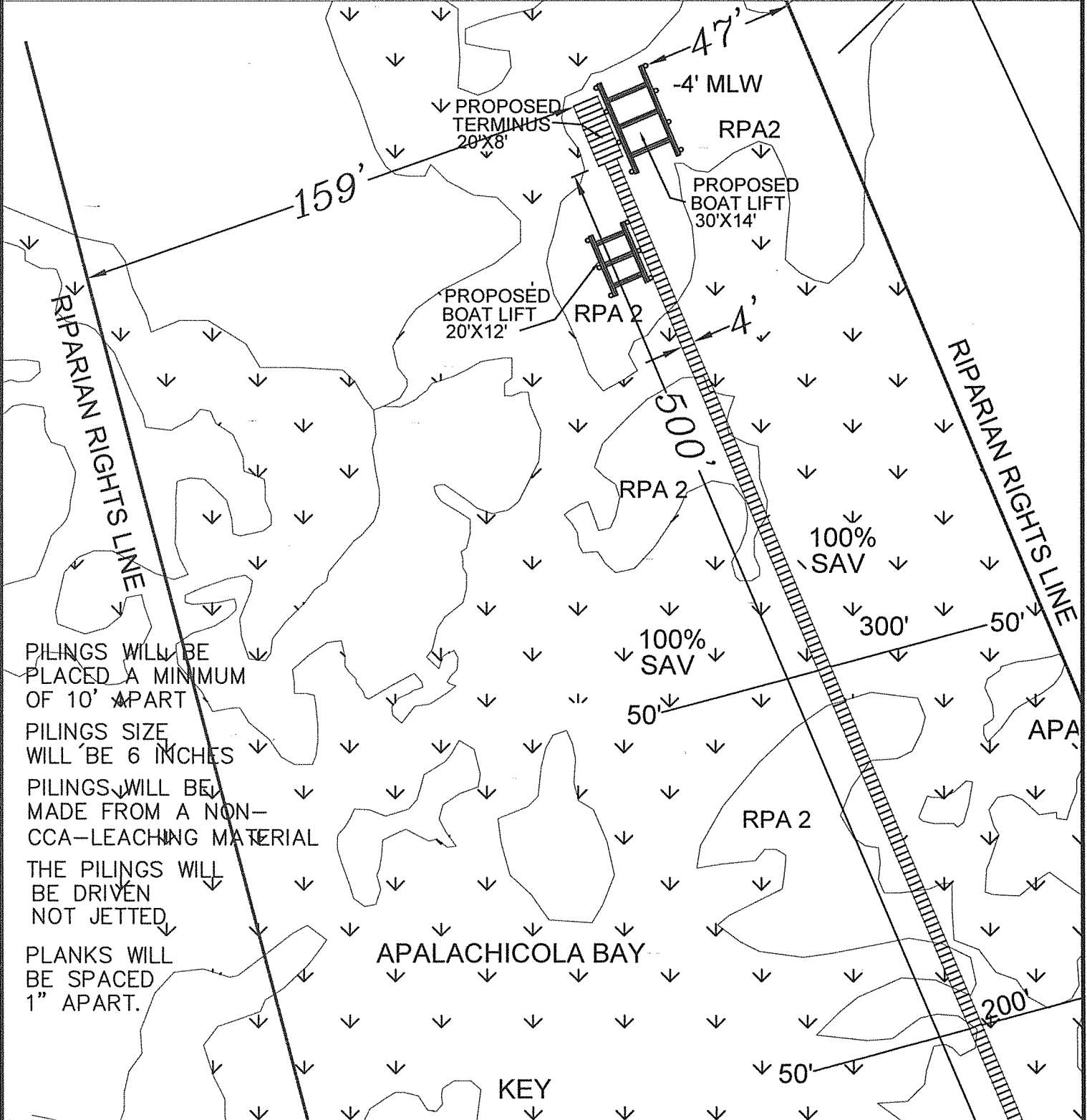


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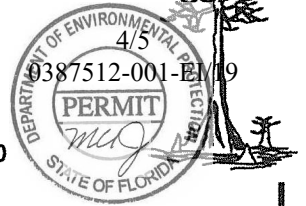


PILINGS WILL BE PLACED A MINIMUM OF 10' APART  
 PILINGS SIZE WILL BE 6 INCHES  
 PILINGS WILL BE MADE FROM A NON-CCA-LEACHING MATERIAL  
 THE PILINGS WILL BE DRIVEN NOT JETTED  
 PLANKS WILL BE SPACED 1" APART.

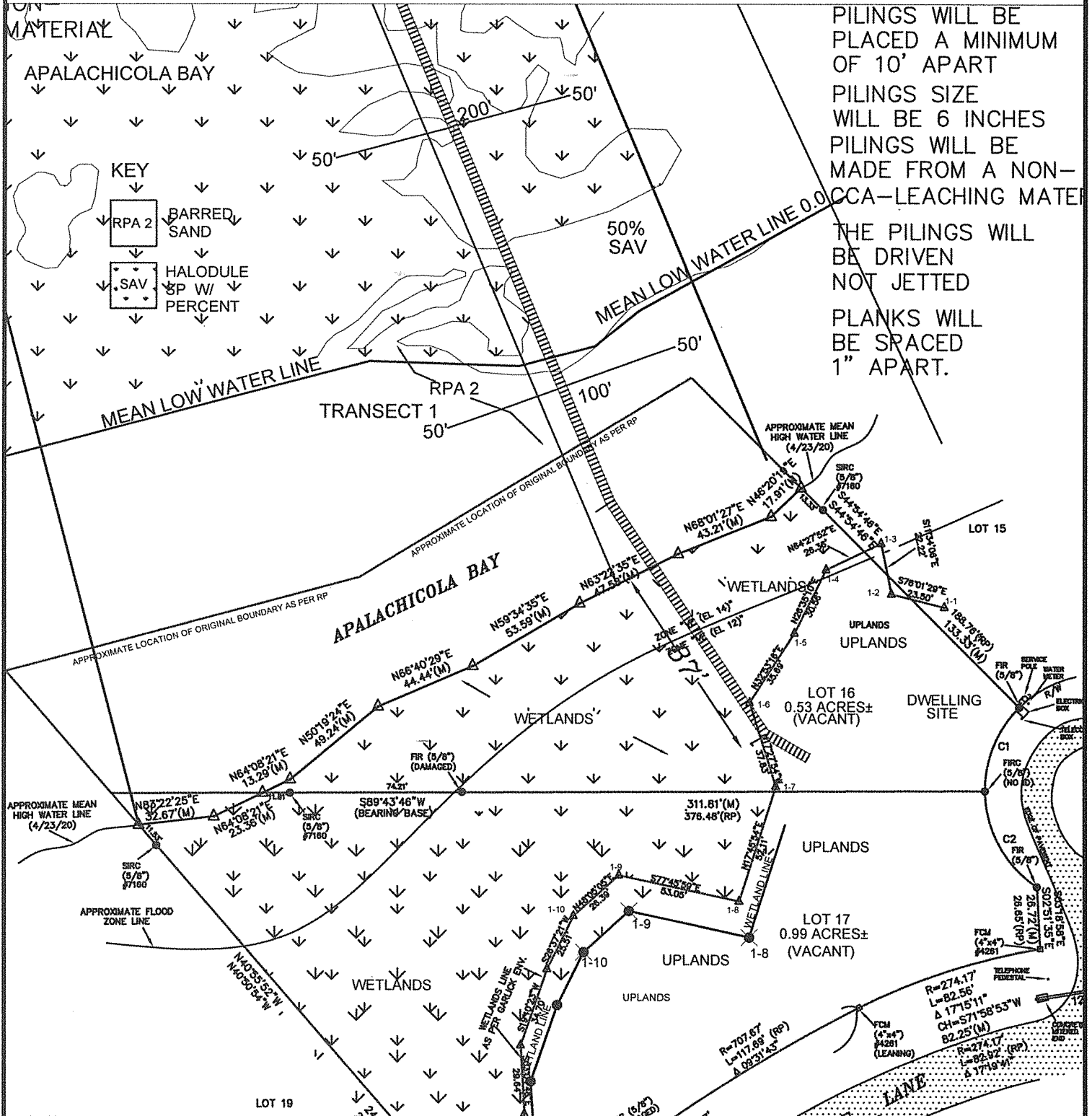
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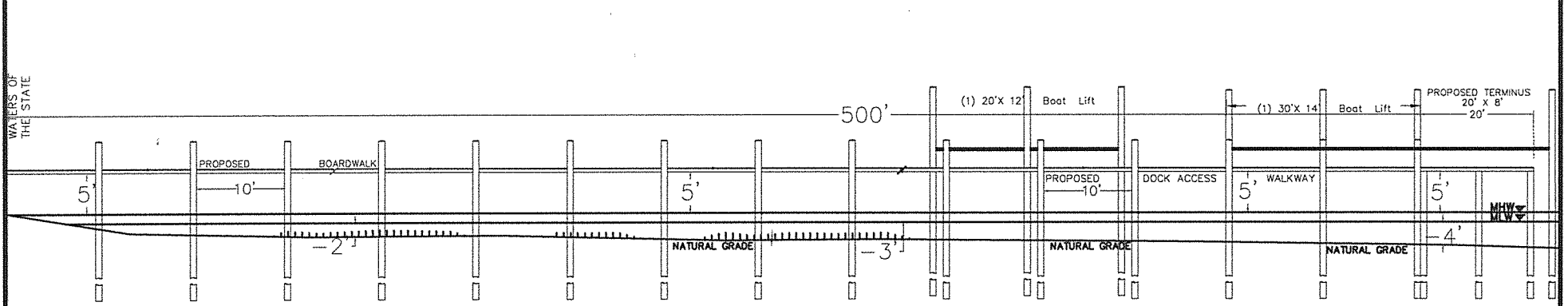
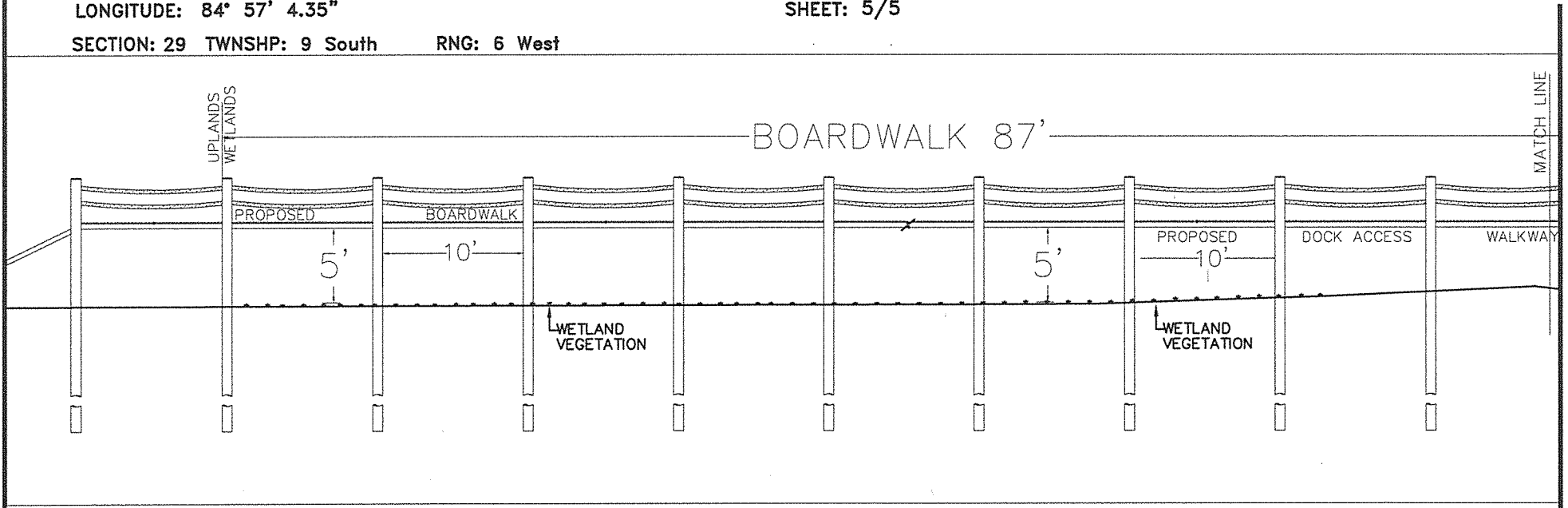
DATE: May 4, 2020

LONGITUDE: 84° 57' 4.35"

SHEET: 5/5

SECTION: 29 TWSHP: 9 South

RNG: 6 West



These drawings are for permitting purposes only. Not intended for construction purposes



**DEPARTMENT OF THE ARMY**  
**CORPS OF ENGINEERS JACKSONVILLE DISTRICT,**  
**415 RICHARD JACKSON BOULEVARD, SUITE 411**  
**PANAMA CITY BEACH, FLORIDA 32407**

**June 10, 2020**

Regulatory Division  
North Permit Branch  
Panama City Permits Section  
SAJ-2020-02168(GP-LSL)

Mr. Hugh Whitehead  
3209 Chateau Court NW  
Atlanta, Georgia 30805

Dear Mr. Whitehead:

The U.S. Army Corps of Engineers (Corps) assigned your application for a Department of the Army permit, which the Corps received on June 3, 2020, the file number SAJ-2020-02168. A review of the information and drawings provided indicates that the proposed work will result in the construction of a 2,160 square foot single family dock. Specifically, the dock will include a 4' by 500' access dock, 8' by 20' terminal platform, and 2 uncovered boat lifts (14' by 30' adjacent to terminus and 12' by 20' adjacent to access dock). This project also includes a 4' by 87' boardwalk over wetlands which is not a regulated activity for the Corps. This authorization addresses the single family docking structure and boat slips. The activities subject to this permit are authorized pursuant to authorities under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403). The project is located at 2215 Sea Gull Way in Section 29, Township 9 South, Range 6 West, Franklin County, Florida.

Your project, as depicted on the enclosed drawings, is authorized by Regional General Permit (GP) SAJ-20. This authorization is valid until March 27, 2023. Please access the Corps' Jacksonville District Regulatory Division Internet page to view the special and general conditions for SAJ-20, which apply specifically to this authorization. The Internet URL address is:

<http://www.saj.usace.army.mil/Missions/Regulatory.aspx>

Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Once there you will need to click on "Source Book"; and, then click on "General Permits." Then you will need to click on the specific SAJ permit noted above. You must comply with all of the special and general conditions of the permit; and, any project-specific conditions noted below, or you may be subject to enforcement action. The following project-specific conditions are included with this authorization:

**1. Reporting Address:** The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:

a. For electronic mail (preferred): [SAJ-RD-Enforcement@usace.army.mil](mailto:SAJ-RD-Enforcement@usace.army.mil) (not to exceed 15 MB).

b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

The Permittee shall reference this permit number, SAJ-2020-02168(GP - LSL), on all submittals.

**2. Commencement Notification:** Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed "Commencement Notification" Form (Attachment A).

**3. Self-Certification:** Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form (Attachment B) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self-Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.

**4. Agency Changes/Approvals:** Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Panama City Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.

**5. Assurance of Navigation and Maintenance:** The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to

the United States. No claim shall be made against the United States on account of any such removal or alteration.

**6. Posting of Permit:** The Permittee shall have available and maintain for review a copy of this permit and approved plans at the construction site.

**7. Cultural Resources/Historic Properties:**

a. No structure or work shall adversely affect impact or disturb properties listed in the *National Register of Historic Places* (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33

CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

**8. Turbidity Barriers:** Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend to the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained until the authorized work has been completed and all suspended and erodible materials have been stabilized. Turbidity barriers shall be removed upon stabilization of the work area.

**9. Manatee Conditions:** The Permittee shall comply with the “Standard Manatee Conditions for In-Water Work – 2011” (Attachment C).

**10. Jacksonville District Programmatic Biological Opinion (JAXBO), November 2017, Project Design Criteria (PDCs):** Structures authorized under this permit must comply with all applicable PDCs, based on the permitted activity, as required by JAXBO. Please note that failure to comply with the applicable PDCs, where a take of listed species occurs, would constitute an unauthorized take, and noncompliance with this permit. The NMFS is the appropriate authority to enforce the terms and conditions of JAXBO. The most current version of JAXBO can be accessed at the Jacksonville District Regulatory Division internet webpage in the Endangered Species section of the Sourcebook located at:

<http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

**Note** - JAXBO may be subject to revision at any time. The most recent version of these conditions must be utilized during the design and construction of the permitted work. In accordance with the Endangered Species Act, and for those projects which do not comply with JAXBO, the Corps will seek individual consultation with the NMFS.

**Note** - some authorized activities may deviate from the PDCs. In cases, where the activity (i.e., structure dimensions, length, etc.) deviates from the PDCs, the permit drawings shall supersede the PDCs.

For each of the following authorized activities subject of this permit, the permittee shall adhere to the following PDCs, which are attached to, and made part of, this authorization/verification letter:

Activity 2 - Pile-supported Structures and Anchored Buoys: (AP.1-14; A2.1-16; S.1; S.2; S.4) (Attachment D)

**11. Dock Construction Guidelines:** The Permittee shall comply with the “Dock Construction Guidelines in Florida for Docks or Other Minor Structures Constructed in or over Submerged Aquatic Vegetation, Marsh or Mangrove Habitat – U.S. Army Corps of Engineers/National Marine Fisheries Service – November 2017 (Attachment E).

This authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Prior to the initiation of any construction, projects qualifying for this NWP/RGP permit must qualify for an exemption under section 403.813(1), F.S. or 373.406, F.S., or otherwise be authorized by the applicable permit required under Part IV of Chapter 373, F.S., by the Department of Environmental Protection, a water management district under section 373.069, F.S., or a local government with delegated authority under section 373.441, F.S., and receive Water Quality Certification (WQC) and applicable Coastal Zone Consistency Concurrence (CZCC) or waiver thereto, as well as any authorizations required for the use of state-owned submerged lands under Chapter 253, F.S., and, as applicable, Chapter 258, F.S. You should check State-permitting requirements with the Florida Department of Environmental Protection or the appropriate water management district.

