



TOWN OF
LONGBOAT KEY

Incorporated November 14, 1955

501 Bay Isles Road
Longboat Key, Florida 34228
(813) 383-3721
FAX 383-7231

August 10, 1993

Amy C. Merrill
Legislative Assistant to Mark R. Ogles
Representative, 67th District
Florida House of Representatives
3511 U.S. Highway 301
Ellenton, Fl. 34222

Dear Ms. Merrill:

Thank you for taking the time to meet with Len. Smally last week concerning the Beer Can Island sand spit project. I hope that you and Representative Ogles can help us to overcome several obstacles that have arisen in the permitting process.

There are two key issues. First, the DNR-DSL position is that we can only maintenance dredge the area. Second, they are suggesting that any work on the project would cause the Manatee County deed to revert back to the State.

Beer Can Island is no longer an island. Because the northern channel has been maintained and spoil placed to the south, the southern channel has closed (see attached). The sand spit itself is not natural. The idea that removal of a small amount of sand would cause the deed to revert back to the State is unreasonable. To determine that removal of fallen Australian Pines (DER requirement) would cause the deed to revert back is equally unreasonable. These trees are dangerous and a terrible eyesore.

We have an ACE and DER permit. Manatee County supports the project in that they and W.C.I.N.D. have agreed to fund the entire project and have carried over \$50,000 in the recently approved budget. The State's top environmental agency has determined the project to be environmentally sound and in the public interest. For another branch of the same agency to decide that we can't go forward, after the DER Permit has been issued, we believe is wrong.

Amy C. Merrill
August 9, 1993
Page: 2

We would appreciate any help that you could provide us in avoiding another lengthy, expensive permitting process. It is our desire to complete the project prior to the next turtle nesting season which begins on May 15, 1994.

Thank you for your cooperation. I look forward to hearing from you.

Sincerely,



Griff H. Roberts
Town Manager

/cmg

cc: Leonard A. Smally, P.E., Director of Public Works
Pamela Garvin, Fowler, White, Gillen, et al



FOWLER, WHITE, GILLEN, BOGGS, VILLAREAL AND BANKER, P. A.

ATTORNEYS AT LAW

TAMPA - ST. PETERSBURG - CLEARWATER

FT. MYERS - TALLAHASSEE

CABLE - FOWHITE
TELEX 52776
TELECOPIER
(904) 681-6036

SUITE 1090
101 NORTH MONROE STREET
TALLAHASSEE, FLORIDA 32301
(904) 681-0411

MAILING ADDRESS:
POST OFFICE BOX 11240
TALLAHASSEE, FLORIDA 32302

August 3, 1993

Mr. Leonard A. Smalley, P.E.
Director of Public Works
Town of Longboat Key
501 Bay Isles Road
Longboat Key, FL 34228

AUG 5 1993
RECEIVED

RE: Beer Can Island/Sand Spit
Status of Permitting

Dear Len:

As you are aware from our earlier discussions the permitting for this project has gotten somewhat off-track as evidenced by the recommendations from the DNR Division of State Lands. The present position of the Division of State Lands is that it will only approve the portion of the project which constitutes maintenance dredging, and will not recommend approval of any new dredging at the site. Additionally, correspondence from the Division to the Town indicates that the Division's attorney, Mac McClellan, has determined from a review of the deed that the proposed dredging and removal of exotics will violate the deed restriction and will cause the deeded area to revert back to Trustee ownership. In light of this position taken by the Division of State Lands, the DNR Division of Beaches and Shores has requested that the Town modify its permit application to conform to the State Lands' recommendations.

Because State Lands is greatly concerned with the natural resources in the area and the potential impact from the proposed new dredging, in order to get the required authorization for the project it will be necessary for the Town to engage a biologist who can investigate the site and convince the biologists with State Lands that the proposed project will not have a negative impact on state resources. Len, this is no longer a project that the Town will be able to handle without engaging qualified consultants to represent the Town's interests before the Division of State Lands.

Additionally, given the position taken by State Lands that the proposed project will violate the deed restriction thus causing the property to revert back into state ownership, the Town needs to

Mr. Leonard A. Smalley, P.E.
Page Two
August 3, 1993

determine whether it still intends to pursue the project. While we can attempt to convince State Lands that the proposed project is not a man-made alteration of the natural conditions on the island, and thus will not violate the deed restrictions, at this time I cannot estimate for you our chances of prevailing on this issue.

In order to have any hope of succeeding in obtaining the remaining required permissions to go forward with the proposed project, it will be necessary to invest considerable amounts of attorney time, Town time, and consultant time, in both site investigations and face-to-face meetings with the DNR staff. You indicated during our last telephone conversation that the Town was uncertain how and whether it intended to proceed with this project. Please notify me as soon as possible as to whether the Town intends to pursue this project and, if so, whether it intends to modify the project in accordance with the recommendations of the Division of State Lands or whether it intends to pursue the project as originally proposed.

Sincerely yours,



Pamela Presnell Garvin

PPG:jl





FOWLER, WHITE, GILLEN, BOGGS, VILLAREAL AND BANKER, P. A.

ATTORNEYS AT LAW

TAMPA - ST. PETERSBURG - CLEARWATER
FT. MYERS - TALLAHASSEE

CABLE - FOWHITE
TELEX 52776
TELECOPIER
(904) 681-6036

SUITE 1090
101 NORTH MONROE STREET
TALLAHASSEE, FLORIDA 32301
(904) 681-0411

MAILING ADDRESS:
POST OFFICE BOX 11240
TALLAHASSEE, FLORIDA 32302

August 3, 1993

Mr. Leonard A. Smalley, P.E.
Director of Public Works
Town of Longboat Key
501 Bay Isles Road
Longboat Key, FL 34228

RE: Beer Can Island/Sand Spit
Status of Permitting

Dear Len:

As you are aware from our earlier discussions the permitting for this project has gotten somewhat off-track as evidenced by the recommendations from the DNR Division of State Lands. The present position of the Division of State Lands is that it will only approve the portion of the project which constitutes maintenance dredging, and will not recommend approval of any new dredging at the site. Additionally, correspondence from the Division to the Town indicates that the Division's attorney, Mac McClellan, has determined from a review of the deed that the proposed dredging and removal of exotics will violate the deed restriction and will cause the deeded area to revert back to Trustee ownership. In light of this position taken by the Division of State Lands, the DNR Division of Beaches and Shores has requested that the Town modify its permit application to conform to the State Lands' recommendations.

Because State Lands is greatly concerned with the natural resources in the area and the potential impact from the proposed new dredging, in order to get the required authorization for the project it will be necessary for the Town to engage a biologist who can investigate the site and convince the biologists with State Lands that the proposed project will not have a negative impact on state resources. Len, this is no longer a project that the Town will be able to handle without engaging qualified consultants to represent the Town's interests before the Division of State Lands.

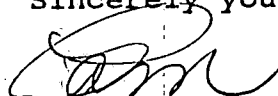
Additionally, given the position taken by State Lands that the proposed project will violate the deed restriction thus causing the property to revert back into state ownership, the Town needs to

Mr. Leonard A. Smalley, P.E.
Page Two
August 3, 1993

determine whether it still intends to pursue the project. While we can attempt to convince State Lands that the proposed project is not a man-made alteration of the natural conditions on the island, and thus will not violate the deed restrictions, at this time I cannot estimate for you our chances of prevailing on this issue.

In order to have any hope of succeeding in obtaining the remaining required permissions to go forward with the proposed project, it will be necessary to invest considerable amounts of attorney time, Town time, and consultant time, in both site investigations and face-to-face meetings with the DNR staff. You indicated during our last telephone conversation that the Town was uncertain how and whether it intended to proceed with this project. Please notify me as soon as possible as to whether the Town intends to pursue this project and, if so, whether it intends to modify the project in accordance with the recommendations of the Division of State Lands or whether it intends to pursue the project as originally proposed.