This authorization does not include conditions that would prevent the ‘take’ of a state-listed fish or wildlife species. These species are protected under sec. 379.411, Florida Statutes, and listed under Rule 68A-27, Florida Administrative Code. With regard to fish and wildlife species designated as species of special concern or threatened by the State of Florida, you are responsible for coordinating directly with the Florida Fish and Wildlife Conservation Commission (FWC). You can visit the FWC license and permitting webpage (<http://www.myfwc.com/license/wildlife/>) for more information, including a list of those fish and wildlife species designated as species of special concern or threatened. The Florida Natural Areas Inventory (<http://www.fnai.org/>) also maintains updated lists, by county, of documented occurrences of those species.

This authorization does not give absolute Federal authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above RGP(s), please contact Mrs. Lisa S. Lovvorn by telephone at 850-285-9533.



Thank you for your cooperation with our permit program. The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey). Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

Sincerely,

Lisa S. Loworn  
Project Manager

Enclosures

cc:

Ms. Mary Ann Wasmund, Garlick Environmental Associates, Inc.

GENERAL CONDITIONS  
33 CFR PART 320-330

1. The time limit for completing the work authorized ends on the **dates identified in the letter.**
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST**

**PERMIT NUMBER: SAJ-2020-02168(GP-LSL)**

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019 or by electronic mail at [saj-rd-enforcement@usace.army.mil](mailto:saj-rd-enforcement@usace.army.mil).

\_\_\_\_\_  
(TRANSFEREE-SIGNATURE)

\_\_\_\_\_  
(SUBDIVISION)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(LOT)

\_\_\_\_\_  
(BLOCK)

\_\_\_\_\_  
(NAME-PRINTED)

\_\_\_\_\_  
(STREET ADDRESS)

\_\_\_\_\_  
(MAILING ADDRESS)

\_\_\_\_\_  
(CITY, STATE, ZIP CODE)



**PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.**

P. O. BOX 385, APALACHICOLA FLORIDA 32329-0385 (850) 653-8899 FAX (850) 653-9656 garlick@garlickenv.com

LB No. 7415

APPLICANT/CLIENT: Hugh P. Whitehead III

WATERBODY/CLASS: Apalachicola Bay / Class II / OFW / AP

PURPOSE: Environmental Permitting

PROJECT LOCATION / USGS: St George Island / Franklin County

LATITUDE: 29° 37' 16.91"

LONGITUDE: 84° 57' 4.35"

SECTION: 29 TOWNSHIP: 9 South RANG: 6 West

JOB: 20-030

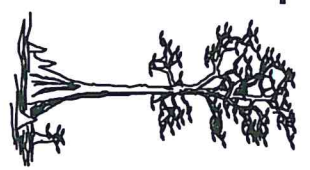
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COE:

OTHER:

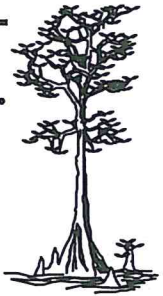
DATE: May 4, 2020

SHEET: 1/5



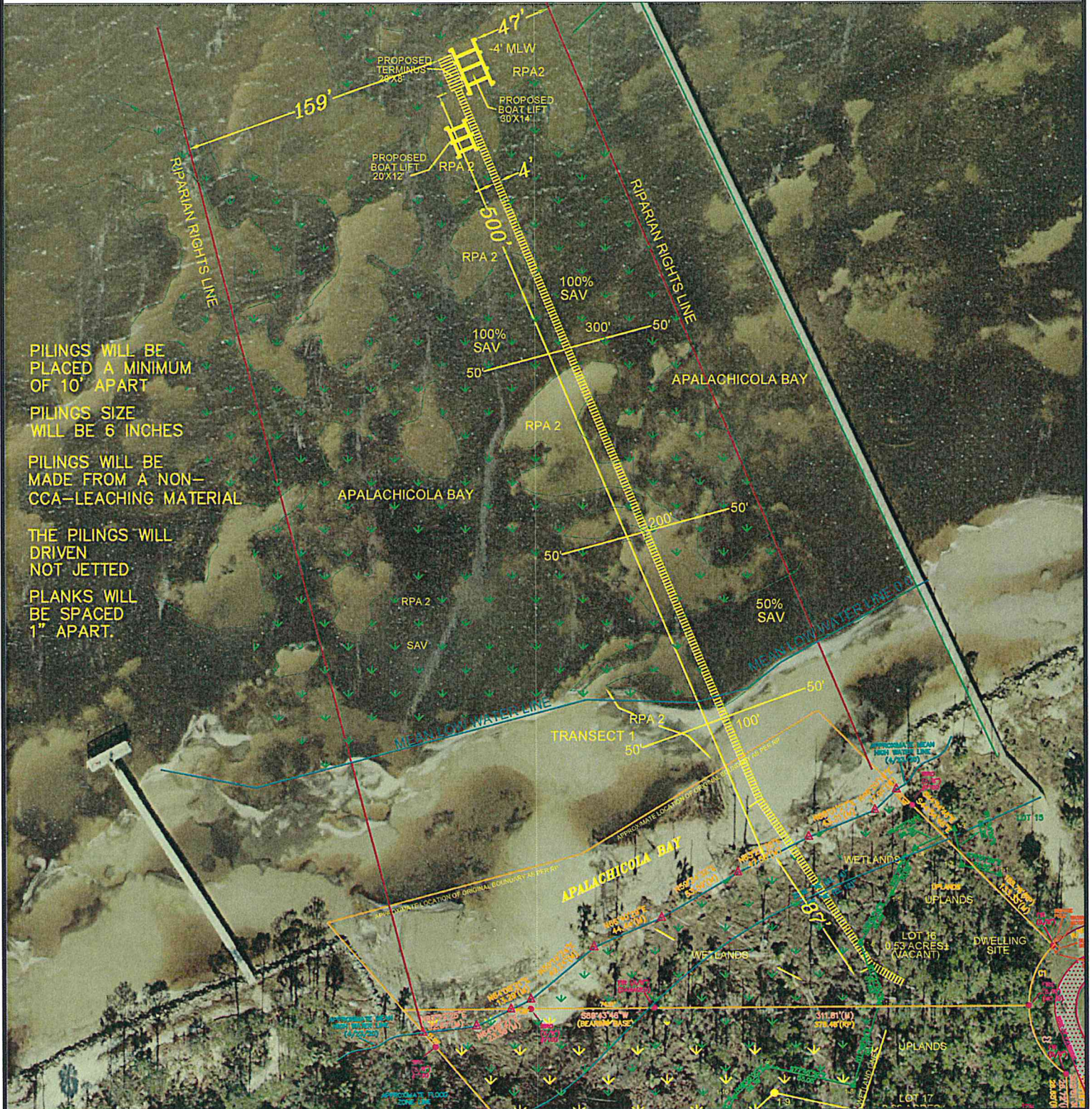


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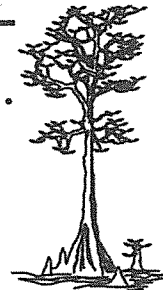
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**DEP:**  
**COE:**  
**OTHER:** Rev. 5-28-20  
**DATE:** May 4, 2020  
**SHEET:** 2/5



PILINGS WILL BE PLACED A MINIMUM OF 10' APART  
 PILINGS SIZE WILL BE 6 INCHES  
 PILINGS WILL BE MADE FROM A NON-CCA-LEACHING MATERIAL  
 THE PILINGS WILL DRIVEN NOT JETTED  
 PLANKS WILL BE SPACED 1" APART.



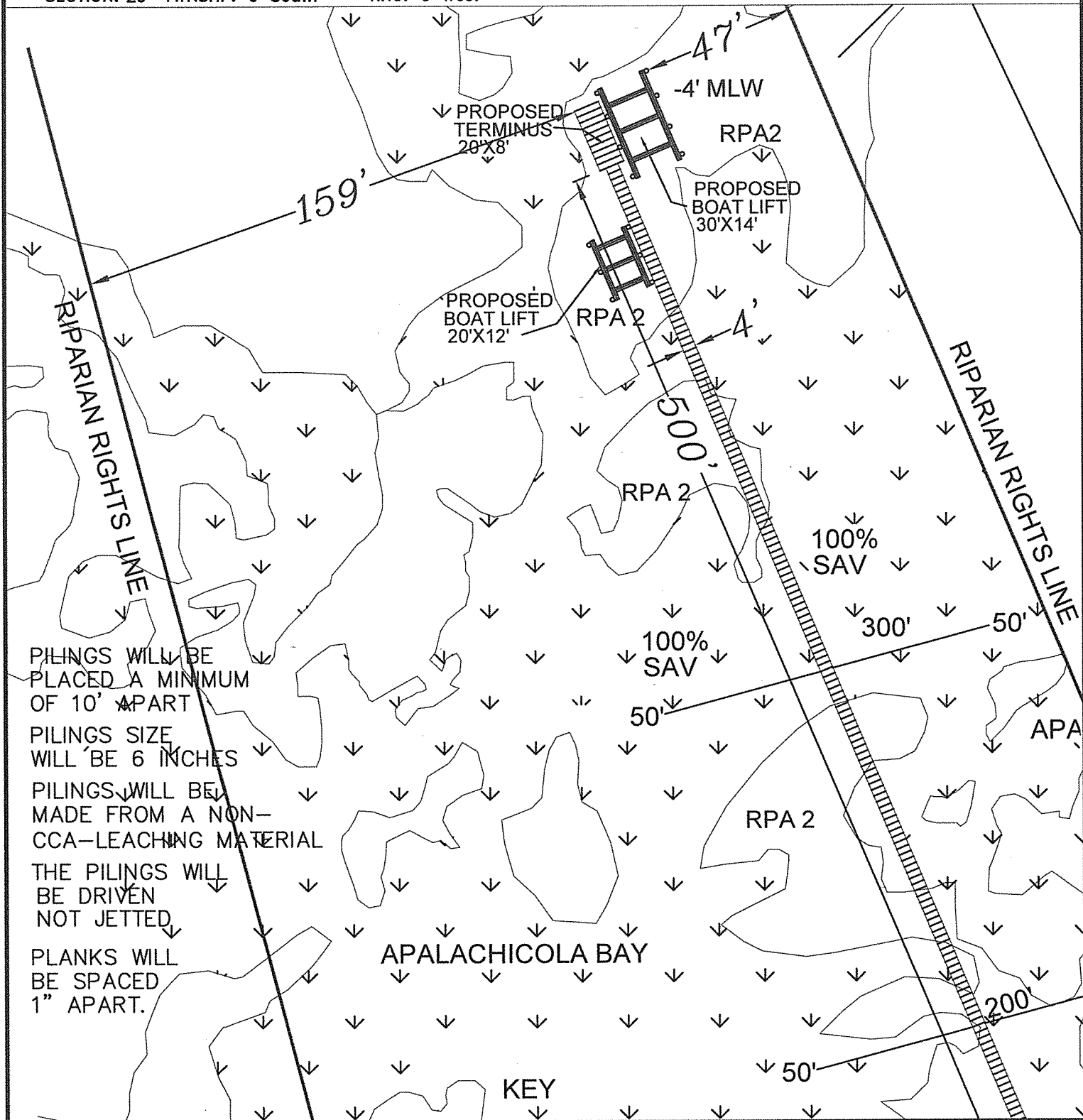
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 OTHER: Rev. 5-28-20  
 DATE: May 4, 2020  
 SHEET: 3/5

SECTION: 29 TWSHP: 9 South RNG: 6 West



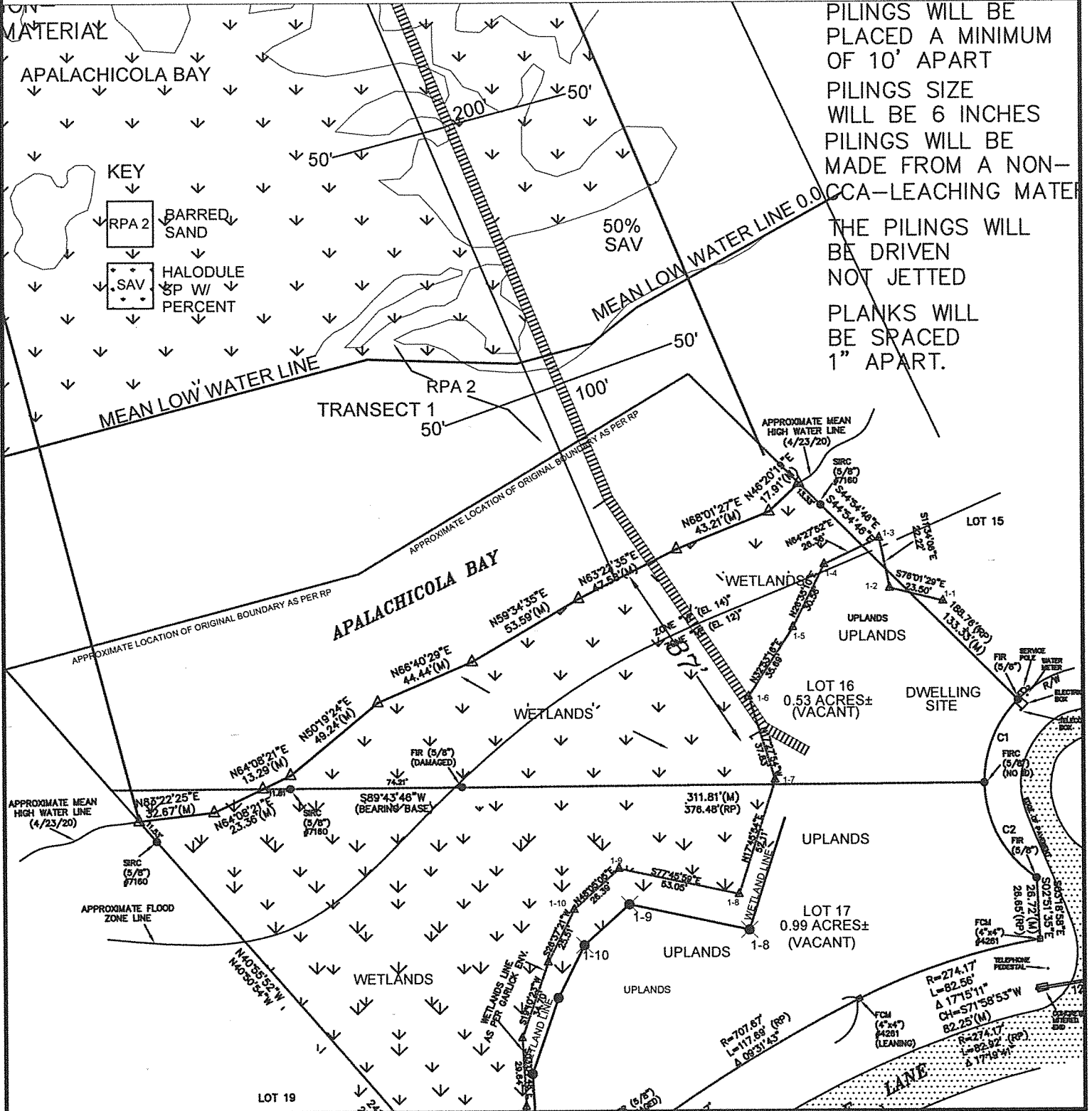
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**JOB:** 20-030  
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**DATE:** May 4, 2020  
**SHEET:** 4/5



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LB No. 7415

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JOB: 20-030

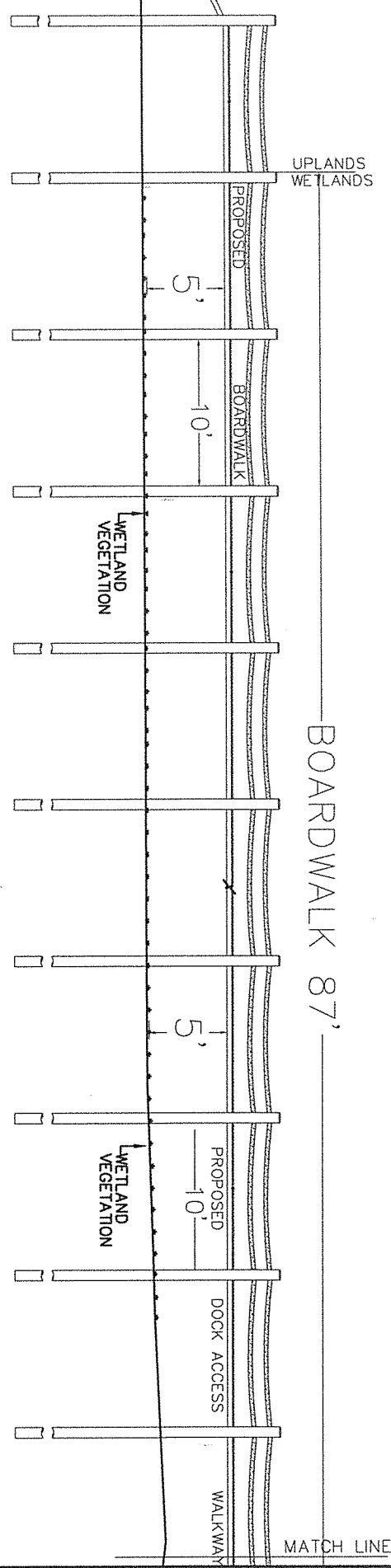
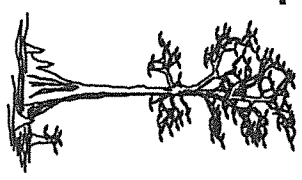
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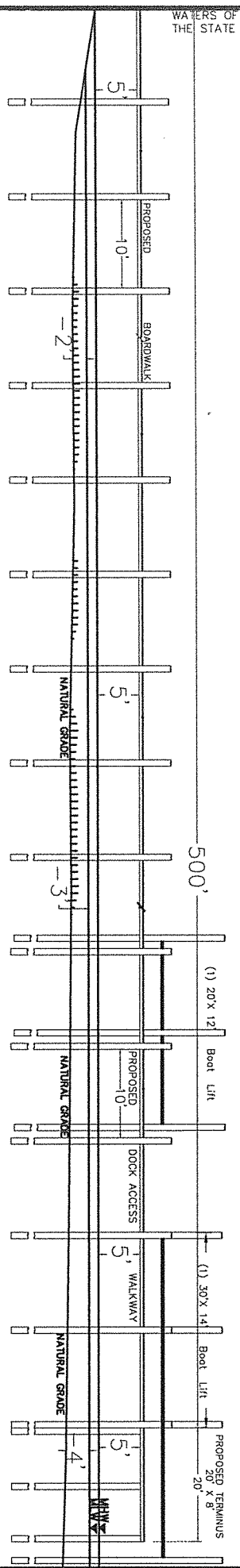
OTHER:

DATE: May 4, 2020

SHEET: 5/5



BOARDWALK 87'



These drawings are for permitting purposes only. Not intended for construction purposes

## COMMENCEMENT NOTIFICATION

*Within ten (10) days of initiating the authorized work, submit this form via electronic mail to [saj-rd-enforcement@usace.army.mil](mailto:saj-rd-enforcement@usace.army.mil) (preferred, not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-2020-02168 (GP-LSL)

2. **Permittee Information:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

3. **Construction Start Date:** \_\_\_\_\_

4. **Contact to Schedule Inspection:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Printed Name of Permittee

\_\_\_\_\_  
Date

**SELF-CERTIFICATION STATEMENT OF COMPLIANCE**

*Within sixty (60) days of completion of the authorized work, submit this form via electronic mail to [saj-rd-enforcement@usace.army.mil](mailto:saj-rd-enforcement@usace.army.mil) (preferred, not to exceed 15MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-2020-02168(GP-LSL)

2. **Permittee Information:** Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

3. **Date Authorized Work Started:** \_\_\_\_\_ **Completed:** \_\_\_\_\_

4. **Contact to Schedule Inspection:** Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

5. **Description of Authorized Work (e.g. bank stabilization, fill placed within wetlands, docks, dredging, etc.):** \_\_\_\_\_

\_\_\_\_\_

6. **Acreage or Square Feet of Impacts to Waters of the United States:** \_\_\_\_\_

7. **Describe Mitigation completed (if applicable):** \_\_\_\_\_

\_\_\_\_\_

8. **Describe any Deviations from Permit (attach drawing(s) depicting the deviations):**

\_\_\_\_\_

\*\*\*\*\*

I certify that all work and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Printed Name of Permittee

\_\_\_\_\_  
Date



## STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. 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.
- b. 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 will follow routes of deep water whenever possible.
- c. 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 must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. 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 in Vero Beach (1-772-562-3909) for south Florida, and emailed to FWC at [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com).
- f. 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. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [http://www.myfwc.com/WILDLIFEHABITATS/manatee\\_sign\\_vendors.htm](http://www.myfwc.com/WILDLIFEHABITATS/manatee_sign_vendors.htm). Questions concerning these signs can be forwarded to the email address listed above.

## Project Design Criteria (PDCs) Applicable to All Projects

**NOTE** - You are required to comply with the following PDCs, which serve to address requirements pursuant to Section 7, Endangered Species Act (ESA) for those listed species and designated critical habitat under purview of the National Marine Fisheries Service Protected, Resources Division. These PDCs are taken from the Programmatic Biological Opinion (PBO) referred to as JaxBO. These criteria serve to address ESA requirements only, and additional conditions may be required to address other Federal laws, including the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. Authorization under this permit is conditional upon your compliance with all applicable PDCs, which are made part of this permit. You are reminded that you must complete the attached self-certification statement of compliance following completion of the authorized work. Your statement of compliance does not obviate the need to satisfy all PDCs, including those requirements (e.g., such as structural dimensions and educational signs) that are observable post-construction, and those requirements (e.g., construction methods or procedures to be followed) that are not observable post-construction. Please note that failure to comply with the applicable PDCs of this PBO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with this permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of this PBO.

**AP.1.** The applicant must agree to adhere to PDCs for *In-Water Activities* (provided below).

**AP.2.** All projects involving the installation of piles or sheet piles shall follow the PDCs for *In-Water Noise from Pile and Sheet Pile Installation* (Section 2.2). This Opinion does not cover projects that use seismic surveys, low frequency sonar, explosions, and seismic air guns.

**AP.3.** All projects proposed in or near areas with mangroves, seagrasses, corals, or hard bottom habitat must refer to PDCs for *Mangroves, Seagrasses, Corals, and Hard Bottom for All Projects* (provided below) to determine whether the project is covered under the Opinion and, if it is covered, to ensure it is sited, designated, and implemented following all of the PDCs in that section.

**AP.4.** For every project, the USACE must determine if the project is located within:

- a) Smalltooth sawfish critical habitat limited exclusion zones (Section 2.1.1.1)
- b) Gulf sturgeon critical habitat migratory restriction zones (Section 2.1.1.2)
- c) Atlantic sturgeon critical habitat exclusion zone (St. Marys River) (Section 2.1.1.3)
- d) North Atlantic right whale educational sign zones (Section 2.1.1.4)
- e) U.S. Caribbean sea turtle critical habitat restriction zones (Section 2.1.1.5)
- f) Bryde's whale exclusion zone (Section 2.1.1.6)

Where the activity is excluded from the Opinion within a particular zone, the application must be processed under a separate consultation. Where additional restrictions apply to activities within that zone, the USACE or other authorizing entity must ensure that the project meets the requirements for that zone.

**AP.5.** This Opinion only covers new construction (i.e., installation, repair, replacement) and does not apply to after-the-fact consultations or enforcement actions handled by the Corps.

**AP.6.** All activities must be completed during daylight hours.

## Project Design Criteria (PDCs) for In-Water Activities

**AP.7. Education and Observation:** The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:

[http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/threatened\\_endangered/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html)

**AP.8. Reporting Interactions with Protected Species:**

- a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to: [takereport.nmfs@noaa.gov](mailto:takereport.nmfs@noaa.gov) and [SAJ-RD-Enforcement@usace.army.mil](mailto:SAJ-RD-Enforcement@usace.army.mil).
- b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email: [Sawfish@MyFWC.com](mailto:Sawfish@MyFWC.com)
- c) Sturgeon: Report dead sturgeon to 1-844-STURG 91 (1-844-788-7491) or email: [nmfs.ser.sturgeonnetwork@noaa.gov](mailto:nmfs.ser.sturgeonnetwork@noaa.gov)
- d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
- e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.

**AP.9. Vessel Traffic and Construction Equipment:** All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:

- a) *Construction Equipment*:
  - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
  - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
  - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of construction equipment and shall not resume until the species has departed the area of its own volition.
  - iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.



- b) *All Vessels:*
  - i) Sea turtles: Maintain a minimum distance of 150 ft.
  - ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
  - iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
  - iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
  - v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
  - vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
  - vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

- AP.10. Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:
- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
  - b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
  - c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
  - d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
  - e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):
    - i. Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
    - ii. The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cable



line). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.

**AP.11. Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.

- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
- b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

## Project Design Criteria (PDCs) for Mangroves, Seagrasses, Corals and Hard Bottom for All Projects

Note: **For projects authorized in reliance on this Opinion only**, the PDCs below supercede any other guidance documents otherwise applicable to reduce or avoid impacts to mangroves, seagrasses, and corals. This includes the NMFS's *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation, Marsh, or Mangrove Habitat* dated August 2001, and NMFS's *Key for Construction Conditions for Docks or Other Minor Structures Constructed in or over Johnson's Seagrass (Halophila johnsonii)*, dated October 2002. NMFS may still apply these guidance documents in other consultations, including consultations on Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

### **AP.12. Mangroves:**

- a) To qualify for coverage under this Opinion, all projects must be sited and designed to avoid or minimize impacts to mangroves.
- b) Mangrove removal must be conducted in a manner that avoids any unnecessary removal and is limited to the following instances:
  - i. Removal to install up to a 4-ft-wide walkway for a dock.
  - ii. Removal to install up to an 8-ft-wide walkway for public docks, where the walkway is necessary to address compliance with the Americans with Disability Act (ADA).
  - iii. Removal to install culverts necessary to improve water quality or restore hydrology between 2 water bodies. Such mangrove removal is limited to a maximum of 20 linear feet (lin ft) of shoreline per culvert opening.
  - iv. Removal of mangroves above mean high water (MHW) provided that the tree does not have any prop roots that extend into the water below the MHWL.
- c) Mangrove Trimming. Mangrove trimming is regulated by FDEP, Puerto Rico Department of Natural and Environmental Resources, and U.S. Virgin Islands Department of Planning and Natural Resources. Consistent with those authorities, when used in this Opinion, mangrove trimming refers to the removal (using hand equipment such as chain saws and/or machetes) of lateral branches (i.e., no alteration of the trunk of the tree) in a manner that ensures survival of the tree. This Opinion does not limit or supersede any restrictions on mangrove removal required under any federal, state, or local law.
  - i. This Opinion only covers projects with associated mangrove trimming occurring waterward of MHW if such trimming (1) occurs within the area where the authorized structures are placed or will be placed (e.g., removal of branches that overhang a dock),
  - ii. (2) is necessary to provide temporary construction access, and (3) is conducted in a manner that avoids any unnecessary trimming.

- iii. The Opinion does not apply to projects proposing to remove red mangrove props roots waterward of MHW, except for removal to install the dock walkways, as described above (up to a 4-ft walkway and up to a 8-ft ADA compliant walkway) and to install culverts necessary to improve water quality or restore hydrology between 2 water bodies.

**AP.13. Seagrass:**

- a) Pile-supported structures must follow the PDCs for *Docks or Other Minor Structures* (PDC A2.17, Section 2.2.2)

**Johnson's seagrass:**

- b) This Opinion does not apply to projects where Johnson's seagrass is found within the project footprint except for:
  - i. Installation of pile-supported structures that meet the PDCs for *Docks or Other Minor Structures* (PDC A2.17, Section 2.2.2).
  - ii. Maintenance dredging of previously authorized areas. This is limited to the removal of no more than 0.1 acre (ac) (4,356 ft<sup>2</sup>) of Johnson's seagrass per year (Activity 3; see Section 2.2.3).
  - iii. Transmission/utility line repairs within the same footprint of the lines being repaired (Activity 8; see Section 2.2.8).

**Non-listed seagrasses:**

- a) All impacts to non-ESA listed native, non-invasive seagrasses should be avoided and minimized to the extent practicable.
- b) This Opinion does not apply to projects located within the geographic boundary of U.S. Caribbean sea turtle critical habitat (hawksbill, leatherback, and the NA DPS of green sea turtle critical habitat identified in Section 2.1.1.5) if non-ESA listed, native, non-invasive seagrasses are found within the project footprint.
- c) This Opinion does not apply to projects that may affect, directly or indirectly, ESA-listed corals.
- d) Projects occurring within in the Florida Keys National Marine Sanctuary (FKNMS) may require separate consultation or authorization from NOAA's FKNMS. Projects authorized to occur in the FKNMS shall comply with any measures NOAA FKNMS has developed to avoid, minimize, and/or mitigate any effects on non-listed corals. For projects occurring outside of the FKNMS, if non-listed corals are found within the project footprint, we recommend relocating all non-listed corals, when possible, in a manner that is protective of the corals.

**AP.14. Coral and Hard Bottom Habitat:**

- a) This Opinion does not apply to projects that may affect, directly or indirectly, ESA-listed corals.
- b) Projects occurring within in the Florida Keys National Marine Sanctuary (FKNMS) may require separate consultation or authorization from NOAA's FKNMS. Projects authorized to occur in the FKNMS shall comply with any measures NOAA FKNMS has developed to avoid, minimize, and/or mitigate any effects on non-listed corals. For projects occurring outside of the FKNMS, if non-listed corals are found within the project footprint, we recommend relocating all non-listed corals, when possible, in a manner that is protective of the corals.
- c) This Opinion does not apply to projects where hard bottom habitat is found within the project footprint, except for the temporary placement (up to 24 months) of scientific survey devices (Activity 5) that have a footprint of less than 1 square foot (ft<sup>2</sup>) per device and are installed in a manner that does not permanently alter the hardbottom (e.g., the devices are not installed by drilling). For this Opinion, we define hard bottom in 2 ways:
  - i. Natural consolidated hard substrate that is suitable to support corals, coral larval settlement, reattachment and recruitment of asexual coral fragments. These areas of hard bottom or dead coral skeleton must be free from fleshy or turf macroalgae cover and sediment cover.
  - ii. Nearshore and surf-zone, low-profile hard bottom outcroppings (e.g., worm-rock reef [sabellariid worm reefs] and eolianite, granodiorite). This habitat can be persistent or ephemeral, cycling through periods of exposure and cover by sand. The range of this hard bottom habitat extends along the southeastern coast of Florida from Cape Canaveral to Miami-Dade County and in the U.S. Caribbean. It is an important developmental habitat for juvenile hawksbill and green sea turtles, which use it for both foraging and refuge.



## **Project Design Criteria (PDCs) Specific to Activity 2 for Pile-Supported Structures and Anchored Buoys**

**A2.1.** Activities covered by this Opinion include the installation, repair, replacement, and removal of structures as described below:

- A2.1.1. The pile-supported and anchored structures included in this Opinion are: docks and piers, boatlifts, mooring piles and dolphin piles associated with docks/piers; ATONs and PATONs; floating docks; pile-supported chickees (i.e., small, back-country, over-water, pile-supported, primitive camping shelters); boardwalks (as long as they are designed and clearly marked to prohibit fishing and vessel mooring); mooring fields and buoys; and other minor pile-supported structures. This does not include structures that support large commercial vessels including ferries, tankers, and cargo ships such as ferry terminals and large ports.
- A2.1.2. Pile-supported docks/piers for a single-family residential lot are limited to 4 slips for motorized vessels. Slips for non-motorized vessels (e.g., kayak, canoe, and paddleboard) and associated launching areas do not count toward the total slip number.
- A2.1.3. Pile-supported structures for marinas, multi-family facilities (e.g., condo complexes, trailer parks, subdivisions when the homeowners association owns and controls the in-water structures). Docks and piers for multi-family residential properties (e.g., condos, trailer parks, apartment complexes), and marinas are limited to a maximum of 50 total slips (i.e., combination of wet and dry slips for existing plus proposed slips).
- A2.1.4. Anchored buoys and temporary pile-supported structures associated with marine events. Upon completion of the event, these structures must be removed and, to the maximum extent practical, the site must be restored to pre-construction elevations. Water depths in the area of marine events must be deep enough to support at least 5 ft of water depth under the keel of a vessel and between the keel of a vessel and ESA-listed coral colonies when transiting to the mooring areas. There is no limit on the number of vessel slips allowed for temporary structures associated marine events such as boat shows.
- A2.1.5. Mooring fields are limited to a maximum of 50 motorized vessels (there is no limit on the number of non-motorized vessels).
- A2.1.6. All pile-supported structures constructed must comply with PDC 2.17 for *Docks or Other Minor Structures Constructed in Florida Under this Opinion (see below)*.

**The following PDCs apply to all the activities described in PDC A2.1 above:**

**A2.2.** For commercial, multi-family, or public facilities, and marine events, signs must be posted in a visible location(s), alerting users of listed species in the area susceptible to vessel strikes and hook-and-line captures. The most current version of the signs that must be downloaded and sign installation guidance are available at:

([http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/protected\\_species\\_educational\\_signs/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/protected_species_educational_signs/index.html)). The signs required to be posted by area are stated below:

- A2.2.1. All projects in Florida shall use the Save Sea Turtle, Sawfish, and Dolphin sign. These signs shall include contact information to the sea turtle and marine

- mammal stranding networks and smalltooth sawfish encounter database.
- A2.2.2. Projects within the North Atlantic right whale educational sign zone (as defined in Section 2.1.1.4) shall post the Help Protect North Atlantic Right Whales sign.
  - A2.2.3. On the east coast of Florida, projects located within the St. John's River and those occurring north of the St. Johns River to the Florida-Georgia line shall post the Report Sturgeon sign. On the west coast of Florida, projects occurring from the Cedar Key, Florida north to the Florida-Alabama line.
  - A2.2.4. We are still developing the signs to be used in the U.S. Caribbean. Once developed, those signs will be included at the website above.

**A2.3.** For commercial, multi-family, or public facilities, monofilament recycling bins must be provided at the docking facility to reduce the risk of turtle or sawfish entanglement in, or ingestion of, marine debris. Monofilament recycling bins must:

- A2.3.1. Be constructed and labeled according to the instructions provided at <http://mrrp.myfwc.com>.
- A2.3.2. Be maintained in working order and emptied frequently (according to <http://mrrp.myfwc.com> standards) so that they do not overflow.

**A2.4.** For any dock project (new construction, repair, or replacement) at a private residence located within 11 nautical miles of North Atlantic right whale critical habitat (as measured in a radius from the center of the nearest inlet to open ocean and described in Section 2.1.1.4), the property owner will be provided a handout with their USACE permit describing the presence of North Atlantic right whales in the area and the Federal regulations governing the approach to North Atlantic right whales (Appendix C).

**A2.5.** ATONs and PATONs must be approved by and installed in accordance with the requirements of the USCG (see 33 CFR, chapter I, subchapter C, part 66 and RHA Section 10 and any other pertinent requirements).