Sincerely yours,



Pamela Presnell Garvin

PPG:jl

MESSAGE CONFIRMATION

AUG-03-'93 TUE 12:34

TERM ID: FOWLER WHITE

P-9999

TEL NO.:

NO.	DATE	ST. TIME	TOTAL TIME	ID	DEPT CODE	OK	NG
059	08-03	12:32	00° 01' 10			02	00

**TOWN OF LONGBOAT KEY
PLANNING & PUBLIC WORKS**

610 GENERAL HARRIS STREET
LONGBOAT KEY, FL 34228



FAX Transmission

PHONE: 813-383-3726

FAX: 813-383-9353

DATE: 8/2

FAX TELEPHONE: _____

DELIVER TO: Pam Garner

NUMBER OF PAGES INCLUDING THIS COVER PAGE: 3

INITIATING DEPARTMENT: _____ DEPT # _____

REFERENCE: LEN

COMMENTS: I need to answer this in
2 days. I need your memo asap

.....
INVOICE

FACSIMILE FEE: \$ _____

FEE CALCULATION \$1.00 PER PAGE
(INCLUDING COVER SHEET)

PLEASE REMIT TO: FINANCE DEPARTMENT
TOWN HALL
601 BAY ISLES ROAD
LONGBOAT KEY, FL 34228



FLORIDA DEPARTMENT OF NATURAL RESOURCES

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

September 25, 1992

Lawton Chiles
Governor
Jim Smith
Secretary of State
Bob Butterworth
Attorney General
Gerard Lewis
State Comptroller
Tom Callaghan
State Treasurer
Bob Crawford
Commissioner of Agriculture
Betty Castor
Commissioner of Education

Leonard A. Smally, P.E.
Director of Public Works
Town of Longboat Key
c/o Fowler, White, Gillen, et al.
101 N. Monroe, Suite 910
Tallahassee, Florida 32301

Dear Mr. Smally:

Request for Additional Information
File Number: DBS91293 ME
Applicant Name: Manatee County

This is to acknowledge receipt of the information that you submitted on August 28, 1992, in response to the request for additional information sent to you on March 4, 1992, and to advise you that the information that was submitted was not sufficient to satisfy the Department's application requirements. Your responses to items 1,3,5, and 8 of the request are not sufficient to consider your application complete. Also note that your response did not include the information requested on July 15, 1992, regarding the apparent action taken by the Division of State Lands.

Therefore, your application is considered to be incomplete as provided for by Chapter 16B-24, Florida Administrative Code, and Section 120.60, Florida Statutes. The following is a summary of the errors and omissions in the information which you provided. Your application will remain incomplete until these items have been adequately satisfied. The following items are numbered to correspond to the earlier request for additional information.

1. The description of the activity is inadequate. On June 15, 1992, the Bureau received a copy of a draft agenda item prepared by the Division of State Lands regarding your request for consent from the Board of Trustees. That draft agenda item appeared to describe the activity as part maintenance dredging and part new dredging. The Division of State Lands' recommendation appears to have been for approval of the maintenance dredging and denial of the new dredging. Your description of the activity did not differentiate between the two quantities. The permit sketches also did not differentiate between the two quantities. Please provide an explanation of the total quantity to be dredged, differentiating between the maintenance quantity and the "new" quantity.

Leonard A. Smally, P.E.

September 25, 1992

Page 2

Note that the I cannot recommend for approval of the activity as it appears to be proposed, because of the apparent position taken by the Division of State Lands. The applicant must provide evidence of " owners' authorization " to seek the permit prior to completing the application.

3. The copies of the drawings submitted to demonstrate ownership of the spoil area were not adequate. These were not very legible and cannot be considered a legal representation of proof of ownership. The deed was not attached as indicated in your letter. Please provide a copy of the deed and legal description of the spoil area.

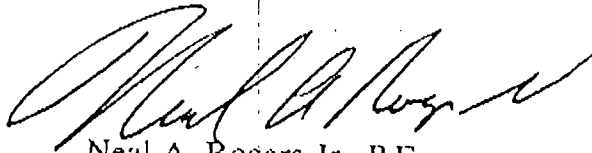
5. A set of construction drawings was not submitted as requested. In fact two complete sets are required in accordance with items 5 through 5.4 of the earlier request for additional information. These must be signed and sealed in accordance with item 5.

8. The evidence of Department of Environmental Regulation Notice of a Proposed Agency Action is not adequate to satisfy The Department of Natural Resources requirements of requesting public comment. An example of the required " Request for Public Comment " is enclosed. Note that if approved, the permittee will be required to publish a " Public Notice of Agency Action "

So that I might provide the staff with a favorable recommendation regarding your application, it should be amended to reflect a position consistent with the apparent position of the Division of State Lands. If you have any questions, please contact me at the letterhead address or by telephone at (904) 487-4475.

Sincerely,

DIVISION OF BEACHES AND SHORES

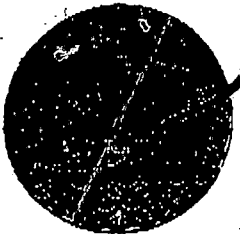


Neal A. Rogers Jr., P.E.
Bureau of Coastal Engineering
and Regulation

/nar
enclosure

cc: Anura Karunamuni
Pam Gerard DNR, DSL

PHONE MESSAGE	TO	OAG	DATE	3/29	TIME	11:55 ^{AM} PM							
	FROM	Jeff Steinsnyder	AREA CODE										
	OF		NO.	813-745-3750									
			EXT.										
MESSAGE	re: Longboat Key dredge & fill												
	Where is Beer Can Island project at this point. He filed with DNR a declaratory statement which was denied.												
					SIGNED J								
PHONED	<input checked="" type="checkbox"/>	CALL BACK	<input checked="" type="checkbox"/>	RETURNED CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>	WAS IN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>



MANATEE COUNTY GOVERNMENT

TELECOPY COVER SHEET

MANATEE COUNTY ATTORNEY'S OFFICE
Telefax Number: (813) 749-3089

DATE: 3/29/93

TO: Deborah Getzoff, Esq.

TELECOPY NO.: 904-681-6036

FROM: Jeff Steinsnyder, Asst. County Attorney

SPECIAL INSTRUCTIONS:

PAM
pls
Land
JAS

COVER PAGE PLUS 3 PAGES



Virginia B. Wetherall
Executive Director

FLORIDA DEPARTMENT OF NATURAL RESOURCES

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Lawton Chiles
Governor
Jim Smith
Secretary of State
Bob Butterworth
Attorney General
Gerald Lewis
State Comptroller
Tom Gallagher
State Treasurer
Bob Crawford
Commissioner of Agriculture
Betty Castor
Commissioner of Education

March 25, 1993

Jeffrey N. Steinsnyder, Esq.
Manatee County
Office of the County Attorney
P.O. Box 1000
Bradenton, FL 34206

Re: In Re: Petition for Declaratory Statement by Manatee
County Regarding its Title to Greer Island ...
DNR Case No. 93-0030-SL

Dear Mr. Steinsnyder:

I am in receipt of the Petition for Declaratory Statement filed with the Board of Trustees of the Internal Improvement Trust Fund, in which Manatee County requests that the Trustees, as the holder of a reverter, render a declaratory statement that a dredge and fill project adjacent to Greer Island will not violate the deed restrictions for the island. Upon review, I have determined that the question presented in the Petition is not appropriate for resolution by a declaratory statement pursuant to Section 120.565, Florida Statutes, which states in part:

A declaratory statement shall set out the agency's opinion as to the applicability of a specified statutory provision or of any rule or order of the agency as it applies to the petitioner in his particular set of circumstances only.

See also Rule 28-4.001, Fla. Admin. Code. Because it does not request a determination as to the applicability of a statute, rule or order of the agency, the Petition is ineligible for resolution by a declaratory statement. Therefore, the Petition is Denied.

RECEIVED
MAR 29 1993
COUNTY ATTORNEY

Jeffrey N. Steinsnyder, Esq.
March 25, 1993

Page 2

The deed to Manatee County containing the reversionary language was given pursuant to a Settlement Agreement, (Attachment A), entered between the Trustees and Sarasota Bank and Trust Company ("Bank") in January, 1974 to settle a quiet title action. In the Settlement Agreement, the Bank agreed to grant the subject property to the Trustees and the Trustees agreed to take the property subject to the restriction that the property be maintained as a public recreation area in its natural state, as set forth in paragraph 9 of the Settlement Agreement. The Settlement Agreement also provided for the subsequent transfer of the property from the Trustees to Manatee County subject to the same deed restriction. The conveyances required under the Settlement Agreement were accomplished by deed from the Bank to the Trustees dated March 6, 1974, (Attachment B), and by the subject deed from the Trustees to Manatee County.

Since the deed restriction and possibility of reverter are part of a Settlement Agreement involving other parties, a unilateral release, modification or interpretation of the reverter by the Trustees may not be made without subjecting the Trustees to liability under the Settlement Agreement. However, if the parties to the Settlement Agreement, or their successors in title, have no objection, the Trustees may consider an application of the County to release or modify the reverter. In the event that the parties object, the Trustees cannot consider the County's request for the reasons stated. In this event, the County may wish to consider pursuing a complaint for declaratory relief under Chapter 86, Florida Statutes, for a judicial interpretation of the deed reverter and the proposed activity by the County.

By copy of this letter, I am forwarding this matter to Percy W. Mallison, Jr., the Director of the Division of State Lands. If you are able to obtain the consent of the parties to the Settlement Agreement, please forward that information to Mr. Mallison and request that the Trustees consider the County's application. If you do not want the Trustees to treat the Petition as an application as set forth above, please let us know.

Jeffrey N. Steinsnyder, Esq.
March 25, 1993

Page 3

A party who is adversely affected by the denial of the Petition for Declaratory Statement has the right to seek judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. To initiate an appeal, a Notice of Appeal must be filed with the Clerk of the Department of Natural Resources, and a second copy, accompanied by the filing fees prescribed by law, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days of the date this final agency action is filed with the Agency Clerk.