**A2.6.** Chickees must be less than 500 ft<sup>2</sup> and support no more than 2 slips.

**A2.7.** No activities associated with municipal or commercial fishing piers are covered under this Opinion.

**A2.8.** Docks installed within visible distance of ocean beaches are required to comply with turtle-friendly lighting, if lighting is necessary to the project. Turtle-friendly lighting is explained and examples are provided on the Florida Fish and Wildlife Conservation Commission website:  
<http://myfwc.com/wildlifehabitats/managed/sea-turtles/lighting/>

**A2.9.** Project construction will take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.



## **Additional PDCs for Activity 2 applicable in Critical Habitat**

- A2.10.** *Acropora* critical habitat and the U.S. Caribbean: This Opinion does not cover new and expanded pile-supported structures in *Acropora* critical habitat where the essential features are present. The distance from ATONs to ESA-listed corals and *Acropora* critical habitat shall ensure there are no impacts to the corals or the essential feature of *Acropora* critical habitat from the movement of buoys and tackle. The appropriate distance shall be based on the size of the anchor chain or other tackle to be installed to secure the buoy to its anchor, particularly when the design of the ATON does not prohibit contact of tackle with the marine bottom. In all cases, buoy tackle will include flotation to ensure there is no contact between the anchor chain or line and the marine bottom.
- A2.11.** Gulf sturgeon critical habitat: Additional noise restrictions are required for pile and sheet pile installation in the Gulf sturgeon critical habitat migratory restriction zones defined in Section 2.1.1.2. The noise restrictions are described in that section.
- A2.12.** Smalltooth sawfish critical habitat: This Opinion does not cover activities occurring in areas identified as smalltooth sawfish limited exclusion zones defined in Section 2.1.1.1.
- A2.13.** North Atlantic right whale critical habitat: This Opinion does not cover installation of anchored ATONs and permanent buoys in North Atlantic right whale critical habitat; temporary buoys for marine events are allowed in North Atlantic right whale critical habitat.
- A2.14.** Johnson's seagrass critical habitat: This Opinion does not cover new marinas or multi-family facilities in Johnson's seagrass critical habitat. Repair, replacement, and reconfiguration of existing marinas or multi-family facilities may be covered if it (1) occurs within same overall footprint (out to the perimeter of the facility, including the outer limits of the structure and permitted mooring locations), (2) does not increase the total aerial extent (i.e., area of coverage from the dock structures) of the existing facility, and (3) does not affect Johnson's seagrass. Mooring fields are allowed in Johnson's seagrass critical habitat and within the range of Johnson's seagrass so long as they occur in waters deeper than -13 ft (-4 m).
- A2.15.** NWA DPS of loggerhead sea turtle critical habitat: ATONs (pile-supported and anchored buoys) are allowed in nearshore reproductive habitat of the NWA DPS of loggerhead sea turtles under this Opinion. No other pile-supported structures are allowed in nearshore reproductive habitat under this Opinion.
- A2.16.** U.S. Caribbean sea turtle critical habitat (hawksbill, leatherback, and the NA DPS of green sea turtle critical habitat): ATONs (pile-supported and anchored buoys) are allowed near sea turtle nesting beaches under this Opinion. No other pile-supported structures are allowed near sea turtle nesting beaches under this Opinion.

## **Project Design Criteria (PDCs) for Gulf Sturgeon Critical Habitat Migratory Restriction Zones**

1. This Opinion does not apply to the placement of living shoreline, oyster reef, and artificial reef materials (Activity 7, PDC A7.26) and temporary platform, fill, and cofferdams (Activity 10, PDC A10.11) in Gulf sturgeon critical habitat migratory restriction zones.
2. This Opinion does not apply to new transmission and utility line installation in the Gulf sturgeon critical habitat migratory restriction zones between September and March, when sturgeon are likely to be present in these areas. Emergency repair/replacement of transmission and utility lines may occur in these areas during this time frame if the work is conducted without the use of heavy in-water equipment (e.g., dredging equipment) (Activity 8, PDC A8.10).
3. This Opinion does not apply to the installation of metal piles and metal sheet piles by impact hammer in the areas identified as Gulf sturgeon critical habitat migratory restriction zones.
4. The allowable pile and sheet pile driving activities vary depending on the width of the project action area, as described below.
5. Areas that are 0-500 ft wide: In areas up to 500 ft wide, the allowable pile or sheet pile driving activities within the Gulf sturgeon critical habitat migratory restriction zones are:
  - a. Creating a pilot hole for any type of pile using an auger or drop punch
  - b. Trenching a shoreline with mechanical equipment to create a space to install any type of sheet pile and backfilling behind it
  - c. Installing any type of piles and sheet piles by jetting.
6. Areas that are 501-1,400 ft wide: In areas over 500 ft wide, but less than 1,400 ft wide, the allowable pile or sheet pile driving activities within the Gulf sturgeon critical habitat migratory restriction zones are:
  - a. The activities described in 1-3 above, and
  - b. Installing any type of piles and sheet piles by vibratory hammer.
7. Areas over 1,401 ft wide: In areas 1,401 ft wide or wider, the allowable pile or sheet pile driving activities within the Gulf sturgeon critical habitat migratory restriction zones are:
  - a. The activities described in 1-4 above, and
  - b. Installing wood, vinyl, and concrete piles and sheet piles by impact hammer.



## Project Design Criteria (PDCs) for In-Water Noise from Pile and Sheet Pile Installation

### Open Water

The letters A-E in the tables below specify the PDC category. Activities labeled A-D must follow the corresponding PDCs for labeled Category A-D below. Activities labeled E are excluded from this Opinion, as stated in Category E below.

	Trench and	Pilot hole (auger or	Jetting	Vibratory	Impact hammer
Wood piles 14-inch (in) diameter or less when installed via impact hammer and 36-in or less for all other installation methods	A	A	A	A	B
Concrete pile 24-in diameter/width or less in open	A	A	A	A	B
Metal pipe pile 36-in diameter or less	A	A	A	A	E
2 metal boatlift I-beams	A	A	A	A	B
Concrete slab wall- any size	A	A	A	A	B
Vinyl sheet pile- any size	A	A	A	A	B
Metal sheet pile- any size	A	A	A	A	E

### Confined Space

In Florida, we consider the confined space to be any area that has a solid object (e.g., shorelines or seawalls) within 150 ft of the pile installation site and in the U.S. Caribbean we consider confined space to be any area that has a solid object within 260 ft of the pile installation site.

	Trench and	Pilot hole (auger or	Jetting	Vibratory	Impact hammer
Wood pile 14-in diameter or less when installed via impact hammer and 36-in or less for all other installation methods	A	A	A	A	B
Concrete pile 24-in diameter/width or less (5 piles	A	A	A	A	C
Concrete pile 24-in diameter/width or less (6-10	A	A	A	A	D
Metal pipe pile 36-in diameter or less	A	A	A	A	E
2 metal boatlift I-beams	A	A	A	A	B
Vinyl sheet pile – any size	A	A	A	A	B
Concrete slab wall- any size (5 slabs or less	A	A	A	A	C
Concrete slab wall- any size (6-10 slabs installed/day)	A	A	A	A	D
Metal sheet pile- any size	A	A	A	A	E

- A. The Projects identified as A above must comply with PDCs identified for all projects in this Opinion. Specific PDCs related to noise include:**
1. All work must occur during daylight hours only (PDC AP.6).
  2. All construction personnel are responsible for observing water-related activities to detect the presence of these species and avoid them (PDC AP.7).
- B. The projects identified as B above must follow all of the conditions under A, above, **AND** also must limit the maximum number of piles installed per day to no more than 10 piles per day.**
- C. The projects identified as C above must follow all of the conditions under A, above, **AND** also must limit the maximum number of piles installed per day to no more than 5 piles per day.**
- D. The projects identified as D above must follow all of the conditions under A and B, above, **AND** also must abide by one of the noise abatement measures below, as chosen by the applicant:**
1. Bubble curtain: The bubble curtain design must adhere to the guidelines for unconfined and confined bubble curtains described in Appendix B.
  2. Temporary noise attenuation pile (TNAP) also known as a pile isolation casing: The TNAP design must be constructed of a double-walled tubular casing (a casing within a larger casing), with at least a 5-in-wide area between the casings that is dewatered to create a hollow space or 5-in wide area between the casings completely filled with closed-cell foam or other noise dampening material between the walls. The TNAP must be long enough to be seated firmly on the sea bottom, fit over the pile being driven, and extend at least 3 ft above the surface of the water.
  3. The use of any other alternative noise control method must receive prior approval by NMFS and the USACE, as described in Section 2.3.
- E. The projects identified as E are not covered under this Opinion.**

## Attachment X

### North Atlantic Right Whale Federal Regulations Information Handout

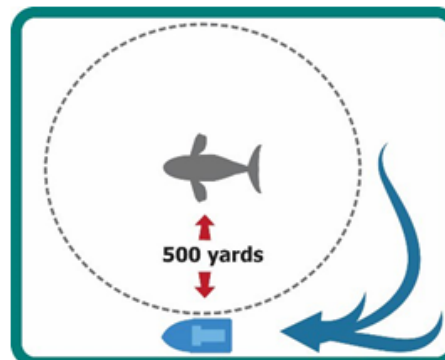
#### Federal Regulations Governing the Approach to North Atlantic Right Whales



1. Federal regulations governing the approach to North Atlantic right whales can be found at 50 CFR 224.103(c). It is illegal to approach and remain within 500 yards of right whales; 500 yards is equal to the distance of 5 football fields.

Prohibitions on approaching right whales are as follows (Excerpts from 50 CFR 224.103(c), available at [www.ecfr.gov](http://www.ecfr.gov)): Unless otherwise lawfully allowed or unless doing so would create an imminent and serious threat to a person or vessel, it is unlawful to:

- (i) *Approach (including by interception) within 500 yards (460 m) of a right whale by vessel*
- (ii) *Fail to undertake required right whale avoidance measures. If underway, a vessel must steer a course away from the right whale and immediately leave the area at a slow safe speed.*



2. Updates can be downloaded from:
  - a. [http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/rightwhale\\_northatlantic.htm](http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/rightwhale_northatlantic.htm), or
  - b. [www.ecfr.gov](http://www.ecfr.gov)

**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in  
or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat  
U.S. Army Corps of Engineers/National Marine Fisheries Service  
November 2017**

**Submerged Aquatic Vegetation:**

1. Avoidance. The piling-supported structure shall be aligned so as to minimize the size of the footprint over SAV beds.
2. The height of piling-supported structure shall be a minimum of 5 feet above MHW/OHW as measured from the top surface of the decking.
3. The width of the piling-supported structure is limited to a maximum of 4 feet. A turnaround area is allowed for piling-supported structures greater than 200 feet in length. The turnaround is limited to a section of the piling-supported structure no more than 10 feet in length and no more than 6 feet in width. The turnaround shall be located at the midpoint of the piling-supported structure.
4. Over-SAV bed portions of the piling-supported structure shall be oriented in a north-south orientation to the maximum extent that is practicable.
5. a. If possible, terminal platforms shall be placed in deep water, waterward of SAV beds or in an area devoid of SAV beds.  
  
b. If a terminal platform is placed over SAV areas and constructed of grated decking, the total size of the platform shall be limited to 160 square feet. The grated deck material shall conform to the specifications stipulated below. The configuration of the platform shall be a maximum of 8 feet by 20 feet. A minimum of 5 feet by 20 feet shall conform to the 5-foot height requirement; a 3 feet by 20 feet section may be placed 3 feet above MHW to facilitate boat access. The long axis of the platform should be aligned in a north-south direction to the maximum extent that is practicable.  
  
c. If the terminal platform is placed over SAV areas and constructed of planks, the total size of the platform shall be limited to 120 square feet. The configuration of the platform shall be a maximum of 6 feet by 20 feet of which a minimum 4-foot wide by 20-foot long section shall conform to the 5-foot height requirement. A section may be placed 3 feet above MHW to facilitate boat access. The 3 feet above MHW section shall be cantilevered. The long axis of the platform should be aligned in a north-south direction to the maximum extent that is practicable. If the 3 feet above MHW section is constructed with grating material, it may be 3 feet wide.
6. One uncovered boat lift area is allowed. A narrow catwalk (2 feet wide if planks are used, 3 feet wide if grating is used ) may be added to facilitate boat maintenance along the outboard side of the boat lift and a 4-foot wide walkway may be added along the stern end of the boat lift, provided all such walkways are elevated 5 feet above MHW. The catwalk shall be cantilevered from the outboard mooring pilings (spaced no closer than 10 feet apart).
7. Pilings shall be installed in a manner which will not result in the formation of sedimentary deposits("donuts" or "halos") around the newly installed pilings. Pile driving is the preferred method of installation, but jetting with a low pressure pump may be used.
8. The spacing of pilings through SAV beds shall be a minimum of 10 feet on center.
9. The gaps between deckboards shall be a minimum of ½ inch.

October 2002 - Grid Specifications and Suppliers Section modified to add an additional vendor of materials.

February 2003 – Manufacturer name changed from ChemGrate to FiberGrate

May 2003 - The terms dock and pier were removed and replaced by the term piling-supported structure, to clarify our intent.

March 2008 – Added requirement for 43% open space in grids; added additional manufacturer of grating.

November 2017 – Manufacturer of grated material updated to include Voyager Industries.

### **Marsh:**

1. The piling-supported structure shall be aligned so as to have the smallest over-marsh footprint as practicable.
2. The over-marsh portion of the piling-supported shall be elevated to at least 4 feet above the marsh floor.
3. The width of the piling-supported is limited to a maximum of 4 feet. Any exceptions to the width must be accompanied by an equal increase in height requirement.

### **Mangroves.**

1. The width of the piling-supported structure is limited to a maximum of 4 feet.
2. Mangrove clearing is restricted to the width of the piling-supported structure.
3. The location and alignment of the piling-supported structure should be through the narrowest area of the mangrove fringe.

## **Grid Specifications and Suppliers**

The following information does not constitute a U.S. Army Corps of Engineers endorsement or advertisement for any particular provider and is provided only as an example for those interested in obtaining these materials for piling-supported structure construction. Light-transmitting materials are made of various materials shaped in the form of grids, grates, lattices, etc., to allow the passage of light through the open spaces. **All light-transmitting materials used in construction for minor piling-supported structures shall have a minimum of forty-three (43) percent open space.**

A type of fiberglass grate panel is manufactured by SeaSafe (Lafayette, LA; phone: 1-800-326-8842) and FiberGrate (1-800-527-4043). A type of plastic grating is manufactured by ThruFlow Interlocking Panels (1-888-478-3569). Plastic grate panels are also distributed by Southern Pine Lumber Company (Stuart, FL; 772-692-2300). Grated panels can be obtained from Titan Deck/Voyager Industries (Brandon, MN; 877-207-4136; [www.titandeck.net](http://www.titandeck.net)). Panels are available in a variety of sizes and thicknesses. For safety, the grate should contain an anti-slip texture which is integrally molded into the top surface. The manufacturer or local distributor should be consulted to ensure that the load-bearing capacity of the selected product is sufficient to support the intended purpose. Contact the manufacturer(s) for product specifications and a list of regional distributors.

October 2002 - Grid Specifications and Suppliers Section modified to add an additional vendor of materials.

February 2003 – Manufacturer name changed from ChemGrate to FiberGrate

May 2003 - The terms dock and pier were removed and replaced by the term piling-supported structure, to clarify our intent.

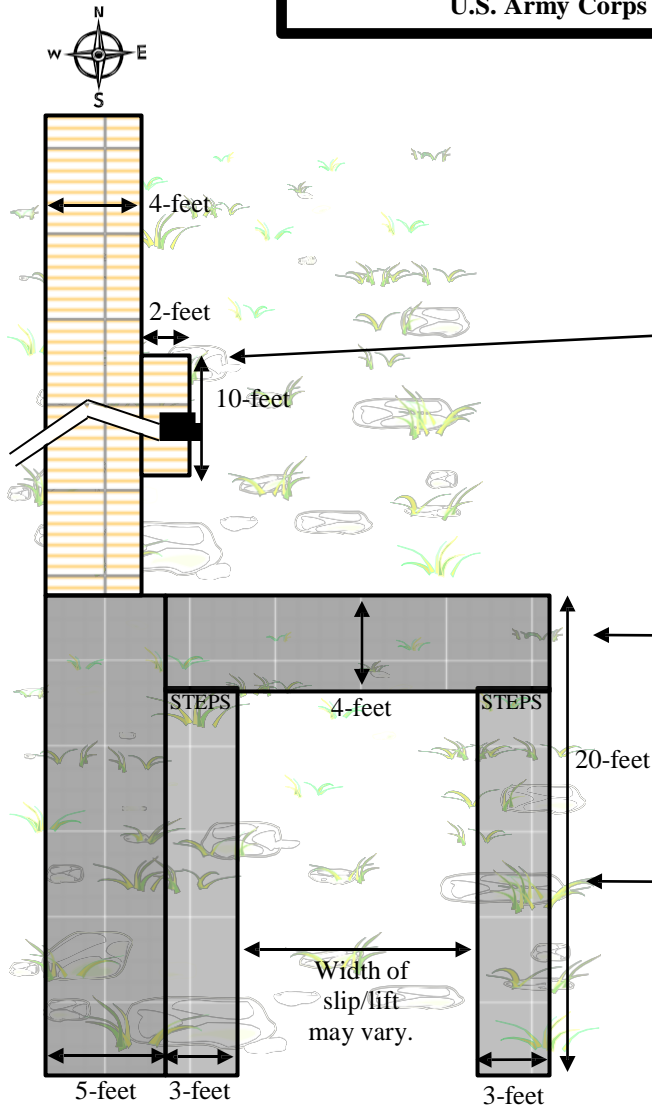
March 2008 – Added requirement for 43% open space in grids; added additional manufacturer of grating.

November 2017 – Manufacturer of grated material updated to include Voyager Industries.



# DOCK EXAMPLE — GRATED TERMINAL PLATFORM

**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat**  
**U.S. Army Corps of Engineers/National Marine Fisheries Service—August 2001**



OVERHEAD PLAN VIEW

**“GRATED DECKING”**  
 Means manufactured with a minimum of 43% open space.

Spacing of pilings through SAV beds shall be a minimum of 10-feet on center.

**MIDPOINT TURNAROUND**  
 Only for docks over 200-feet long.

**LIFT ONLY**  
 No roof.  
 Vessel should be stored as high above MHW as possible.

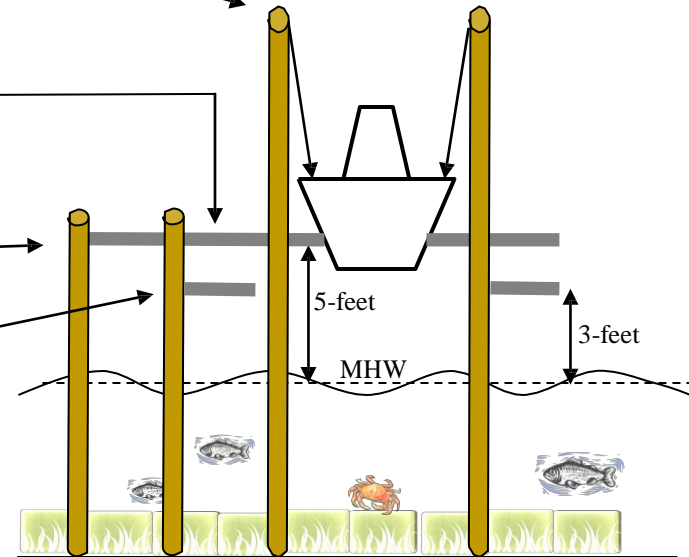
**STERN WALKWAY**  
 Allowed if lift constructed.  
 May be less than 4-feet wide if longer slip is needed.