Sincerely,

Kenneth J. Plante

Kenneth J. Plante
General Counsel

Filed this 25th day of

March, 1993.

Cynthia S. Rundles
DEPARTMENT CLERK

KJP/lmp
CERTIFIED MAIL # P 065 263 380
cc: Percy W. Mallison, Jr.
Eugene McClellan

FOWLER, WHITE, GILLEN, BOGGS, VILLAREAL AND BANKER, P. A.

ATTORNEYS AT LAW

TAMPA - ST. PETERSBURG - CLEARWATER

FT. MYERS - TALLAHASSEE

CABLE - FOWHITE
TELEX 52776
TELECOPIER
(904) 681-6036

SUITE 1090
101 NORTH MONROE STREET
TALLAHASSEE, FLORIDA 32301
(904) 681-0411

MAILING ADDRESS:
POST OFFICE BOX 11240
TALLAHASSEE, FLORIDA 32302

March 18, 1993

Hand Delivery

Ms. Alice E. Heathcock
Bureau of Submerged Lands and Preserves
Division of State Lands
Florida Department of Natural Resources
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

RE: Manatee County Board of County Commissioners
and the Town of Longboat Key
Application No. 411581783

Dear Ms. Heathcock:

On behalf of the Town of Longboat Key, the purpose of this letter is to request that the above-referenced application file be reactivated, and that an extension of time of six months be granted to the Town in order for it to complete the application process for this project.

I know that this project has been in this application process for some time, and the Town greatly appreciates the Division's patience and assistance in this matter. Please contact me or Deborah Getzoff if you should have any questions.

Sincerely,

Jodie Lafferty for
Pamela Presnell Garvin

PPG:jl

cc: Leonard A. Smally

COPY

Alice Heathcock
(see title and address
on letter)

Re: Manatee County Board of County Commissioners
and the Town of Longboat Key
Application No. 411581783

Dear Ms. Heathcock

On behalf of the Town of Longboat Key, the purpose of this letter is to request that the above referenced application file be reactivated and that an extension of time ^{be} granted ^{to} ~~the Town~~ ^{to} complete the application process.

Dear Ms. Heathcock:

On behalf of the Town of Longboat Key, the purpose of this letter is to request that the above-referenced application file be reactivated, and that an extension of time ^{of six months} be granted to the Town in order for it to complete the application process for this project.

I know that this project has been in ~~the~~ application process for some time, and the Town greatly appreciates the ~~the~~ Division's patience and assistance in this matter. Please contact me or Deborah Setzoff if you should have any questions.

Sincerely,
BBG

c.c. Leonard A. Smally



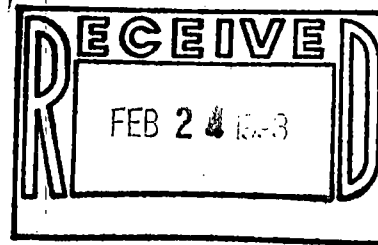
FLORIDA DEPARTMENT OF NATURAL RESOURCES

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Lawton Chiles
Governor
Jim Smith
Secretary of State
Bob Butterworth
Attorney General
Gerald Lewis
State Comptroller
Tom Gallagher
State Treasurer
Bob Crawford
Commissioner of Agriculture
Betty Castor
Commissioner of Education

February 23, 1993

Pamela Presnell Garvin, Esquire
Fowler, White, Gillen, Boggs,
Villareal and Banker, P.A.
P.O. Box 11240
Tallahassee, FL 32302



RE: Manatee County Board of County Commissioners
and the Town of Longboat Key Commissioners
Application No. 411581783

Dear Ms. Garvin:

The referenced file is now inactive since the applicant has not expressed any plans to proceed with its request to dredge. My last letter to you was August 3, 1992.

If you wish to reactivate this file, please notify this office of your request for an extension by March 23, 1993. If your request is not received by the specified date, your file shall be deactivated and no further action will be taken to process your application. If, after that time, you wish to pursue the proposed activity, you will be required to reapply for the appropriate consent and be subject to current policies and criteria.

No authorization has been given for the requested activity. Any use of sovereignty submerged lands without specific prior written authorization from the Board of Trustees will be considered willful violation of Chapter 253, Florida Statutes. Enclosed for your information is a copy of Chapter 18-14, Florida Administrative Code, detailing the consequences of violating Chapter 253, F.S.

Should you have any questions, please contact me at the letterhead address or call me at 904/488-2297.

Sincerely,

Alice E. Heathcock
Bureau of Submerged Lands and Preserves
Division of State Lands

Enclosure

cc: Neal A. Rogers,
Bureau of Coastal Engineering and Regulation

CHAPTER 18-14

ADMINISTRATIVE FINES FOR DAMAGING STATE LANDS OR PRODUCTS THEREOF

- 18-14.001 Definitions.
- 18-14.002 Determination of Fines.
- 18-14.003 Violations
- 18-14.004 Applicability.
- 18-14.005 Imposition and Collection of Fines.

18-14.001 Definitions. As used in this rule chapter.

(1) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(2) "Department" means the Department of Natural Resources.

(3) "Fine" means a monetary assessment imposed on a person or the agent of a person who willingly damages state lands, willfully damages or removes products of state lands in violation of state or federal law, or knowingly refuses to comply with or willfully violates Chapter 253, F.S.

(4) "Offense" means each day during any portion of which a violation of Chapter 253, F.S., and this rule occurs.

(5) "Person" means individuals, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations; and a political subdivision of the state.

(6) "Products" means, without limitation, indigenous, planted or exotic trees and other vegetation, or portions thereof; peat; solid minerals, phosphate, or limestone; oil or gas; metals; or other inorganic material, such as sand or gravel. For purposes of this rule, animal wildlife within the

jurisdiction of the Florida Game and Fresh Water Fish Commission and seashells shall not be considered products of state lands.

(7) "State land" means that land, title to which is vested in the board pursuant to Section 253.03, F.S.

*Specific Authority 253.04(2) F.S. Law Implemented 253.04 F.S.
History -- New 7-7-85, Formerly 16Q-14.01, Transferred from 16Q-14.001.*

18-14.002 Determination of Fines.

(1) A person or agent of a person who willfully damages state land, willfully damages or removes products from state land in violation of state or federal law, or knowingly refuses to comply with or willfully violates the provisions of Chapter 253, F.S., shall also be in violation of this rule and shall incur a fine up to \$10,000 per offense.

(2) When determining the amount of a fine to be imposed, the board shall consider:

- (a) the value of products removed from state land;
 - (b) the diminished value of state land or products, or the cost of restoring the affected state land or products;
 - (c) lost revenue from impaired use of the affected state land;
 - (d) the need to deter future violations by removing any economic benefits to the violator from failure to comply with the law;
 - (e) aggravating or mitigating circumstances specific to the violation, including the nature and extent of the violation, a violator's degree of cooperation in correcting the violation and a violator's good faith efforts to negotiate a settlement before formal legal proceedings begin; and
 - (f) lost or impaired opportunities for public use of the affected state land.
- (3) Payment of all or part of a fine may be waived when purposes of the law and this rule are not frustrated, and when fairness would result.

- (4) Fines imposed pursuant to this rule shall be:
- (a) \$1 - \$2,500 for the first offense; and
 - (b) \$1,000 - \$10,000 for the second or subsequent offenses.
 - (c) Fines for first offenses may exceed \$2,500 upon approval by the board.

*Specific Authority 253.04(2) F.S. Law Implemented 253.04 F.S.
History -- New 7-7-85, Formerly 16Q-14.02, Transferred from
16Q-14.002.*

18-14.003 Violations. It shall be a violation of this rule for any person or the agent of any person to knowingly refuse to comply with any provision of Chapter 253, F.S., willfully violate any provision of Chapter 253, F.S., or to willfully damage state land (the ownership or boundaries of which have been established by the state) or products thereof, by doing any of the following:

(1) Fill, excavate, or dredge, including prop dredging in a manner which produces a defined channel, on state land without the lease, license, easement or other form of consent required by the board.

(2) Remove, in violation of state or federal law, any product from state land without written approval or specific exemption from the board or department.

(3) Discharge contaminants, wastes, effluents, sewage or any other pollutant as defined in Chapter 376 or Chapter 403, F.S., on, under or over state land; when such a discharge is in violation of Chapter 403 or conditions of a permit issued pursuant to that chapter, or conditions of a lease or easement issued pursuant to Chapter 253, F.S.

(4) Maintain, place or build permanent or temporary structures, including, but not limited to, additions to existing structures; all structures whose use is not water-dependent; sanitary septic systems; fences, docks and pilings; houses; oil rigs; and utility installations on or over state land without consent or authority from the board or department.

(5) Place garbage, refuse or debris on or over state land without approval by the board or department.

(6) Any other willful act that causes damage to state land, or products thereof, when such activity occurs without the required approval by the board or department.

*Specific Authority 253.04(2) F.S. Law Implemented 253.04 F.S.
History -- New 7-7-85, Formerly 16Q-14.03, Transferred from
16Q-14.003.*

18-14.004 Applicability. For purposes of imposing a fine pursuant to this rule chapter, an activity conducted on state lands shall not be considered a violation of Chapter 253, F.S., or this rule chapter, when the activity is authorized by and conducted according to a management plan, easement, consent of use, license, or lease approved by the board or by an authorized agent of the board who has been expressly delegated the authority to approve such management plan, easement, consent of use, license or lease.

*Specific Authority 253.04(2) F.S. Law Implemented 253.04 F.S.
History -- New 7-7-85, Formerly 16Q-14.04, Transferred from
16Q-14.004.*

18-14.005 Imposition and Collection of Fines. Fines shall be imposed and collected by the board pursuant to Section 253.04(2) and Chapter 120, F.S. Nothing in this rule chapter shall be construed to preclude the board from bringing suits or taking action as is otherwise lawfully authorized against any person or the agent of any person who has been found to have damaged state land or products thereof; provided, however that any administrative fines imposed pursuant to this rule chapter shall be in lieu of monetary damages authorized pursuant to Section 253.04, F.S., for the same offense.

(1) Before any fine can be imposed, the Executive Director of the department or the Director of the Division of State Lands shall issue a notice of violation to suspected and known violators giving notice of the violation and specifying the violator's rights under Chapter 120, F.S. Such notice shall be served on the violator by actual delivery; by service of process in accordance with Florida Rules of Civil Procedure; or by certified mail, return receipt requested; and shall identify the provision of law or rule alleged to have been violated. The notice of violation shall include a brief statement of the facts constituting the alleged violation and the basis for the claim that the land affected by the alleged violation is owned by the state.

(2) The notice shall demand that the violation cease immediately, and that the violator take reasonable corrective measures within 20 days. The notice shall state that if a violation is not stopped immediately and corrected within 20 days

or at a later time agreed to by the department and the violator, a fine shall be considered imposed.

(3) Upon imposition of a fine, the Executive Director of the department shall issue a certified letter to the violator demanding payment to the Internal Improvement Trust Fund within 15 days of receipt. If payment is not received by the department within such 15 day period or at a later time agreed to by the department and the violator, the fine shall become a lien upon the real and personal property of the violator, enforceable by the department as a statutory lien pursuant to Chapter 85 F.S.

(4) Unless a request for an administrative hearing pursuant to Section 120.57, F.S. is filed (received by the department's clerk) within 20 days after service of the notice, the notice of violation, and the allegations contained therein shall become binding and final, and the right to an administrative hearing shall be deemed waived.

(5) Upon notice of violation, if any person or agent of any person ceases the activity alleged to be in violation of this rule and Chapter 253, F.S., makes application to the department for the required form of consent to use the state land at issue; and agrees to remove any structure or fill in violation, or to restore any excavation or dredging in violation; then the Executive Director of the department shall have the authority to fix, impose and collect a fine not to exceed \$2,500 per offense.

*Specific Authority 253.04(2) F.S. Law Implemented 253.04 F.S.
History -- New 7-7-85, Formerly 16Q-14.05, Transferred from 16Q-14.005.*

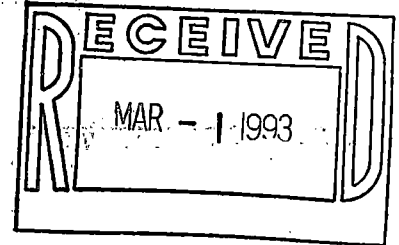


TOWN OF
LONGBOAT KEY

Incorporated November 14, 1955

501 Bay Isles Road
Longboat Key, Florida 34228
(813) 383-3721
FAX 383-7231

February 22, 1993



Linda Ackerman
Manatee County Community Services
P.O. Box 1000
Bradenton, Fl. 34206-1000

Re: Beer Can Island Spit = Dredging Project


Dear Linda:

This is to request an extension of our WCIND funding for the above referenced project.

In October of 1992 we received another request for additional information from the DNR. We are in the process of answering that request. We have the DER and ACE permits and hope to have the project completed in 1993.

If there are any questions, please let me know.

Sincerely,


Leonard A. Smally, P.E.
Director of Public Works

/cmg

cc: Jim Armstrong, WCIND
Pamela P. Garvin, Fowler, White, Gillen, etal

Mr. Smally,

What do you want
us to do?

*The attached is sent
for your information ...*

FOWLER, WHITE, GILLEN, BOGGS, VILLAREAL & BANKER, P.A.

P.O. BOX 11240
TALLAHASSEE, FLORIDA 32302
(904) 681-0411

DEBORAH A. GETZOFF



Virginia B. Wetherell
Executive Director

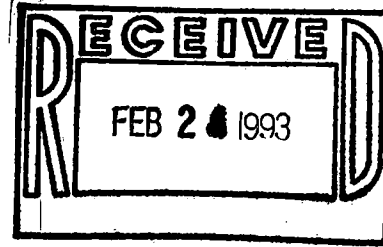
FLORIDA DEPARTMENT OF NATURAL RESOURCES

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Lawton Chiles
Governor
Jim Smith
Secretary of State
Bob Butterworth
Attorney General
Gerald Lewis
State Comptroller
Tom Gallagher
State Treasurer
Bob Crawford
Commissioner of Agriculture
Betty Castor
Commissioner of Education

February 23, 1993

Pamela Presnell Garvin, Esquire
Fowler, White, Gillen, Boggs,
Villareal and Banker, P.A.
P.O. Box 11240
Tallahassee, FL 32302



RE: Manatee County Board of County Commissioners
and the Town of Longboat Key Commissioners
Application No. 411581783

Dear Ms. Garvin:

The referenced file is now inactive since the applicant has not expressed any plans to proceed with its request to dredge. My last letter to you was August 3, 1992.

~~If you wish to reactivate this file, please notify this office of your request for an extension by March 23, 1993.~~ If your request is not received by the specified date, your file shall be deactivated and no further action will be taken to process your application. If, after that time, you wish to pursue the proposed activity, you will be required to reapply for the appropriate consent and be subject to current policies and criteria.

No authorization has been given for the requested activity. Any use of sovereignty submerged lands without specific prior written authorization from the Board of Trustees will be considered willful violation of Chapter 253, Florida Statutes. Enclosed for your information is a copy of Chapter 18-14, Florida Administrative Code, detailing the consequences of violating Chapter 253, F.S.

Should you have any questions, please contact me at the letterhead address or call me at 904/488-2297.

Sincerely,

Alice E. Heathcock
Bureau of Submerged Lands and Preserves
Division of State Lands

Enclosure

cc: Neal A. Rogers,
Bureau of Coastal Engineering and Regulation

cc: Pam Garvin

CHAPTER 18-14

ADMINISTRATIVE FINES FOR DAMAGING STATE LANDS OR PRODUCTS THEREOF

- 18-14.001 Definitions.
- 18-14.002 Determination of Fines.
- 18-14.003 Violations
- 18-14.004 Applicability.
- 18-14.005 Imposition and Collection of Fines.

18-14.001 Definitions. As used in this rule chapter.

(1) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(2) "Department" means the Department of Natural Resources.

(3) "Fine" means a monetary assessment imposed on a person or the agent of a person who willingly damages state lands, willfully damages or removes products of state lands in violation of state or federal law, or knowingly refuses to comply with or willfully violates Chapter 253, F.S.

(4) "Offense" means each day during any portion of which a violation of Chapter 253, F.S., and this rule occurs.

(5) "Person" means individuals, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations; and a political subdivision of the state.

(6) "Products" means, without limitation, indigenous, planted or exotic trees and other vegetation, or portions thereof; peat; solid minerals, phosphate, or limestone; oil or gas; metals; or other inorganic material, such as sand or gravel. For purposes of this rule, animal wildlife within the

- (4) Fines imposed pursuant to this rule shall be:
- (a) \$1 - \$2,500 for the first offense; and
 - (b) \$1,000 - \$10,000 for the second or subsequent offenses.
 - (c) Fines for first offenses may exceed \$2,500 upon approval by the board.

*Specific Authority 253.04(2) F.S. Law Implemented 253.04 F.S.
History -- New 7-7-85, Formerly 16Q-14.02, Transferred from
16Q-14.002.*

18-14.003 Violations. It shall be a violation of this rule for any person or the agent of any person to knowingly refuse to comply with any provision of Chapter 253, F.S., willfully violate any provision of Chapter 253, F.S., or to willfully damage state land (the ownership or boundaries of which have been established by the state) or products thereof, by doing any of the following:

(1) Fill, excavate, or dredge, including prop dredging in a manner which produces a defined channel, on state land without the lease, license, easement or other form of consent required by the board.

(2) Remove, in violation of state or federal law, any product from state land without written approval or specific exemption from the board or department.

(3) Discharge contaminants, wastes, effluents, sewage or any other pollutant as defined in Chapter 376 or Chapter 403, F.S., on, under or over state land; when such a discharge is in violation of Chapter 403 or conditions of a permit issued pursuant to that chapter, or conditions of a lease or easement issued pursuant to Chapter 253, F.S.