**MINIMUM HEIGHT**  
 No less than 5-feet above MHW

**ACCESS CATWALKS**  
 3-feet wide if grated decking.  
 3-feet above MHW to facilitate boat access.  
 Cantilevered off main structures; no additional pilings.

**NOTES:**

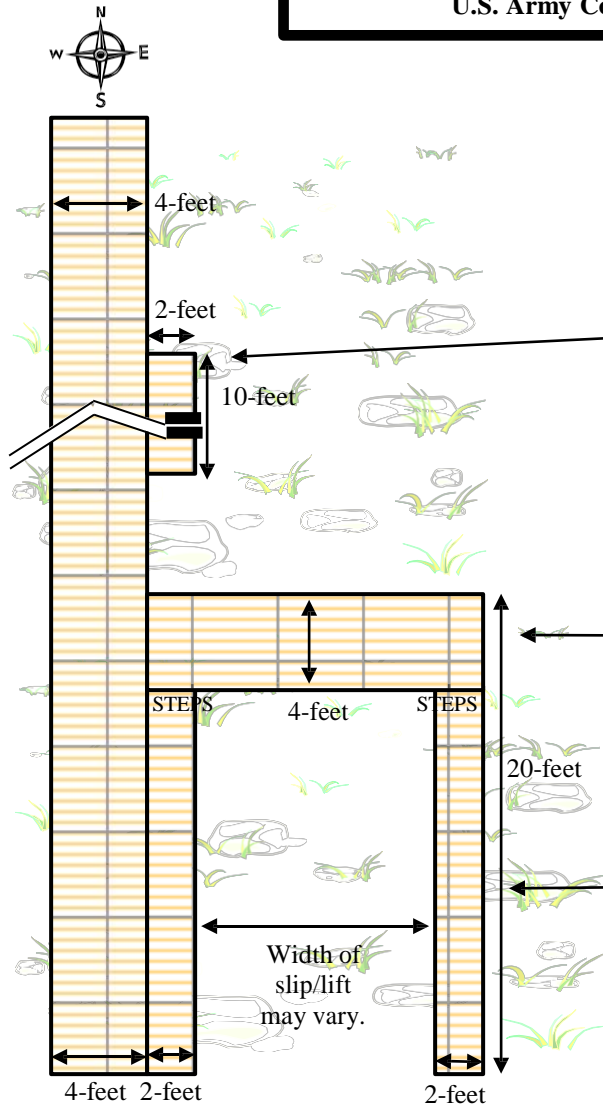
- Not to scale.
- All widths are maximum dimension.
- All heights are minimum dimension.
- Piling supported structures over SAV should be oriented north-south to the extent practicable.
- MHW = mean high water



FRONT PLAN VIEW

# DOCK EXAMPLE — WOOD PLANK TERMINAL PLATFORM

**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat**  
**U.S. Army Corps of Engineers/National Marine Fisheries Service—August 2001**



OVERHEAD PLAN VIEW

The gaps between deckboards shall be a minimum of 1/2 inch.

Spacing of pilings through SAV beds shall be a minimum of 10-feet on center.

**MIDPOINT TURNAROUND**  
 Only for docks over 200-feet long.

**LIFT ONLY**  
 No roof.  
 Vessel should be stored as high above MHW as possible.

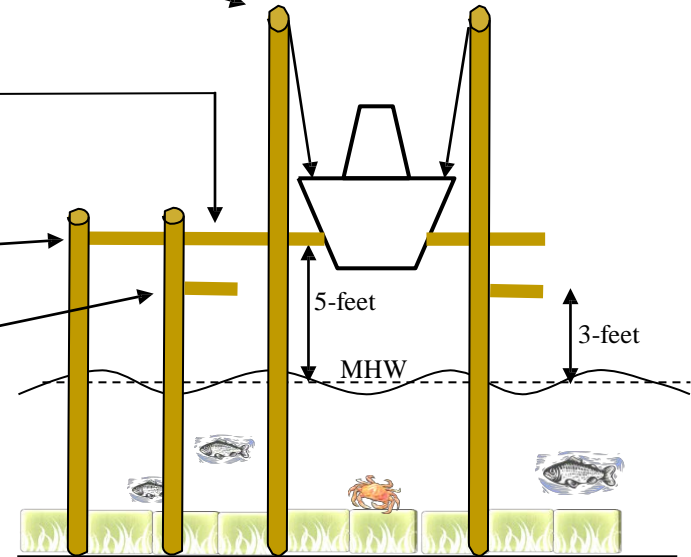
**STERN WALKWAY**  
 Allowed if lift constructed.  
 May be less than 4-feet wide if longer slip is needed.

**MINIMUM HEIGHT**  
 No less than 5-feet above MHW

**ACCESS CATWALKS**  
 2-feet wide if wood decking.  
 3-feet above MHW to facilitate boat access.  
 Cantilevered off main structures;  
 no additional pilings.

**NOTES:**

- Not to scale.
- All widths are maximum dimension.
- All heights are minimum dimension.
- Piling supported structures over SAV should be oriented north-south to the extent practicable.
- MHW = mean high water



FRONT PLAN VIEW



**DEPARTMENT OF THE ARMY**  
**CORPS OF ENGINEERS JACKSONVILLE DISTRICT,**  
**415 RICHARD JACKSON BOULEVARD, SUITE 411**  
**PANAMA CITY BEACH, FLORIDA 32407**

**June 10, 2020**

Regulatory Division  
North Permit Branch  
Panama City Permits Section  
SAJ-2020-02168(GP-LSL)

Mr. Hugh Whitehead  
3209 Chateau Court NW  
Atlanta, Georgia 30805

Dear Mr. Whitehead:

The U.S. Army Corps of Engineers (Corps) assigned your application for a Department of the Army permit, which the Corps received on June 3, 2020, the file number SAJ-2020-02168. A review of the information and drawings provided indicates that the proposed work will result in the construction of a 2,160 square foot single family dock. Specifically, the dock will include a 4' by 500' access dock, 8' by 20' terminal platform, and 2 uncovered boat lifts (14' by 30' adjacent to terminus and 12' by 20' adjacent to access dock). This project also includes a 4' by 87' boardwalk over wetlands which is not a regulated activity for the Corps. This authorization addresses the single family docking structure and boat slips. The activities subject to this permit are authorized pursuant to authorities under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403). The project is located at 2215 Sea Gull Way in Section 29, Township 9 South, Range 6 West, Franklin County, Florida.

Your project, as depicted on the enclosed drawings, is authorized by Regional General Permit (GP) SAJ-20. This authorization is valid until March 27, 2023. Please access the Corps' Jacksonville District Regulatory Division Internet page to view the special and general conditions for SAJ-20, which apply specifically to this authorization. The Internet URL address is:

<http://www.saj.usace.army.mil/Missions/Regulatory.aspx>

Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Once there you will need to click on "Source Book"; and, then click on "General Permits." Then you will need to click on the specific SAJ permit noted above. You must comply with all of the special and general conditions of the permit; and, any project-specific conditions noted below, or you may be subject to enforcement action. The following project-specific conditions are included with this authorization:

**1. Reporting Address:** The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:

a. For electronic mail (preferred): [SAJ-RD-Enforcement@usace.army.mil](mailto:SAJ-RD-Enforcement@usace.army.mil) (not to exceed 15 MB).

b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

The Permittee shall reference this permit number, SAJ-2020-02168(GP - LSL), on all submittals.

**2. Commencement Notification:** Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed "Commencement Notification" Form (Attachment A).

**3. Self-Certification:** Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form (Attachment B) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self-Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.

**4. Agency Changes/Approvals:** Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Panama City Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.

**5. Assurance of Navigation and Maintenance:** The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to

the United States. No claim shall be made against the United States on account of any such removal or alteration.

**6. Posting of Permit:** The Permittee shall have available and maintain for review a copy of this permit and approved plans at the construction site.

**7. Cultural Resources/Historic Properties:**

a. No structure or work shall adversely affect impact or disturb properties listed in the *National Register of Historic Places* (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33



CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

**8. Turbidity Barriers:** Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend to the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained until the authorized work has been completed and all suspended and erodible materials have been stabilized. Turbidity barriers shall be removed upon stabilization of the work area.

**9. Manatee Conditions:** The Permittee shall comply with the "Standard Manatee Conditions for In-Water Work – 2011" (Attachment C).

**10. Jacksonville District Programmatic Biological Opinion (JAXBO), November 2017, Project Design Criteria (PDCs):** Structures authorized under this permit must comply with all applicable PDCs, based on the permitted activity, as required by JAXBO. Please note that failure to comply with the applicable PDCs, where a take of listed species occurs, would constitute an unauthorized take, and noncompliance with this permit. The NMFS is the appropriate authority to enforce the terms and conditions of JAXBO. The most current version of JAXBO can be accessed at the Jacksonville District Regulatory Division internet webpage in the Endangered Species section of the Sourcebook located at:

<http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

**Note** - JAXBO may be subject to revision at any time. The most recent version of these conditions must be utilized during the design and construction of the permitted work. In accordance with the Endangered Species Act, and for those projects which do not comply with JAXBO, the Corps will seek individual consultation with the NMFS.

**Note** - some authorized activities may deviate from the PDCs. In cases, where the activity (i.e., structure dimensions, length, etc.) deviates from the PDCs, the permit drawings shall supersede the PDCs.

For each of the following authorized activities subject of this permit, the permittee shall adhere to the following PDCs, which are attached to, and made part of, this authorization/verification letter:

Activity 2 - Pile-supported Structures and Anchored Buoys: (AP.1-14; A2.1-16; S.1; S.2; S.4) (Attachment D)

**11. Dock Construction Guidelines:** The Permittee shall comply with the “Dock Construction Guidelines in Florida for Docks or Other Minor Structures Constructed in or over Submerged Aquatic Vegetation, Marsh or Mangrove Habitat – U.S. Army Corps of Engineers/National Marine Fisheries Service – November 2017 (Attachment E).

This authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Prior to the initiation of any construction, projects qualifying for this NWP/RGP permit must qualify for an exemption under section 403.813(1), F.S. or 373.406, F.S., or otherwise be authorized by the applicable permit required under Part IV of Chapter 373, F.S., by the Department of Environmental Protection, a water management district under section 373.069, F.S., or a local government with delegated authority under section 373.441, F.S., and receive Water Quality Certification (WQC) and applicable Coastal Zone Consistency Concurrence (CZCC) or waiver thereto, as well as any authorizations required for the use of state-owned submerged lands under Chapter 253, F.S., and, as applicable, Chapter 258, F.S. You should check State-permitting requirements with the Florida Department of Environmental Protection or the appropriate water management district.

This authorization does not include conditions that would prevent the ‘take’ of a state-listed fish or wildlife species. These species are protected under sec. 379.411, Florida Statutes, and listed under Rule 68A-27, Florida Administrative Code. With regard to fish and wildlife species designated as species of special concern or threatened by the State of Florida, you are responsible for coordinating directly with the Florida Fish and Wildlife Conservation Commission (FWC). You can visit the FWC license and permitting webpage (<http://www.myfwc.com/license/wildlife/>) for more information, including a list of those fish and wildlife species designated as species of special concern or threatened. The Florida Natural Areas Inventory (<http://www.fnai.org/>) also maintains updated lists, by county, of documented occurrences of those species.

This authorization does not give absolute Federal authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above RGP(s), please contact Mrs. Lisa S. Lovvorn by telephone at 850-285-9533.

Thank you for your cooperation with our permit program. The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey). Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

Sincerely,

Lisa S. Loworn  
Project Manager

Enclosures

cc:

Ms. Mary Ann Wasmund, Garlick Environmental Associates, Inc.

GENERAL CONDITIONS  
33 CFR PART 320-330

1. The time limit for completing the work authorized ends on the **dates identified in the letter.**
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST**

**PERMIT NUMBER: SAJ-2020-02168(GP-LSL)**

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019 or by electronic mail at [saj-rd-enforcement@usace.army.mil](mailto:saj-rd-enforcement@usace.army.mil).

\_\_\_\_\_  
(TRANSFEREE-SIGNATURE)

\_\_\_\_\_  
(SUBDIVISION)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(LOT)

\_\_\_\_\_  
(BLOCK)

\_\_\_\_\_  
(NAME-PRINTED)

\_\_\_\_\_  
(STREET ADDRESS)

\_\_\_\_\_  
(MAILING ADDRESS)

\_\_\_\_\_  
(CITY, STATE, ZIP CODE)



**PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.**

P. O. BOX 385, APALACHICOLA FLORIDA 32329-0385 (850) 653-8899 FAX (850) 653-9656 garlick@garlickenv.com

LB No. 7415

APPLICANT/CLIENT: Hugh P. Whitehead III

WATERBODY/CLASS: Apalachicola Bay / Class II / OFW / AP

PURPOSE: Environmental Permitting

PROJECT LOCATION / USGS: St George Island / Franklin County

LATITUDE: 29° 37' 16.91"

LONGITUDE: 84° 57' 4.35"

SECTION: 29 TOWNSHIP: 9 South RANG: 6 West

JOB: 20-030

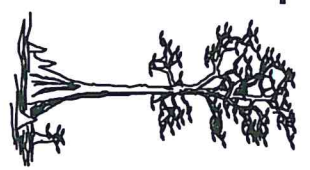
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COE:

OTHER:

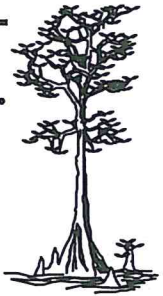
DATE: May 4, 2020

SHEET: 1/5



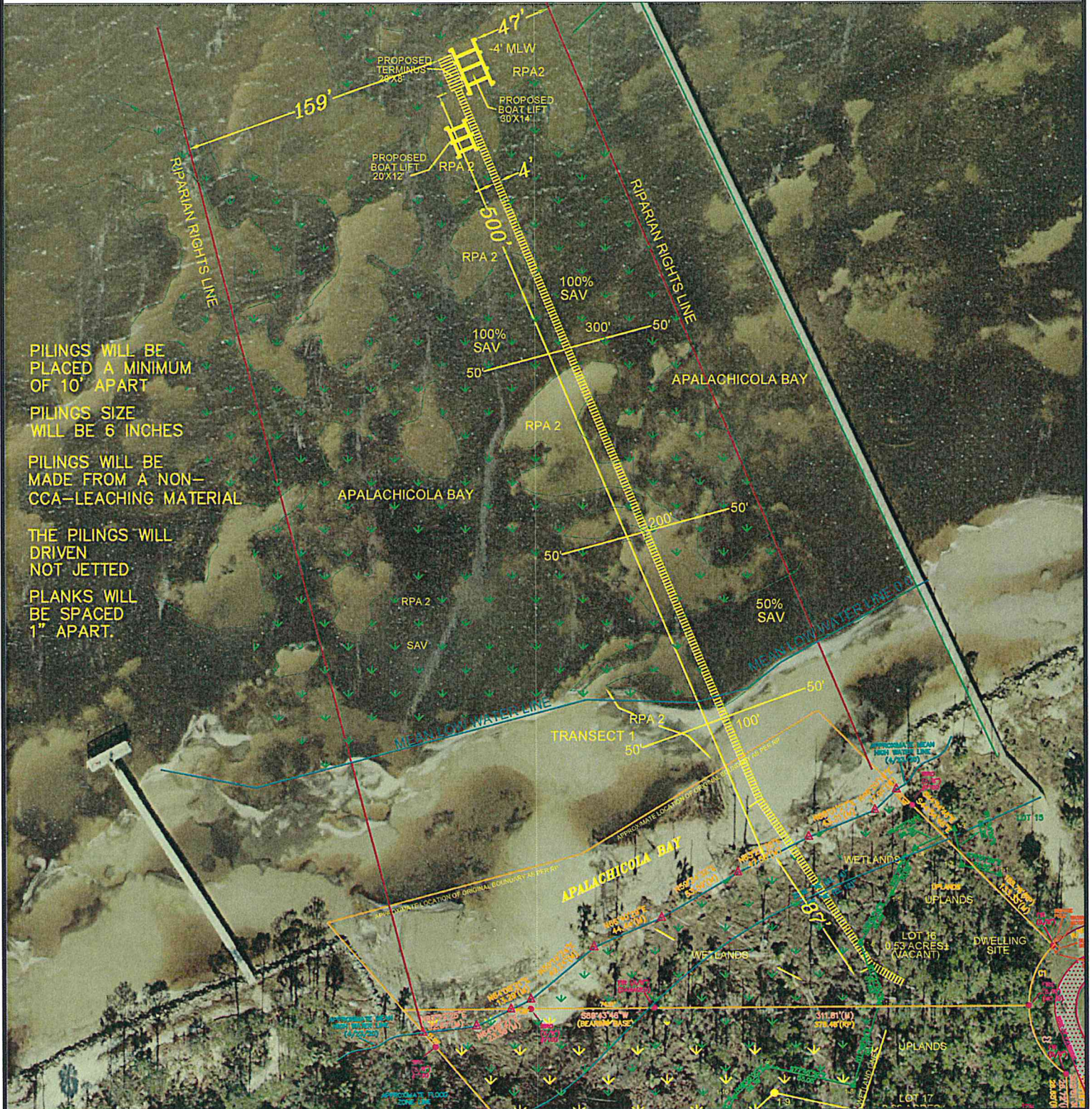


# PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.



**APPLICANT/CLIENT:** Hugh P. Whitehead III  
**WATERBODY/CLASS:** Apalachicola Bay / ClassII / OFW / AP  
**PURPOSE:** Environmental Permitting  
**PROJECT LOCATION / USGS:** St George Island / Franklin County  
**LATITUDE:** 29° 37' 16.91"  
**LONGITUDE:** 84° 57' 4.35"  
**SECTION:** 29 **TWNSHP:** 9 South **RNG:** 6 West

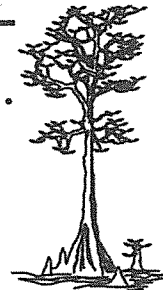
**JOB:** 20-030  
**DEP:**  
**COE:**  
**OTHER:** Rev. 5-28-20  
**DATE:** May 4, 2020  
**SHEET:** 2/5



PILINGS WILL BE PLACED A MINIMUM OF 10' APART  
 PILINGS SIZE WILL BE 6 INCHES  
 PILINGS WILL BE MADE FROM A NON-CCA-LEACHING MATERIAL  
 THE PILINGS WILL DRIVEN NOT JETTED  
 PLANKS WILL BE SPACED 1" APART.