(4) Maintain, place or build permanent or temporary structures, including, but not limited to, additions to existing structures; all structures whose use is not water-dependent; sanitary septic systems; fences, docks and pilings; houses; oil rigs; and utility installations on or over state land without consent or authority from the board or department.

(5) Place garbage, refuse or debris on or over state land without approval by the board or department.

(6) Any other willful act that causes damage to state land, or products thereof, when such activity occurs without the required approval by the board or department.

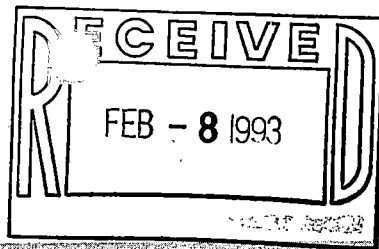
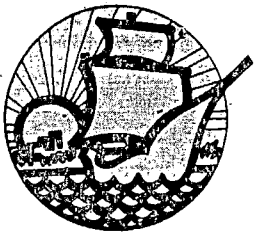
or at a later time agreed to by the department and the violator, a fine shall be considered imposed.

(3) Upon imposition of a fine, the Executive Director of the department shall issue a certified letter to the violator demanding payment to the Internal Improvement Trust Fund within 15 days of receipt. If payment is not received by the department within such 15 day period or at a later time agreed to by the department and the violator, the fine shall become a lien upon the real and personal property of the violator, enforceable by the department as a statutory lien pursuant to Chapter 85 F.S.

(4) Unless a request for an administrative hearing pursuant to Section 120.57, F.S. is filed (received by the department's clerk) within 20 days after service of the notice, the notice of violation, and the allegations contained therein shall become binding and final, and the right to an administrative hearing shall be deemed waived.

(5) Upon notice of violation, if any person or agent of any person ceases the activity alleged to be in violation of this rule and Chapter 253, F.S., makes application to the department for the required form of consent to use the state land at issue; and agrees to remove any structure or fill in violation, or to restore any excavation or dredging in violation; then the Executive Director of the department shall have the authority to fix, impose and collect a fine not to exceed \$2,500 per offense.

Specific Authority 253.04(2) F.S. Law Implemented 253.04 F.S. History -- New 7-7-85, Formerly 16Q-14.05, Transferred from 16Q-14.005.



MANATEE COUNTY
OFFICE OF THE COUNTY ATTORNEY

January 29, 1993

H. Hamilton Rice, Jr., County Attorney
Tedd N. Williams, Chief Assistant County Attorney
Paul G. Bangel, Assistant County Attorney
Mark P. Barnebey, Senior Assistant County Attorney
Joseph G. Jarret, Assistant County Attorney/Risk Manager
Patricia McVoy, Senior Assistant County Attorney
Mitchell O. Palmer, Senior Assistant County Attorney
Jeffrey N. Steinsnyder, Assistant County Attorney

Kenneth J. Plante, Esq.
General Counsel
Department of Natural Resources
3900 Commonwealth Boulevard, Suite 1003
Tallahassee, Florida 32399-3000

RE: **Town of Longboat Key Dredge & Fill Project**
Adjacent to Beer Can Island a/k/a Greer Island
CAO File 1142-012

Dear Mr. Plante:

Attached please find a Petition for Declaratory Statement regarding Manatee County's title to Greer Island. It is my belief that the project proposed by the Town of Longboat Key adjacent to Greer Island should not violate the deed restriction, given its extensive permitting by both your agency and the Department of Environmental Regulation. However, I feel it necessary to get something from the Board of Trustees indicating that the reverter would not be violated by the project.

I am forwarding the original Petition to you at Mr. McClellan's suggestion because of the Department of Natural Resources's relationship as staff to the Board of Trustees. If I can be of any assistance in supplying additional information that you may need to respond to this Petition for Declaratory Statement, please feel free to contact me at Suncom 527-3750.

Sincerely,

Jeffrey N. Steinsnyder
JEFFREY N. STEINSNYDER
Assistant County Attorney

JNS:rm

Attachment

cc: H. Hamilton Rice, Jr., County Attorney

Pamela P. Garvin, Esq.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

IN RE: PETITION FOR DECLARATORY)
STATEMENT BY MANATEE COUNTY)
REGARDING ITS TITLE TO GREER)
ISLAND)
_____)

PETITION FOR DECLARATORY STATEMENT

COMES NOW, MANATEE COUNTY, a political subdivision of the State of Florida, by and through its undersigned attorney, and petitions the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter "the Trustees", pursuant to Section 120.565, Florida Statutes, and Rules 28-4.001-28-4.007, Florida Administrative Code, for a declaratory statement regarding the County's title to Greer Island. MANATEE COUNTY has its offices at 1112 Manatee Avenue West, Bradenton, Florida 34205. MANATEE COUNTY holds title to Greer Island through a conveyance from "the Trustees" in 1974; a copy of the Deed subject to reversions is attached as Exhibit "A" to this Petition.

MANATEE COUNTY is in doubt regarding a provision in its Deed to Greer Island which states the following:

The foregoing property shall be kept in its natural state in perpetuity and preserved as a natural wilderness recreational area and wildlife preserve. No man-made alterations shall be caused or structures of any kind constructed or placed on said property other than in connection with the protection of the property from natural elements, and then only with applicable local, state and federal permits.

The reversionary clause is called into question by the Town of Longboat Key's (the Town) dredge and fill project immediately adjacent to the island.

The Town's proposal is for the removal of a sand spit which has accreted on the north end of Longboat Key, south of Longboat Pass in Sarasota Bay, and involves the dredging of approximately 4,147 cubic yards of material. This sand spit has accreted to such an extent that there is a danger that a mangrove area and small lagoon located on the east side of the island, on the back side of the county park, will be completely cut off from tidal flow. The Town is concerned that if the sand spit is not removed in the near future, its continued accretion will serve to completely isolate this mangrove area and small lagoon, thereby stressing both the mangroves and the adjacent aquatic system, resulting in possible adverse impacts to the county park and public resources in the immediate area.

As part of the permitting for this project, the Town received a Dredge and Fill Permit from the Department of Environmental Regulation, File No. 411581783, a copy of which is attached as Exhibit "B". Condition 16 of said Dredge and Fill Permit is of specific concern to **MANATEE COUNTY**.

In addition, the Town has proposed to use an area on the gulf side of the island as a spoil disposal area. (See Condition 6 of the Department of Environmental Regulation Permit.)

While **MANATEE COUNTY** believes that the conditions in the Deed are not violated by the dredge and fill project proposed to be undertaken by the Town or the proposal to enhance the gulf

side of the island with dredged material, **MANATEE COUNTY's** interests are potentially affected given that the outcome of this project could potentially lead to a violation of the Deed restriction, which could result in a loss of the title to Greer Island, **MANATEE COUNTY** has an actual, present and practical need for a declaratory statement.

WHEREFORE, MANATEE COUNTY requests that the Trustees render a declaratory statement, as the holder of the reverter, that the proposed project, as permitted by the State of Florida, will not violate the Deed restrictions for the island.


HAMILTON RICE, JR.

County Attorney

Florida Bar No. 325732

JEFFREY N. STEINSNYDER

Assistant County Attorney

Florida Bar No. 614210

P. O. Box 1000

Bradenton, FL 34206

(813) 745-3750

Attorney for **MANATEE COUNTY**

STATE OF FLORIDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

~~DEED~~ SUBJECT TO REVERSIONS

NO. 25461

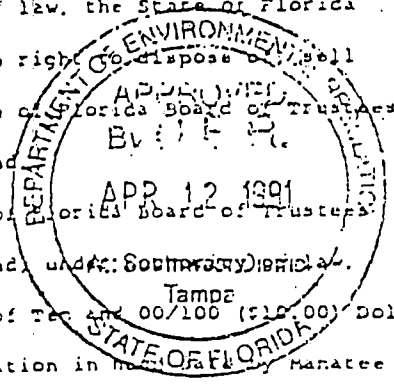
KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the State of Florida Board of Trustees of the Internal Improvement Trust Fund has approved, pursuant to agenda item no. 27, December 4, 1973, the settlement of Frank J. Conrad and Marjorie L. Conrad, his wife, vs. Reubin O'D. Askew, et al. in the Circuit Court in and for Manatee County, Florida, Case No. CA-5879, and

WHEREAS, that settlement provides for the conveyance by the State of Florida Board of Trustees of the Internal Improvement Trust Fund to Manatee County, a political subdivision of the State of Florida, and

WHEREAS, under authority of law, the State of Florida Board of Trustees is charged with the right to dispose, sell and convey lands vested in said State of Florida Board of Trustees of the Internal Improvement Trust Fund

NOW, THEREFORE, the State of Florida Board of Trustees of the Internal Improvement Trust Fund, under authority of law, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars and other good and valuable consideration in Manatee County, a political subdivision of the State of Florida, does sell and remise to said Manatee County, all of right, title and interest, claim and demand, which the State of Florida Board of Trustees of the Internal Improvement Trust Fund may have in and to the following described lands located in Manatee County, Florida:



4/16/74
Gift of Homer Brewer

EXHIBIT A

EXHIBIT "A"

Commence at the Southwesterly corner of Block 38, Longbeach Subdivision, recorded in Plat Book 6, Page 66 of the Public Records of Manatee County, Florida, said point also being the Northwesterly corner of the intersection of Coral Avenue and Seabreeze Avenue; thence along the Northwesterly right-of-way line of said Coral Avenue to the Point of Intersection of said right-of-way line of Coral Avenue, and the Southwesterly right-of-way line of Coral Avenue, and the Southwesterly right-of-way line of Ringling Blvd.; thence N 40°00'00" W, along said right-of-way line, 639.88 ft. to the existing Mean High Water Line of Sarasota Bay; thence along said Mean High Water Line, the following courses and distances, S 11°00'00" W, 280.0 ft.; S 11°24'09" W, 125.20 ft.; N 51°50'11" W, 81.50 ft.; N 08°18'30" W, 116.64 ft.; N 22°25'20" W, 91.38 ft.; N 36°59'31" W, 88.49 ft.; N 70°03'27" W, 176.25 ft.; N 21°09'18" W, 82.41 ft.; N 00°19'11" W, 93.01 ft.; N 11°10'14" W, 78.87 ft. to the Point of Beginning; thence continue northerly more or less along said Mean High Water Line on the following courses and distances: N 22°09'59" W, 78.45 ft.; N 29°18'47" W, 88.94 ft.; N 06°46'26" E, 93.45 ft.; N 54°46'00" E, 72.21 ft.; N 58°48'12" E, 86.49 ft.; N 45°51'07" E, 88.58 ft.; N 15°13'58" W, 113.72 ft.; N 10°56'23" E, 88.89 ft.; S 78°17'17" E, 47.80 ft.; N 02°51'25" W, 177.00 ft.; N 15°56'29" E, 84.74 ft.; N 72°23'27" E, 141.57 ft.; S 50°51'52" E, 151.80 ft.; S 41°38'19" E, 149.97 ft.; N 41°32'54" E, 30.01 ft.; N 07°30'21" E, 16.28 ft.; N 10°53'19" W, 62.82 ft.; N 23°49'57" W, 85.07 ft.; N 24°59'12" W, 71.03 ft.; N 38°00'08" W, 80.37 ft.; N 23°14'13" W, 80.23 ft.; N 18°08'46" W, 80.46 ft.; N 54°27'37" W, 62.84 ft.; N 85°39'39" W, 81.19 ft.; N 80°01'56" W, 82.11 ft.; N 89°45'49" W, 78.27 ft.; S 79°29'58" W, 90.70 ft.; S 70°10'56" W, 90.87 ft.; S 79°42'42" W, 86.74 ft.; S 52°21'23" W, 87.86 ft.; S 32°36'00" W, 87.59 ft.; S 22°32'17" W, 84.12 ft.; S 01°36'44" W, 72.98 ft.; S 11°02'42" E, 90.02 ft.; S 12°50'58" E, 94.00 ft.; S 10°56'49" E, 92.04 ft.; S 08°06'58" E, 91.43 ft.; S 03°05'01" E, 88.93 ft.; S 06°15'24" E, 90.22 ft.; S 10°21'08" E, 86.26 ft.; S 11°38'30" E, 92.78 ft.; S 10°11'55" E, 91.48 ft.; S 11°58'07" E, 93.78 ft.; to a point on the Mean High Water Line where the Point of Beginning bears N 78°01'04" E, thence N 78°01'04" E, 183.34 ft.; to the Mean High Water Line of Sarasota Bay, being the Point of Beginning.

Said property immediately above-described lying and being in Sections 15 and 22, Township 35 South, Range 16 East, Manatee County, Florida.

State - County Property

This conveyance is subject to the following conditions:

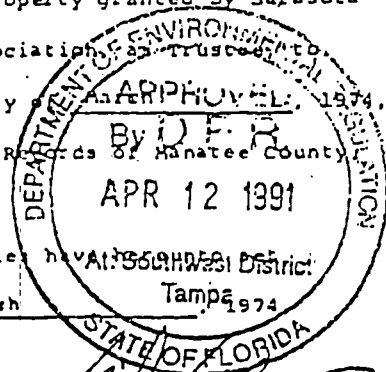
1. The foregoing property shall be kept in its natural state in perpetuity and preserved as a natural wilderness recreational area and wildlife preserve. No man-made alterations shall be caused or structures of any kind constructed or placed on said property other than in connection with the protection of the property from natural elements, and then only with applicable local, state and federal permits.

2. The use of motor driven wheeled vehicles shall be prohibited on the described property except for emergency, public or service vehicles performing official duties relating to public health, safety and welfare.

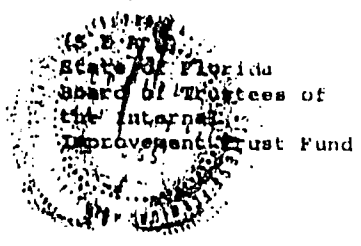
3. Should it be judicially established that the grantee has substantially violated the foregoing conditions, title to the said land together with the access easement hereinafter provided shall revert to the State of Florida Board of Trustees of the Internal Improvement Trust Fund.

The State of Florida Board of Trustees of the Internal Improvement Trust Fund hereby assign, convey and set over onto Manatee County, a political subdivision of the State of Florida, that certain access easement to and from the described property granted by Sarasota Bank and Trust Company, a State Banking Association, to the grantor herein by deed dated the 6 day of March 1974 recorded in O.R. Book 660, Page 695, Public Records of Manatee County Florida.

IN WITNESS WHEREOF, the said parties have signed their hands and seals the 15 day of March 1974



Richard W. Little
Governor
Richard W. Little
Secretary of State



Robert P. Shen
Attorney General

J. B. Dickinson
Comptroller

Thomas D. Smalley
Treasurer

Floyd T. Christian
Commissioner of Education

Dave Comer
Commissioner of Agriculture

Am and Constituting the State of Florida Board of Trustees of the Internal Improvement Trust Fund.

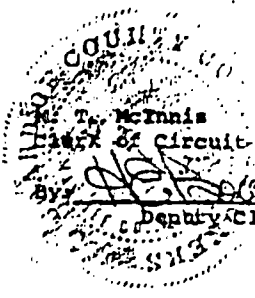
498263
FILED AND RECORDED
APR 1 4 22 PM '74
M. J. MOYER, CLERK
MANATEE COUNTY, FLORIDA

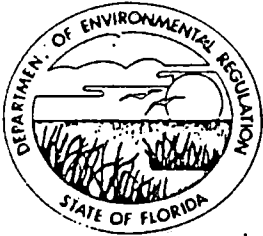
ACCEPTED By Manatee County this 2nd day of April, 1974.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: [Signature]
Chairman

ATTEST:
[Signature]
Deputy Clerk





Rec'd 4/27/91

Florida Department of Environmental Regulation

Southwest District

4520 Oak Fair Boulevard

Tampa, Florida 33610-7347

Lawton Chiles, Governor

813-623-5561

Carol M. Browner, Secretary

CERTIFIED MAIL

April 25, 1991

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION
NOTICE OF PERMIT

In the matter of an
Application for Permit
by:

DER File No. 411581783
County: Manatee

Town of Longboat
c/o Fowler, Gillen Boggs,
Villareal & Banker
Post Office Box 1438
Tampa, FL 33601

RECEIVED

MAY 24 1991

COUNTY ATTORNEY

Dear Sir:

Enclosed is Permit Number 411581783 to hydraulically dredge 4,147 cubic yards of material to create a channel with a maximum depth of 4.0 NGVD, establish a conservation easement over 0.60 acres of wetlands and enhance approximately 1.4 acres of existing wetlands as indicated in the permit submittals and attachments, in and adjacent to Longboat Pass a natural and man altered Class III waterbody, an Outstanding Florida Water, in Section 15, Township 35 South, Range 16 East, near the south side of Longboat Pass, Manatee County issued pursuant to Section(s) 17-4 and 17-312 relevant statutes, Florida Statutes.

Any party to this Order (permit) has the right to seek judicial review of the permit pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Notice is filed with the Clerk of the Department.

Executed in Tampa, Florida.