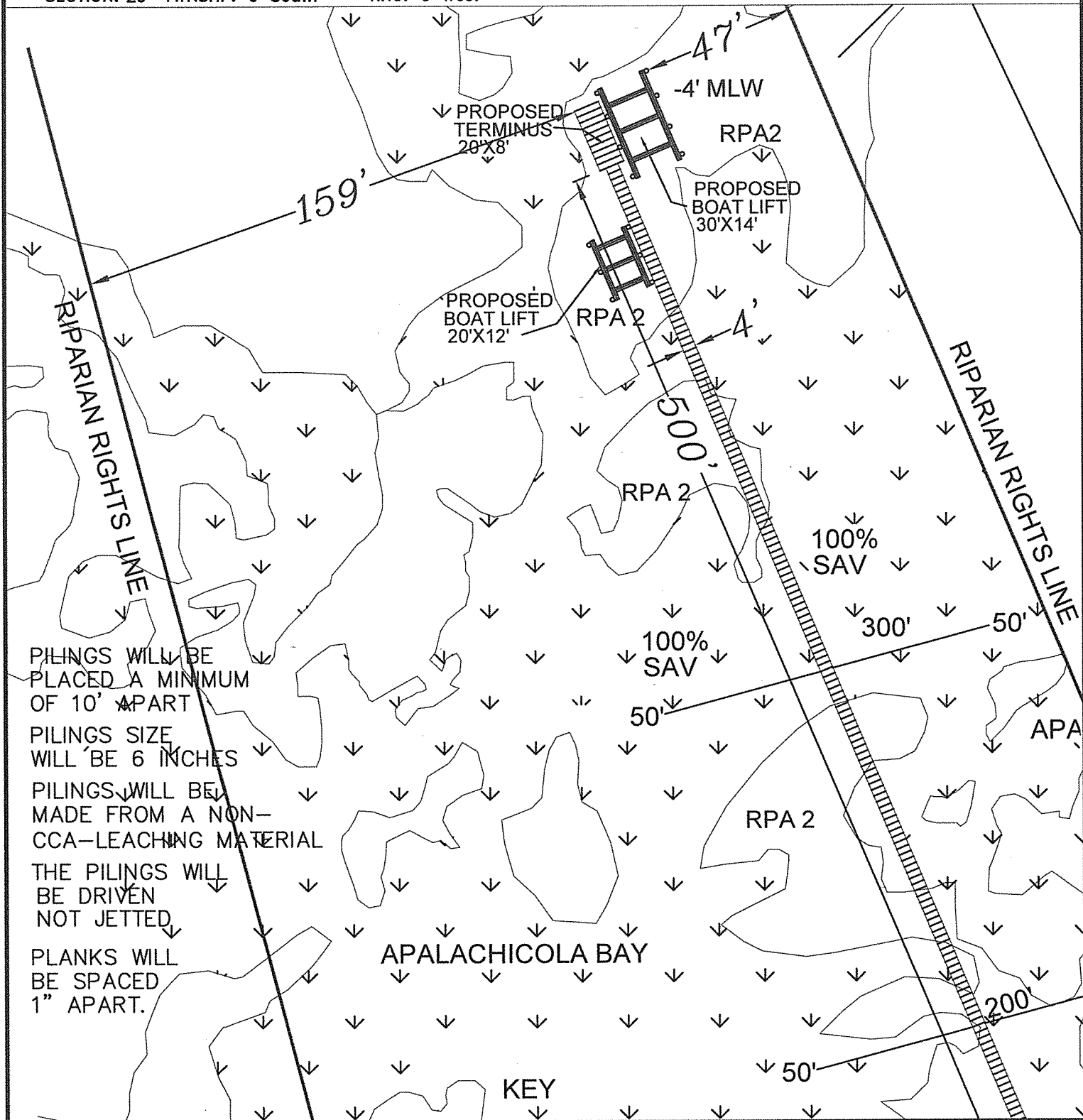
# PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.



APPLICANT/CLIENT: Hugh P. Whitehead III  
 WATERBODY/CLASS: Apalachicola Bay / ClassII / OFW / AP  
 PURPOSE: Environmental Permitting  
 PROJECT LOCATION / USGS: St George Island / Franklin County  
 LATITUDE: 29° 37' 16.91"  
 LONGITUDE: 84° 57' 4.35"

JOB: 20-030  
 DEP:  
 COE:  
 OTHER: Rev. 5-28-20  
 DATE: May 4, 2020  
 SHEET: 3/5

SECTION: 29 TWSHP: 9 South RNG: 6 West



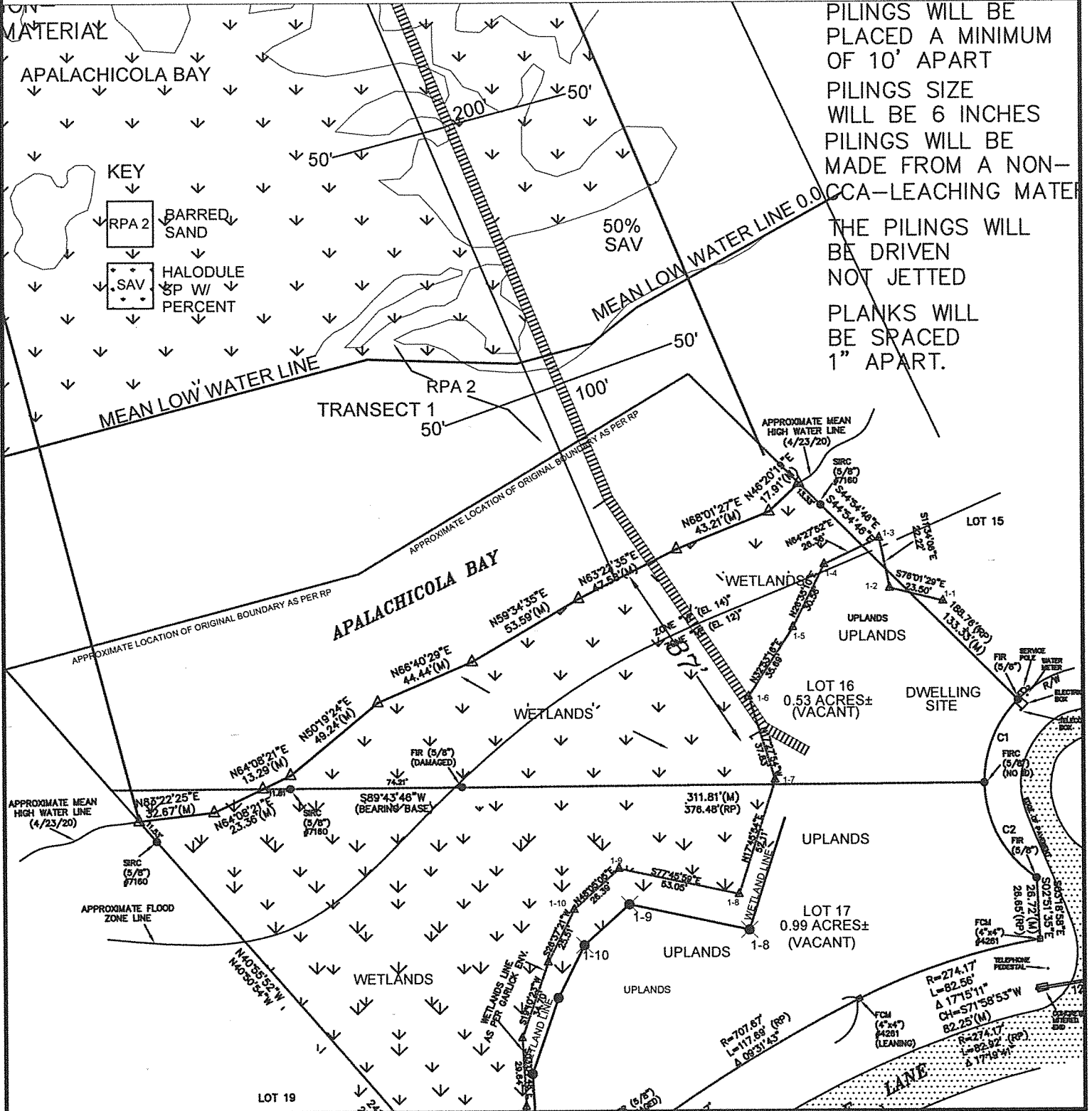
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 PLANKS WILL BE SPACED 1" APART.

# PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.



**APPLICANT/CLIENT:** Hugh P. Whitehead III  
**WATERBODY/CLASS:** Apalachicola Bay Class II / OFW / AP  
**PURPOSE:** Environmental Permitting  
**PROJECT LOCATION / USGS:** St George Island / Franklin County  
**LATITUDE:**  
**LONGITUDE:**  
**SECTION:** 29 **TWNSHP:** 9 South **RNG:** 6 West

**JOB:** 20-030  
**DEP:**  
**COE:**  
**OTHER:** Rev. 5-28-20  
**DATE:** May 4, 2020  
**SHEET:** 4/5



# PREPARED BY: GARLICK ENVIRONMENTAL ASSOCIATES, INC.

P. O. BOX 385, APALACHICOLA FLORIDA 32329-0385 (850) 653-8899 FAX (850) 653-9656 garlick@garlickenv.com

LB No. 7415

APPLICANT/CLIENT: Hugh P. Whitehead III

WATERBODY/CLASS: Apalachicola Bay / Class II / OFW / AP

PURPOSE: Environmental Permitting

PROJECT LOCATION / USGS: St George Island / Franklin County

LATITUDE: 29° 37' 16.91"

LONGITUDE: 84° 57' 4.35"

SECTION: 29 TOWNSHIP: 9 South RING: 6 West

JOB: 20-030

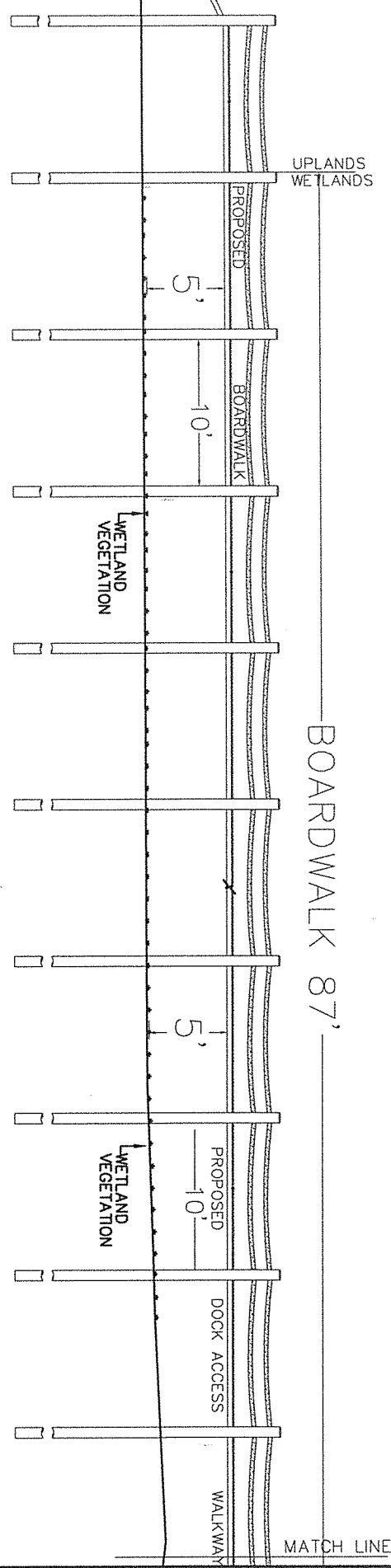
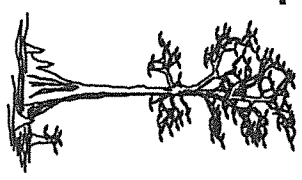
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OTHER:

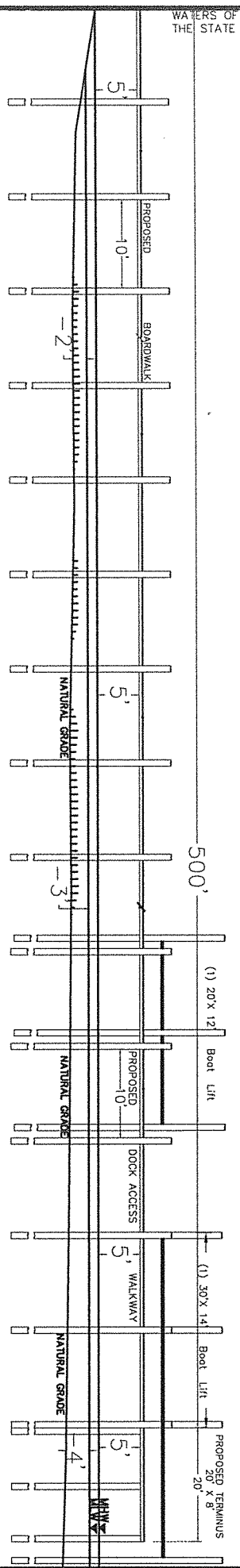
DATE: May 4, 2020

SHEET: 5/5



BOARDWALK 87'

MATCH LINE



These drawings are for permitting purposes only. Not intended for construction purposes



## COMMENCEMENT NOTIFICATION

*Within ten (10) days of initiating the authorized work, submit this form via electronic mail to [saj-rd-enforcement@usace.army.mil](mailto:saj-rd-enforcement@usace.army.mil) (preferred, not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-2020-02168 (GP-LSL)

2. **Permittee Information:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

3. **Construction Start Date:** \_\_\_\_\_

4. **Contact to Schedule Inspection:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Printed Name of Permittee

\_\_\_\_\_  
Date

**SELF-CERTIFICATION STATEMENT OF COMPLIANCE**

*Within sixty (60) days of completion of the authorized work, submit this form via electronic mail to [saj-rd-enforcement@usace.army.mil](mailto:saj-rd-enforcement@usace.army.mil) (preferred, not to exceed 15MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-2020-02168(GP-LSL)

2. **Permittee Information:** Name: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

3. **Date Authorized Work Started:** \_\_\_\_\_ **Completed:** \_\_\_\_\_

4. **Contact to Schedule Inspection:** Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

5. **Description of Authorized Work (e.g. bank stabilization, fill placed within wetlands, docks, dredging, etc.):** \_\_\_\_\_

\_\_\_\_\_

6. **Acreage or Square Feet of Impacts to Waters of the United States:** \_\_\_\_\_

7. **Describe Mitigation completed (if applicable):** \_\_\_\_\_

\_\_\_\_\_

8. **Describe any Deviations from Permit (attach drawing(s) depicting the deviations):**

\_\_\_\_\_

\*\*\*\*\*

I certify that all work and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Printed Name of Permittee

\_\_\_\_\_  
Date

## STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. 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.
- b. 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 will follow routes of deep water whenever possible.
- c. 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 must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. 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 in Vero Beach (1-772-562-3909) for south Florida, and emailed to FWC at [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com).
- f. 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. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [http://www.myfwc.com/WILDLIFEHABITATS/manatee\\_sign\\_vendors.htm](http://www.myfwc.com/WILDLIFEHABITATS/manatee_sign_vendors.htm). Questions concerning these signs can be forwarded to the email address listed above.

## Project Design Criteria (PDCs) Applicable to All Projects

**NOTE** - You are required to comply with the following PDCs, which serve to address requirements pursuant to Section 7, Endangered Species Act (ESA) for those listed species and designated critical habitat under purview of the National Marine Fisheries Service Protected, Resources Division. These PDCs are taken from the Programmatic Biological Opinion (PBO) referred to as JaxBO. These criteria serve to address ESA requirements only, and additional conditions may be required to address other Federal laws, including the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. Authorization under this permit is conditional upon your compliance with all applicable PDCs, which are made part of this permit. You are reminded that you must complete the attached self-certification statement of compliance following completion of the authorized work. Your statement of compliance does not obviate the need to satisfy all PDCs, including those requirements (e.g., such as structural dimensions and educational signs) that are observable post-construction, and those requirements (e.g., construction methods or procedures to be followed) that are not observable post-construction. Please note that failure to comply with the applicable PDCs of this PBO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with this permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of this PBO.

**AP.1.** The applicant must agree to adhere to PDCs for *In-Water Activities* (provided below).

**AP.2.** All projects involving the installation of piles or sheet piles shall follow the PDCs for *In-Water Noise from Pile and Sheet Pile Installation* (Section 2.2). This Opinion does not cover projects that use seismic surveys, low frequency sonar, explosions, and seismic air guns.

**AP.3.** All projects proposed in or near areas with mangroves, seagrasses, corals, or hard bottom habitat must refer to PDCs for *Mangroves, Seagrasses, Corals, and Hard Bottom for All Projects* (provided below) to determine whether the project is covered under the Opinion and, if it is covered, to ensure it is sited, designated, and implemented following all of the PDCs in that section.

**AP.4.** For every project, the USACE must determine if the project is located within:

- a) Smalltooth sawfish critical habitat limited exclusion zones (Section 2.1.1.1)
- b) Gulf sturgeon critical habitat migratory restriction zones (Section 2.1.1.2)
- c) Atlantic sturgeon critical habitat exclusion zone (St. Marys River) (Section 2.1.1.3)
- d) North Atlantic right whale educational sign zones (Section 2.1.1.4)
- e) U.S. Caribbean sea turtle critical habitat restriction zones (Section 2.1.1.5)
- f) Bryde's whale exclusion zone (Section 2.1.1.6)

Where the activity is excluded from the Opinion within a particular zone, the application must be processed under a separate consultation. Where additional restrictions apply to activities within that zone, the USACE or other authorizing entity must ensure that the project meets the requirements for that zone.

**AP.5.** This Opinion only covers new construction (i.e., installation, repair, replacement) and does not apply to after-the-fact consultations or enforcement actions handled by the Corps.