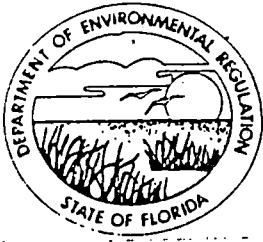
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

Bob Stetler

Bob Stetler
Environmental Administrator
Water Management

BS/msb

EXHIBIT B



Florida Department of Environmental Regulation

Southwest District

4520 Oak Fair Boulevard

Tampa, Florida 33610-7347

Lawton Chiles, Governor

813-623-5561

Carol M. Browner, Secretary

PERMITTEE

Town of Longboat
c/o Fowler, Gillen, Boggs
Villareal & Banker
Post Office Box 1438
Tampa, FL 33601

PERMIT/CERTIFICATION

Permit No: 411581783
Date of Issue: April 25, 1991
Expiration Date: 12/1/1995
County: Manatee
Project: Dredging

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rule(s) 17-4 and 17-312. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents, attached hereto or on file with department and made a part hereof and specifically described as follows:

To hydraulically dredge 4,147 cubic yards of material to create a channel with a maximum depth of 4.0 NGVD, establish a conservation easement over 0.60 acres of wetlands and enhance approximately 1.4 acres of existing wetlands as indicated in the permit submittals and attachments, in and adjacent to Longboat Pass a natural and man altered Class III waterbody, an Outstanding Florida Water, in Section 15, Township 35 South, Range 16 East, near the south side of Longboat Pass, Manatee County.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITIONS:

1. The permittee is hereby advised that Florida law states: "No person shall commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Natural Resources under Chapter 253, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use." Pursuant to Florida Administrative Code Rule 16Q-14, if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.
2. "If historical or archaeological artifacts, such as Indian canoes, are discovered at any time within the project site the permittee shall immediately notify the district office and the Bureau of Historic Preservation, Division of Archives, History and Records Management, R.A. Gray Building, Tallahassee, Florida 32301."
3. Turbidity screens shall be utilized, secured, and properly maintained during the permitted construction and shall remain in place until any generated turbidity subsides. Double turbidity screens, staked hay bales, staged construction and other additional measures shall be used as necessary to insure compliance with water quality standards in Chapter 17-3, F.A.C.
4. Fourteen (14) days prior to construction of work authorized by this permit, the permittee shall provide written notification of the date of commencement of construction to the Wetland Resource Management, Environmental Administrator, at the Southwest District office of the Department of Environmental Regulation, 4520 Oak Fair Boulevard, Tampa, FL 33610. All correspondence should include the permittee name and permit number.
5. The permittee shall submit "record" drawing certifications to the Southwest District, Wetland Resource Management office within 45 days of completion of work authorized by this permit but no later than 60 days prior to expiration date. Submittals shall include the invert elevations of all culverts and controlling elevations of all permitted structures, including final elevations as shown in permit drawings listed below:

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

Cross-Section

Page Number

0+80
1+60
2+40
3+20

5
6
7
8

6. All excavated material must be deposited within a self contained upland soil disposal site as indicated in attached permit submittals. No material (including water) shall be allowed to discharge back to State waters.

7. A mixing zone for turbidity shall be established within the limits of the proposed dredging for a maximum of 30 days. State water quality standards shall be met outside of this established mixing zone. Turbidity screens shall effectively encompass the limits of the proposed dredge area. A second turbidity screen shall encompass the immediate area of the dredge cutter head.

8. The following turbidity monitoring program must be implemented and adhered to:

a. One control and three monitoring stations shall be established. The control station shall be located in area indicated on Sheet 13. The monitoring stations shall be located in areas indicated on Sheet 14. A fourth monitoring station shall be immediately established within the central portion of any visible turbidity plume outside of the turbidity screens.

b. Turbidity shall be determined for surface waters in Nephelometric Turbidity Units (NTU's) at three hour intervals during dredging activities.

c. If at any time the turbidity measured at any of the monitoring stations exceed the turbidity measured at the control station, all dredging activities shall be discontinued until control station turbidity levels have returned at the monitoring stations.

d. Within 7 days subsequent to the conclusion of the authorized dredging, a turbidity monitoring report shall be submitted to the Department. The report shall tabulate: sample date, sample time, sample station, total water depth at each station, turbidity measured, tidal stage and antecedent weather conditions. A plan view shall be included showing all station locations. The permittee shall also include a narrative describing sampling and analysis methods.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

9. The permittee shall encompass immediate work areas within double turbidity screens during all dredging activities. Screens shall remain in place until all generated turbidity has subsided.
10. The hydraulic dredge pipe route shall be that which is indicated in Sheet 2 of permit submittals. Dredging equipment and vessels shall be precluded from operating/mooring in seagrass beds.
11. Seagrasses shall not be impacted by dredging activities. Dredging limits shall be staked in field for Department inspection and approval. Prior to initiation of dredging, the permittee shall contact the Department to verify seagrass limits within proximity to project area and modify dredge area if necessary.
12. The permittee shall establish Conservation Easement over area described in Attachments A and B of permit. The Conservation Easement boundaries shall extend to dredge area limits on eastern end.
13. The attached Conservation Easement (Attachment C) shall be executed and recorded in the public record within ninety (90) days of the signature date of this permit. A certified copy of the Conservation Easement shall be submitted to the Southwest District Dredge and Fill office within thirty (30) days of the recorded date. The receipt of the recorded easement will precede any placement of fill or construction authorized by this permit.
14. The applicant shall provide a description of the Conservation Easement including a legal survey and a scaled plan view for Department approval of the dimensions of the easement area, the permittee shall comply with Specific Condition #13.
15. The following protection construction conditions shall be implemented and adhered to:
 - A. The contractor instructs all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees.
 - B. All construction personnel are advised that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act of 1978. The permittee and/or contractor will be held responsible for any manatee harmed, harassed, or killed as a result of construction activities.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

- C. Siltation barriers are made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exit from essential habitat.
- D. All vessels associated with the project operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four foot clearance from the bottom and that vessels will follow routes of deep water whenever possible.
- E. All construction activities in open water shall cease upon sighting of a manatee(s) within 100 yards of the project area. Construction activities will not resume until the manatee(s) has departed the project area.
- F. Any collision with and/or injury to a manatee shall be reported immediately to the "Manatee Hotline" (1-800-DIAL FMP) and to the U.S. Fish and Wildlife Service, Jacksonville Field Office (904-791-2580).
- G. The contractor maintains a log detailing sightings, collisions, or injuries to manatees should they occur during the contract period.
- H. Following project completion, a report summarizing the above incidents and sightings is submitted to the Florida Department of Natural Resources (FDNR), Marine Mammals Section, 100 Eighth Avenue, S.E., St. Petersburg, Florida 33701-5095 and to the U.S. Fish and Wildlife Service, 3100 University Blvd. South, Suite 120, Jacksonville, FL 32216.
- I. A minimum of two manatee awareness temporary construction signs are installed and maintained at prominent locations within the construction area/docking facility prior to initiation of construction. One temporary sign will be located prominently adjacent to the construction permit(s).

The secondary temporary construction sign will be installed in a location prominently visible to water related construction crews. A temporary construction sign "Manatee Habitat-Idle Speed in Construction Area" criteria sheet is attached.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

16. The permittee shall enhance a minimum of 1.4 acres within existing wetlands in area indicated on Sheet 14 through the removal of all Australian pines (Casuarina spp.) and Brazilian pepper (Schinus terebinthifolius). The permittee shall submit to the Department for review and approval, plan views of specific areas of proposed removal and removal techniques within 60 days of the signature date of this permit. Nuisance species removal shall be implemented with initiation of authorized dredging activities. Enhanced areas shall be maintained free of the above cited nuisance species in perpetuity. The permittee shall enter into a long term agreement with the Department to provide for perpetual maintenance of the enhancement area within 60 days of permit issuance.

17. Cross Sectional Drawing 2+40 shall be revised to exclude area adjacent to seawall as indicated in Plan View (Sheet 3) of permit submittals.

18. Pursuant to Attachment "D" of permit submittals, the permittee shall enter into an agreement with the Department which shall stipulate that the area previously dredged (as indicated in Attachment G) pursuant to U.S.A.C.O.E. permit issued October 26, 1962 and outside of this permit area limits will be precluded from any future dredging activities. This agreement shall be entered into with the Department prior to initiation of dredging activities.

19. A point shall be established directly below the centerpoint of the waterward end of the dock located at 7250 Gulf of Mexico Drive. The elevation of this point shall be surveyed and recorded by a professional engineer prior to the initiation of dredging authorized by this permit. This same point shall also be surveyed and recorded after all turbidity generated by the dredging authorized by this permit has subsided. The permittee shall provide the elevation of this permit surveyed point within 1 week of the date of survey to the DER Wetlands Management Section in Tampa at 4520 Oak Fair Boulevard, Tampa, FL 33610.

20. A staff gauge at least six feet in height which is marked in 0.1' increments shall be installed and the elevation of top of the substrate surveyed at the terminal end of the dock prior to the initiation of any dredging activities authorized by this permit. The permittee shall determine the elevation of the top of substrate at staff gauge location on a daily basis during dredging activities. If at any time during these activities, accumulation of sediments in excess of 6 inches occurs, all dredging activities shall immediately cease. The survey data shall be provided to the Department within one week of the survey date. Additionally, a

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

pre and post dredging bathymetric survey of the bottoms immediately adjacent to the deck shall be conducted and submitted to the Department within two weeks prior to and two weeks subsequent to dredging activities respectively.