**AP.6.** All activities must be completed during daylight hours.

## Project Design Criteria (PDCs) for In-Water Activities

**AP.7. Education and Observation:** The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:

[http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/threatened\\_endangered/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html)

**AP.8. Reporting Interactions with Protected Species:**

- a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to: [takereport.nmfs@noaa.gov](mailto:takereport.nmfs@noaa.gov) and [SAJ-RD-Enforcement@usace.army.mil](mailto:SAJ-RD-Enforcement@usace.army.mil).
- b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email: [Sawfish@MyFWC.com](mailto:Sawfish@MyFWC.com)
- c) Sturgeon: Report dead sturgeon to 1-844-STURG 91 (1-844-788-7491) or email: [nmfs.ser.sturgeonnetwork@noaa.gov](mailto:nmfs.ser.sturgeonnetwork@noaa.gov)
- d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
- e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.

**AP.9. Vessel Traffic and Construction Equipment:** All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:

- a) *Construction Equipment*.
  - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
  - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
  - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of construction equipment and shall not resume until the species has departed the area of its own volition.
  - iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.





- b) *All Vessels:*
  - i) Sea turtles: Maintain a minimum distance of 150 ft.
  - ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
  - iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
  - iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
  - v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
  - vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
  - vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

- AP.10. Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:
- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
  - b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
  - c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
  - d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
  - e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):
    - i. Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
    - ii. The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cable

line). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.

**AP.11. Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.

- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
- b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

## Project Design Criteria (PDCs) for Mangroves, Seagrasses, Corals and Hard Bottom for All Projects

Note: **For projects authorized in reliance on this Opinion only**, the PDCs below supercede any other guidance documents otherwise applicable to reduce or avoid impacts to mangroves, seagrasses, and corals. This includes the NMFS's *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation, Marsh, or Mangrove Habitat* dated August 2001, and NMFS's *Key for Construction Conditions for Docks or Other Minor Structures Constructed in or over Johnson's Seagrass (Halophila johnsonii)*, dated October 2002. NMFS may still apply these guidance documents in other consultations, including consultations on Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

### **AP.12. Mangroves:**

- a) To qualify for coverage under this Opinion, all projects must be sited and designed to avoid or minimize impacts to mangroves.
- b) Mangrove removal must be conducted in a manner that avoids any unnecessary removal and is limited to the following instances:
  - i. Removal to install up to a 4-ft-wide walkway for a dock.
  - ii. Removal to install up to an 8-ft-wide walkway for public docks, where the walkway is necessary to address compliance with the Americans with Disability Act (ADA).
  - iii. Removal to install culverts necessary to improve water quality or restore hydrology between 2 water bodies. Such mangrove removal is limited to a maximum of 20 linear feet (lin ft) of shoreline per culvert opening.
  - iv. Removal of mangroves above mean high water (MHW) provided that the tree does not have any prop roots that extend into the water below the MHWL.
- c) Mangrove Trimming. Mangrove trimming is regulated by FDEP, Puerto Rico Department of Natural and Environmental Resources, and U.S. Virgin Islands Department of Planning and Natural Resources. Consistent with those authorities, when used in this Opinion, mangrove trimming refers to the removal (using hand equipment such as chain saws and/or machetes) of lateral branches (i.e., no alteration of the trunk of the tree) in a manner that ensures survival of the tree. This Opinion does not limit or supersede any restrictions on mangrove removal required under any federal, state, or local law.
  - i. This Opinion only covers projects with associated mangrove trimming occurring waterward of MHW if such trimming (1) occurs within the area where the authorized structures are placed or will be placed (e.g., removal of branches that overhang a dock),
  - ii. (2) is necessary to provide temporary construction access, and (3) is conducted in a manner that avoids any unnecessary trimming.

- iii. The Opinion does not apply to projects proposing to remove red mangrove props roots waterward of MHW, except for removal to install the dock walkways, as described above (up to a 4-ft walkway and up to a 8-ft ADA compliant walkway) and to install culverts necessary to improve water quality or restore hydrology between 2 water bodies.

**AP.13. Seagrass:**

- a) Pile-supported structures must follow the PDCs for *Docks or Other Minor Structures* (PDC A2.17, Section 2.2.2)

**Johnson's seagrass:**

- b) This Opinion does not apply to projects where Johnson's seagrass is found within the project footprint except for:
  - i. Installation of pile-supported structures that meet the PDCs for *Docks or Other Minor Structures* (PDC A2.17, Section 2.2.2).
  - ii. Maintenance dredging of previously authorized areas. This is limited to the removal of no more than 0.1 acre (ac) (4,356 ft<sup>2</sup>) of Johnson's seagrass per year (Activity 3; see Section 2.2.3).
  - iii. Transmission/utility line repairs within the same footprint of the lines being repaired (Activity 8; see Section 2.2.8).

**Non-listed seagrasses:**

- a) All impacts to non-ESA listed native, non-invasive seagrasses should be avoided and minimized to the extent practicable.
- b) This Opinion does not apply to projects located within the geographic boundary of U.S. Caribbean sea turtle critical habitat (hawksbill, leatherback, and the NA DPS of green sea turtle critical habitat identified in Section 2.1.1.5) if non-ESA listed, native, non-invasive seagrasses are found within the project footprint.
- c) This Opinion does not apply to projects that may affect, directly or indirectly, ESA-listed corals.
- d) Projects occurring within in the Florida Keys National Marine Sanctuary (FKNMS) may require separate consultation or authorization from NOAA's FKNMS. Projects authorized to occur in the FKNMS shall comply with any measures NOAA FKNMS has developed to avoid, minimize, and/or mitigate any effects on non-listed corals. For projects occurring outside of the FKNMS, if non-listed corals are found within the project footprint, we recommend relocating all non-listed corals, when possible, in a manner that is protective of the corals.



**AP.14. Coral and Hard Bottom Habitat:**

- a) This Opinion does not apply to projects that may affect, directly or indirectly, ESA-listed corals.
- b) Projects occurring within in the Florida Keys National Marine Sanctuary (FKNMS) may require separate consultation or authorization from NOAA's FKNMS. Projects authorized to occur in the FKNMS shall comply with any measures NOAA FKNMS has developed to avoid, minimize, and/or mitigate any effects on non-listed corals. For projects occurring outside of the FKNMS, if non-listed corals are found within the project footprint, we recommend relocating all non-listed corals, when possible, in a manner that is protective of the corals.
- c) This Opinion does not apply to projects where hard bottom habitat is found within the project footprint, except for the temporary placement (up to 24 months) of scientific survey devices (Activity 5) that have a footprint of less than 1 square foot (ft<sup>2</sup>) per device and are installed in a manner that does not permanently alter the hardbottom (e.g., the devices are not installed by drilling). For this Opinion, we define hard bottom in 2 ways:
  - i. Natural consolidated hard substrate that is suitable to support corals, coral larval settlement, reattachment and recruitment of asexual coral fragments. These areas of hard bottom or dead coral skeleton must be free from fleshy or turf macroalgae cover and sediment cover.
  - ii. Nearshore and surf-zone, low-profile hard bottom outcroppings (e.g., worm-rock reef [sabellariid worm reefs] and eolianite, granodiorite). This habitat can be persistent or ephemeral, cycling through periods of exposure and cover by sand. The range of this hard bottom habitat extends along the southeastern coast of Florida from Cape Canaveral to Miami-Dade County and in the U.S. Caribbean. It is an important developmental habitat for juvenile hawksbill and green sea turtles, which use it for both foraging and refuge.

## **Project Design Criteria (PDCs) Specific to Activity 2 for Pile-Supported Structures and Anchored Buoys**

**A2.1.** Activities covered by this Opinion include the installation, repair, replacement, and removal of structures as described below:

- A2.1.1. The pile-supported and anchored structures included in this Opinion are: docks and piers, boatlifts, mooring piles and dolphin piles associated with docks/piers; ATONs and PATONs; floating docks; pile-supported chickees (i.e., small, back-country, over-water, pile-supported, primitive camping shelters); boardwalks (as long as they are designed and clearly marked to prohibit fishing and vessel mooring); mooring fields and buoys; and other minor pile-supported structures. This does not include structures that support large commercial vessels including ferries, tankers, and cargo ships such as ferry terminals and large ports.
- A2.1.2. Pile-supported docks/piers for a single-family residential lot are limited to 4 slips for motorized vessels. Slips for non-motorized vessels (e.g., kayak, canoe, and paddleboard) and associated launching areas do not count toward the total slip number.
- A2.1.3. Pile-supported structures for marinas, multi-family facilities (e.g., condo complexes, trailer parks, subdivisions when the homeowners association owns and controls the in-water structures). Docks and piers for multi-family residential properties (e.g., condos, trailer parks, apartment complexes), and marinas are limited to a maximum of 50 total slips (i.e., combination of wet and dry slips for existing plus proposed slips).
- A2.1.4. Anchored buoys and temporary pile-supported structures associated with marine events. Upon completion of the event, these structures must be removed and, to the maximum extent practical, the site must be restored to pre-construction elevations. Water depths in the area of marine events must be deep enough to support at least 5 ft of water depth under the keel of a vessel and between the keel of a vessel and ESA-listed coral colonies when transiting to the mooring areas. There is no limit on the number of vessel slips allowed for temporary structures associated marine events such as boat shows.
- A2.1.5. Mooring fields are limited to a maximum of 50 motorized vessels (there is no limit on the number of non-motorized vessels).
- A2.1.6. All pile-supported structures constructed must comply with PDC 2.17 for *Docks or Other Minor Structures Constructed in Florida Under this Opinion* (see below).

**The following PDCs apply to all the activities described in PDC A2.1 above:**

**A2.2.** For commercial, multi-family, or public facilities, and marine events, signs must be posted in a visible location(s), alerting users of listed species in the area susceptible to vessel strikes and hook-and-line captures. The most current version of the signs that must be downloaded and sign installation guidance are available at:

([http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/protected\\_species\\_educational\\_signs/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/protected_species_educational_signs/index.html)). The signs required to be posted by area are stated below:

- A2.2.1. All projects in Florida shall use the Save Sea Turtle, Sawfish, and Dolphin sign. These signs shall include contact information to the sea turtle and marine

- mammal stranding networks and smalltooth sawfish encounter database.
- A2.2.2. Projects within the North Atlantic right whale educational sign zone (as defined in Section 2.1.1.4) shall post the Help Protect North Atlantic Right Whales sign.
  - A2.2.3. On the east coast of Florida, projects located within the St. John's River and those occurring north of the St. Johns River to the Florida-Georgia line shall post the Report Sturgeon sign. On the west coast of Florida, projects occurring from the Cedar Key, Florida north to the Florida-Alabama line.
  - A2.2.4. We are still developing the signs to be used in the U.S. Caribbean. Once developed, those signs will be included at the website above.

**A2.3.** For commercial, multi-family, or public facilities, monofilament recycling bins must be provided at the docking facility to reduce the risk of turtle or sawfish entanglement in, or ingestion of, marine debris. Monofilament recycling bins must:

- A2.3.1. Be constructed and labeled according to the instructions provided at <http://mrrp.myfwc.com>.
- A2.3.2. Be maintained in working order and emptied frequently (according to <http://mrrp.myfwc.com> standards) so that they do not overflow.

**A2.4.** For any dock project (new construction, repair, or replacement) at a private residence located within 11 nautical miles of North Atlantic right whale critical habitat (as measured in a radius from the center of the nearest inlet to open ocean and described in Section 2.1.1.4), the property owner will be provided a handout with their USACE permit describing the presence of North Atlantic right whales in the area and the Federal regulations governing the approach to North Atlantic right whales (Appendix C).

**A2.5.** ATONs and PATONs must be approved by and installed in accordance with the requirements of the USCG (see 33 CFR, chapter I, subchapter C, part 66 and RHA Section 10 and any other pertinent requirements).

**A2.6.** Chickees must be less than 500 ft<sup>2</sup> and support no more than 2 slips.

**A2.7.** No activities associated with municipal or commercial fishing piers are covered under this Opinion.

**A2.8.** Docks installed within visible distance of ocean beaches are required to comply with turtle-friendly lighting, if lighting is necessary to the project. Turtle-friendly lighting is explained and examples are provided on the Florida Fish and Wildlife Conservation Commission website:  
<http://myfwc.com/wildlifehabitats/managed/sea-turtles/lighting/>

**A2.9.** Project construction will take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.



## **Additional PDCs for Activity 2 applicable in Critical Habitat**

- A2.10.** *Acropora* critical habitat and the U.S. Caribbean: This Opinion does not cover new and expanded pile-supported structures in *Acropora* critical habitat where the essential features are present. The distance from ATONs to ESA-listed corals and *Acropora* critical habitat shall ensure there are no impacts to the corals or the essential feature of *Acropora* critical habitat from the movement of buoys and tackle. The appropriate distance shall be based on the size of the anchor chain or other tackle to be installed to secure the buoy to its anchor, particularly when the design of the ATON does not prohibit contact of tackle with the marine bottom. In all cases, buoy tackle will include flotation to ensure there is no contact between the anchor chain or line and the marine bottom.
- A2.11.** Gulf sturgeon critical habitat: Additional noise restrictions are required for pile and sheet pile installation in the Gulf sturgeon critical habitat migratory restriction zones defined in Section 2.1.1.2. The noise restrictions are described in that section.
- A2.12.** Smalltooth sawfish critical habitat: This Opinion does not cover activities occurring in areas identified as smalltooth sawfish limited exclusion zones defined in Section 2.1.1.1.
- A2.13.** North Atlantic right whale critical habitat: This Opinion does not cover installation of anchored ATONs and permanent buoys in North Atlantic right whale critical habitat; temporary buoys for marine events are allowed in North Atlantic right whale critical habitat.
- A2.14.** Johnson's seagrass critical habitat: This Opinion does not cover new marinas or multi-family facilities in Johnson's seagrass critical habitat. Repair, replacement, and reconfiguration of existing marinas or multi-family facilities may be covered if it (1) occurs within same overall footprint (out to the perimeter of the facility, including the outer limits of the structure and permitted mooring locations), (2) does not increase the total aerial extent (i.e., area of coverage from the dock structures) of the existing facility, and (3) does not affect Johnson's seagrass. Mooring fields are allowed in Johnson's seagrass critical habitat and within the range of Johnson's seagrass so long as they occur in waters deeper than -13 ft (-4 m).
- A2.15.** NWA DPS of loggerhead sea turtle critical habitat: ATONs (pile-supported and anchored buoys) are allowed in nearshore reproductive habitat of the NWA DPS of loggerhead sea turtles under this Opinion. No other pile-supported structures are allowed in nearshore reproductive habitat under this Opinion.
- A2.16.** U.S. Caribbean sea turtle critical habitat (hawksbill, leatherback, and the NA DPS of green sea turtle critical habitat): ATONs (pile-supported and anchored buoys) are allowed near sea turtle nesting beaches under this Opinion. No other pile-supported structures are allowed near sea turtle nesting beaches under this Opinion.



## **Project Design Criteria (PDCs) for Gulf Sturgeon Critical Habitat Migratory Restriction Zones**

1. This Opinion does not apply to the placement of living shoreline, oyster reef, and artificial reef materials (Activity 7, PDC A7.26) and temporary platform, fill, and cofferdams (Activity 10, PDC A10.11) in Gulf sturgeon critical habitat migratory restriction zones.
2. This Opinion does not apply to new transmission and utility line installation in the Gulf sturgeon critical habitat migratory restriction zones between September and March, when sturgeon are likely to be present in these areas. Emergency repair/replacement of transmission and utility lines may occur in these areas during this time frame if the work is conducted without the use of heavy in-water equipment (e.g., dredging equipment) (Activity 8, PDC A8.10).
3. This Opinion does not apply to the installation of metal piles and metal sheet piles by impact hammer in the areas identified as Gulf sturgeon critical habitat migratory restriction zones.
4. The allowable pile and sheet pile driving activities vary depending on the width of the project action area, as described below.
5. Areas that are 0-500 ft wide: In areas up to 500 ft wide, the allowable pile or sheet pile driving activities within the Gulf sturgeon critical habitat migratory restriction zones are:
  - a. Creating a pilot hole for any type of pile using an auger or drop punch
  - b. Trenching a shoreline with mechanical equipment to create a space to install any type of sheet pile and backfilling behind it
  - c. Installing any type of piles and sheet piles by jetting.
6. Areas that are 501-1,400 ft wide: In areas over 500 ft wide, but less than 1,400 ft wide, the allowable pile or sheet pile driving activities within the Gulf sturgeon critical habitat migratory restriction zones are:
  - a. The activities described in 1-3 above, and
  - b. Installing any type of piles and sheet piles by vibratory hammer.
7. Areas over 1,401 ft wide: In areas 1,401 ft wide or wider, the allowable pile or sheet pile driving activities within the Gulf sturgeon critical habitat migratory restriction zones are:
  - a. The activities described in 1-4 above, and
  - b. Installing wood, vinyl, and concrete piles and sheet piles by impact hammer.

## Project Design Criteria (PDCs) for In-Water Noise from Pile and Sheet Pile Installation

### Open Water

The letters A-E in the tables below specify the PDC category. Activities labeled A-D must follow the corresponding PDCs for labeled Category A-D below. Activities labeled E are excluded from this Opinion, as stated in Category E below.

	Trench and	Pilot hole (auger or	Jetting	Vibratory	Impact hammer
Wood piles 14-inch (in) diameter or less when installed via impact hammer and 36-in or less for all other installation methods	A	A	A	A	B
Concrete pile 24-in diameter/width or less in open	A	A	A	A	B
Metal pipe pile 36-in diameter or less	A	A	A	A	E
2 metal boatlift I-beams	A	A	A	A	B
Concrete slab wall- any size	A	A	A	A	B
Vinyl sheet pile- any size	A	A	A	A	B
Metal sheet pile- any size	A	A	A	A	E

### Confined Space

In Florida, we consider the confined space to be any area that has a solid object (e.g., shorelines or seawalls) within 150 ft of the pile installation site and in the U.S. Caribbean we consider confined space to be any area that has a solid object within 260 ft of the pile installation site.

	Trench and	Pilot hole (auger or	Jetting	Vibratory	Impact hammer
Wood pile 14-in diameter or less when installed via impact hammer and 36-in or less for all other installation methods	A	A	A	A	B
Concrete pile 24-in diameter/width or less (5 piles	A	A	A	A	C
Concrete pile 24-in diameter/width or less (6-10	A	A	A	A	D
Metal pipe pile 36-in diameter or less	A	A	A	A	E
2 metal boatlift I-beams	A	A	A	A	B
Vinyl sheet pile – any size	A	A	A	A	B
Concrete slab wall- any size (5 slabs or less	A	A	A	A	C
Concrete slab wall- any size (6-10 slabs installed/day)	A	A	A	A	D
Metal sheet pile- any size	A	A	A	A	E

- A. The Projects identified as A above must comply with PDCs identified for all projects in this Opinion. Specific PDCs related to noise include:**
1. All work must occur during daylight hours only (PDC AP.6).
  2. All construction personnel are responsible for observing water-related activities to detect the presence of these species and avoid them (PDC AP.7).
- B. The projects identified as B above must follow all of the conditions under A, above, **AND** also must limit the maximum number of piles installed per day to no more than 10 piles per day.**
- C. The projects identified as C above must follow all of the conditions under A, above, **AND** also must limit the maximum number of piles installed per day to no more than 5 piles per day.**
- D. The projects identified as D above must follow all of the conditions under A and B, above, **AND** also must abide by one of the noise abatement measures below, as chosen by the applicant:**
1. Bubble curtain: The bubble curtain design must adhere to the guidelines for unconfined and confined bubble curtains described in Appendix B.
  2. Temporary noise attenuation pile (TNAP) also known as a pile isolation casing: The TNAP design must be constructed of a double-walled tubular casing (a casing within a larger casing), with at least a 5-in-wide area between the casings that is dewatered to create a hollow space or 5-in wide area between the casings completely filled with closed-cell foam or other noise dampening material between the walls. The TNAP must be long enough to be seated firmly on the sea bottom, fit over the pile being driven, and extend at least 3 ft above the surface of the water.
  3. The use of any other alternative noise control method must receive prior approval by NMFS and the USACE, as described in Section 2.3.
- E. The projects identified as E are not covered under this Opinion.**

## Attachment X

### North Atlantic Right Whale Federal Regulations Information Handout

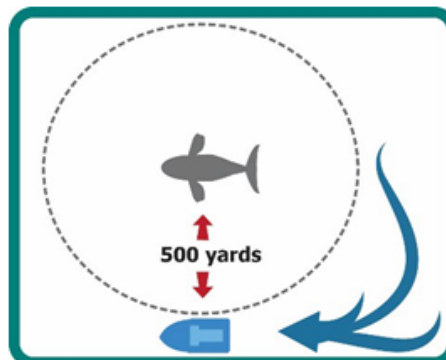
#### Federal Regulations Governing the Approach to North Atlantic Right Whales



1. Federal regulations governing the approach to North Atlantic right whales can be found at 50 CFR 224.103(c). It is illegal to approach and remain within 500 yards of right whales; 500 yards is equal to the distance of 5 football fields.

Prohibitions on approaching right whales are as follows (Excerpts from 50 CFR 224.103(c), available at [www.ecfr.gov](http://www.ecfr.gov)): Unless otherwise lawfully allowed or unless doing so would create an imminent and serious threat to a person or vessel, it is unlawful to:

- (i) *Approach (including by interception) within 500 yards (460 m) of a right whale by vessel*
- (ii) *Fail to undertake required right whale avoidance measures. If underway, a vessel must steer a course away from the right whale and immediately leave the area at a slow safe speed.*



2. Updates can be downloaded from:
  - a. [http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/rightwhale\\_northatlantic.htm](http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/rightwhale_northatlantic.htm), or
  - b. [www.ecfr.gov](http://www.ecfr.gov)

**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in  
or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat  
U.S. Army Corps of Engineers/National Marine Fisheries Service  
November 2017**

**Submerged Aquatic Vegetation:**

1. Avoidance. The piling-supported structure shall be aligned so as to minimize the size of the footprint over SAV beds.
2. The height of piling-supported structure shall be a minimum of 5 feet above MHW/OHW as measured from the top surface of the decking.
3. The width of the piling-supported structure is limited to a maximum of 4 feet. A turnaround area is allowed for piling-supported structures greater than 200 feet in length. The turnaround is limited to a section of the piling-supported structure no more than 10 feet in length and no more than 6 feet in width. The turnaround shall be located at the midpoint of the piling-supported structure.
4. Over-SAV bed portions of the piling-supported structure shall be oriented in a north-south orientation to the maximum extent that is practicable.
5. a. If possible, terminal platforms shall be placed in deep water, waterward of SAV beds or in an area devoid of SAV beds.  
  
b. If a terminal platform is placed over SAV areas and constructed of grated decking, the total size of the platform shall be limited to 160 square feet. The grated deck material shall conform to the specifications stipulated below. The configuration of the platform shall be a maximum of 8 feet by 20 feet. A minimum of 5 feet by 20 feet shall conform to the 5-foot height requirement; a 3 feet by 20 feet section may be placed 3 feet above MHW to facilitate boat access. The long axis of the platform should be aligned in a north-south direction to the maximum extent that is practicable.  
  
c. If the terminal platform is placed over SAV areas and constructed of planks, the total size of the platform shall be limited to 120 square feet. The configuration of the platform shall be a maximum of 6 feet by 20 feet of which a minimum 4-foot wide by 20-foot long section shall conform to the 5-foot height requirement. A section may be placed 3 feet above MHW to facilitate boat access. The 3 feet above MHW section shall be cantilevered. The long axis of the platform should be aligned in a north-south direction to the maximum extent that is practicable. If the 3 feet above MHW section is constructed with grating material, it may be 3 feet wide.
6. One uncovered boat lift area is allowed. A narrow catwalk (2 feet wide if planks are used, 3 feet wide if grating is used ) may be added to facilitate boat maintenance along the outboard side of the boat lift and a 4-foot wide walkway may be added along the stern end of the boat lift, provided all such walkways are elevated 5 feet above MHW. The catwalk shall be cantilevered from the outboard mooring pilings (spaced no closer than 10 feet apart).
7. Pilings shall be installed in a manner which will not result in the formation of sedimentary deposits("donuts" or "halos") around the newly installed pilings. Pile driving is the preferred method of installation, but jetting with a low pressure pump may be used.
8. The spacing of pilings through SAV beds shall be a minimum of 10 feet on center.
9. The gaps between deckboards shall be a minimum of ½ inch.

October 2002 - Grid Specifications and Suppliers Section modified to add an additional vendor of materials.

February 2003 – Manufacturer name changed from ChemGrate to FiberGrate

May 2003 - The terms dock and pier were removed and replaced by the term piling-supported structure, to clarify our intent.

March 2008 – Added requirement for 43% open space in grids; added additional manufacturer of grating.

November 2017 – Manufacturer of grated material updated to include Voyager Industries.



### **Marsh:**

1. The piling-supported structure shall be aligned so as to have the smallest over-marsh footprint as practicable.
2. The over-marsh portion of the piling-supported shall be elevated to at least 4 feet above the marsh floor.
3. The width of the piling-supported is limited to a maximum of 4 feet. Any exceptions to the width must be accompanied by an equal increase in height requirement.

### **Mangroves.**

1. The width of the piling-supported structure is limited to a maximum of 4 feet.
2. Mangrove clearing is restricted to the width of the piling-supported structure.
3. The location and alignment of the piling-supported structure should be through the narrowest area of the mangrove fringe.

## **Grid Specifications and Suppliers**

The following information does not constitute a U.S. Army Corps of Engineers endorsement or advertisement for any particular provider and is provided only as an example for those interested in obtaining these materials for piling-supported structure construction. Light-transmitting materials are made of various materials shaped in the form of grids, grates, lattices, etc., to allow the passage of light through the open spaces. **All light-transmitting materials used in construction for minor piling-supported structures shall have a minimum of forty-three (43) percent open space.**

A type of fiberglass grate panel is manufactured by SeaSafe (Lafayette, LA; phone: 1-800-326-8842) and FiberGrate (1-800-527-4043). A type of plastic grating is manufactured by ThruFlow Interlocking Panels (1-888-478-3569). Plastic grate panels are also distributed by Southern Pine Lumber Company (Stuart, FL; 772-692-2300). Grated panels can be obtained from Titan Deck/Voyager Industries (Brandon, MN; 877-207-4136; [www.titandeck.net](http://www.titandeck.net)). Panels are available in a variety of sizes and thicknesses. For safety, the grate should contain an anti-slip texture which is integrally molded into the top surface. The manufacturer or local distributor should be consulted to ensure that the load-bearing capacity of the selected product is sufficient to support the intended purpose. Contact the manufacturer(s) for product specifications and a list of regional distributors.

October 2002 - Grid Specifications and Suppliers Section modified to add an additional vendor of materials.

February 2003 – Manufacturer name changed from ChemGrate to FiberGrate

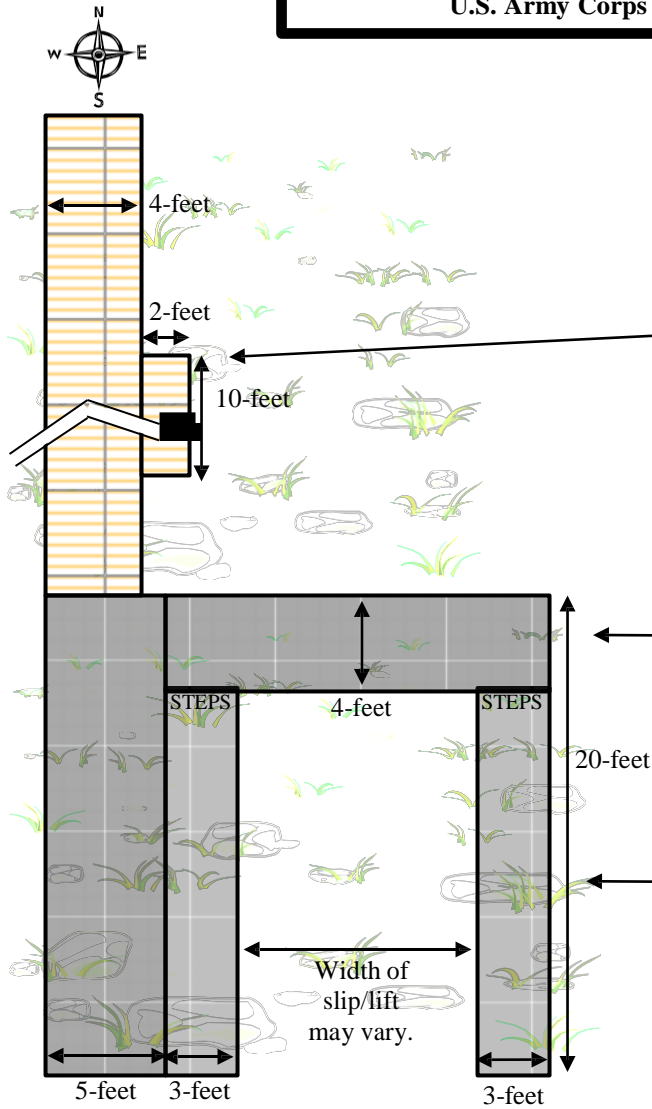
May 2003 - The terms dock and pier were removed and replaced by the term piling-supported structure, to clarify our intent.

March 2008 – Added requirement for 43% open space in grids; added additional manufacturer of grating.

November 2017 – Manufacturer of grated material updated to include Voyager Industries.

# DOCK EXAMPLE — GRATED TERMINAL PLATFORM

**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat**  
**U.S. Army Corps of Engineers/National Marine Fisheries Service—August 2001**



OVERHEAD PLAN VIEW

**“GRATED DECKING”**  
 Means manufactured with a minimum of 43% open space.

Spacing of pilings through SAV beds shall be a minimum of 10-feet on center.

**MIDPOINT TURNAROUND**  
 Only for docks over 200-feet long.

**LIFT ONLY**  
 No roof.  
 Vessel should be stored as high above MHW as possible.

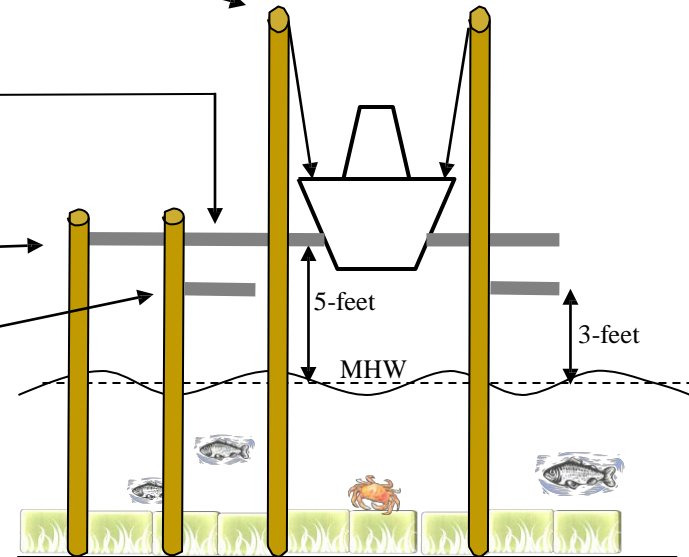
**STERN WALKWAY**  
 Allowed if lift constructed.  
 May be less than 4-feet wide if longer slip is needed.

**MINIMUM HEIGHT**  
 No less than 5-feet above MHW

**ACCESS CATWALKS**  
 3-feet wide if grated decking.  
 3-feet above MHW to facilitate boat access.  
 Cantilevered off main structures;  
 no additional pilings.

**NOTES:**

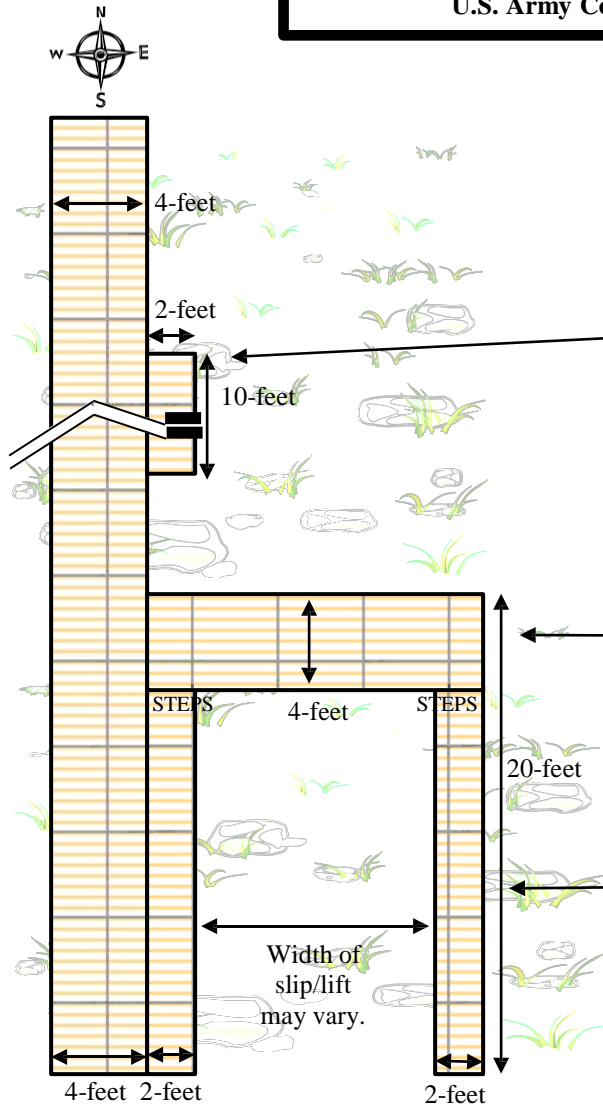
- Not to scale.
- All widths are maximum dimension.
- All heights are minimum dimension.
- Piling supported structures over SAV should be oriented north-south to the extent practicable.
- MHW = mean high water



FRONT PLAN VIEW

# DOCK EXAMPLE — WOOD PLANK TERMINAL PLATFORM

**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat**  
**U.S. Army Corps of Engineers/National Marine Fisheries Service—August 2001**



OVERHEAD PLAN VIEW

The gaps between deckboards shall be a minimum of 1/2 inch.

Spacing of pilings through SAV beds shall be a minimum of 10-feet on center.

**MIDPOINT TURNAROUND**  
 Only for docks over 200-feet long.

**LIFT ONLY**  
 No roof.  
 Vessel should be stored as high above MHW as possible.

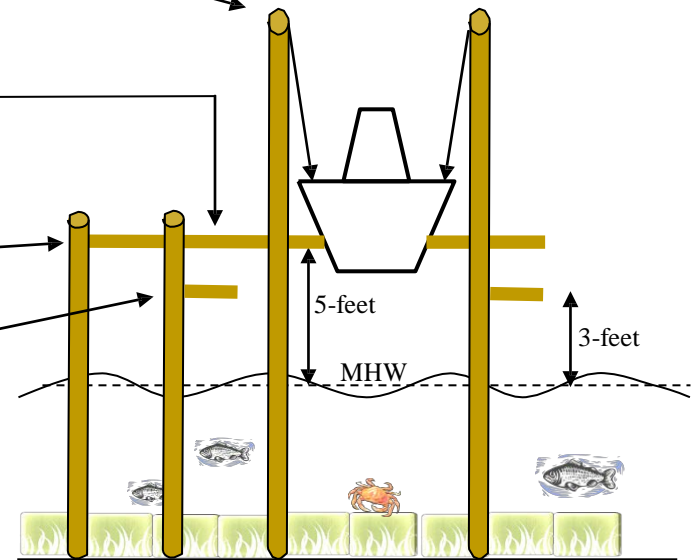
**STERN WALKWAY**  
 Allowed if lift constructed.  
 May be less than 4-feet wide if longer slip is needed.

**MINIMUM HEIGHT**  
 No less than 5-feet above MHW

**ACCESS CATWALKS**  
 2-feet wide if wood decking.  
 3-feet above MHW to facilitate boat access.  
 Cantilevered off main structures;  
 no additional pilings.

**NOTES:**

- Not to scale.
- All widths are maximum dimension.
- All heights are minimum dimension.
- Piling supported structures over SAV should be oriented north-south to the extent practicable.
- MHW = mean high water



FRONT PLAN VIEW