21. A minimum of 3 marker buoys shall be permanently installed within the area circle on Sheet 15. The permittee shall stake buoy locations and obtain Department review and approval of these locations prior to initiation of any permitted activities.

22. Permanent manatee awareness signs shall be installed and permanently maintained within the project area. Prior to initiation of permitted activities, the permittee will send a project site plan to the FDNR Marine Mammals Section (100 Eighth Avenue S.E., St. Petersburg, FL 33701-5095). FDNR personnel will specify permanent sign locations.

The signs shall be 3 ft. by 4 ft., 125 gauge 61TS aluminum, covered with white, engineer grade, reflecting sheeting; black, painted lettering; black, screened design; and orange, engineer grade, reflective tape border. The 3 ft. by 4 ft. "Caution Manatee Area" signs shall conform to the Florida Uniform Waterway Marking System in accordance with the FDNR specifications for such signs. Sign installation specifications will be furnished to the permittee when sign locations are designated.

Verification that signs have been installed at designated locations shall be provided to FDNR and FDER, Southwest District initiation of permitted activities of the owner(s) and are to be permanently maintained. A permanent manatee awareness sign criteria sheet is attached.

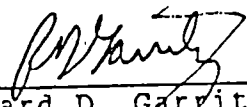
23. The permittee shall submit an approved Department of Natural Resources turtle nest monitoring plan to DER prior to initiation of activities authorized by this permit.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

24. The permittee shall be aware of and operate under the attached "General Permit Conditions #1 thru #15". General Permit Conditions are binding upon the permittee and enforceable pursuant to Chapter 403 of the Florida Statutes.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL REGULATION


Richard D. Garvity, Ph.D.
Deputy Assistant Secretary

RDG/msb
Copies furnished to:

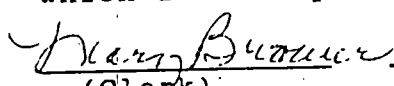
Southwest Florida Water Management District
U.S. Corps of Engineers

CERTIFICATE OF SERVICE

This is to certify that this NOTICE OF PERMIT and all copies were mailed before the close of business on 4/25/91 to the listed persons.

Clerk Stamp

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant
to §120.52(9), Florida
Statutes, with the designated
Department Clerk, receipt of
which is hereby acknowledged.

 4/25/91
(Clerk) (Date)

ATTACHMENT - GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.161, 403.727, or 403.859 through 403.861, Florida Statutes. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, State, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.
4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgement of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.
6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.
7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
 - (a) Have access to and copy any records that must be kept under conditions of the permit;
 - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and

- (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

- (a) A description of and cause of noncompliance; and
- (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules.

11. This permit is transferable only upon Department approval in accordance with Rule 17-4.120 and 17-730.300, Florida Administrative Code, as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof shall be kept at the work site of the permitted activity.

13. This permit also constitutes:

- () Determination of Best Available Control Technology (BACT)
- () Determination of Prevention of Significant Deterioration (PSD)
- () Certification of compliance with State Water Quality Standards (Section 401, PL 92-500)
- () Compliance with New Source Performance Standards

14. The permittee shall comply with the following:

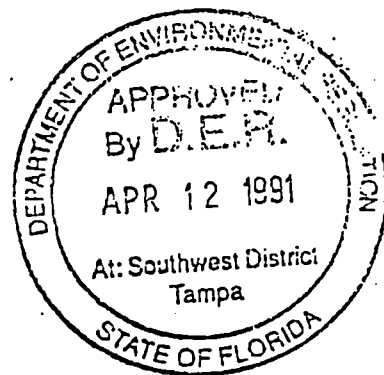
- (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
- (b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
- (c) Records of monitoring information shall include:
 - 1. the date, exact place, and time of sampling or measurements;
 - 2. the person responsible for performing the sampling or measurements;
 - 3. the dates analyses were performed;
 - 4. the person responsible for performing the analyses;
 - 5. the analytical techniques or methods used;
 - 6. the results of such analyses.

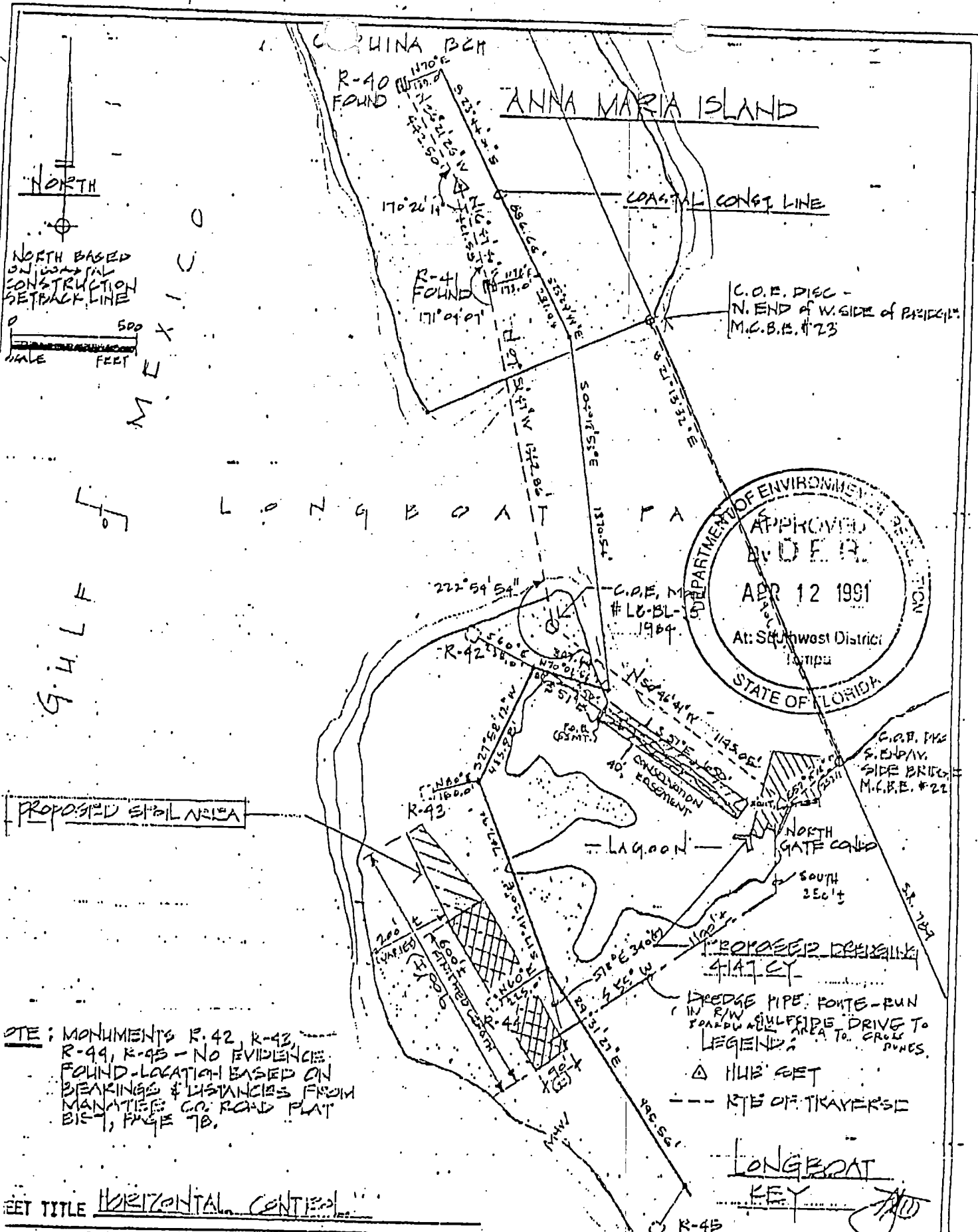
15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

Conservation Easement Description

Commence at a D.E.R. concrete monument #R-42, thence run S 60°00'00" E, 235 feet to the coastal construction line; thence along said line S 70°02'56" E, a distance of 50.00' feet; thence S 51°00'00" E, a distance of 250' feet to the Point of Beginning; thence continue S 51°00'00" E, a distance of 650' feet to a Point of Termination said estimate

Containing 0.60 acres more or less being and lying in Section 15, Township 35S, Range 16E, Manatee County, Florida.





NOTE: MONUMENTS R-42, R-43, R-44, R-45 - NO EVIDENCE FOUND - LOCATION BASED ON BEARINGS & DISTANCES FROM MANABEE CO. ROAD PLAT B15-1, PAGE 7B.

DEPARTMENT OF ENVIRONMENTAL REGULATION
 APPROVED ORDER
 APR 12 1991
 At: Southwest District
 Tampa
 STATE OF FLORIDA

LEGEND
 Δ HUB SET
 --- LINE OF TRAVERSE

SHEET TITLE HORIZONTAL CENTER

PROJECT	BENSON ENGINEERING ENGINEERS-PLANNERS-SURVEYORS BRADENTON FLORIDA	SCALE	DATE	DWN	SHEET
EP CAN (GREEN) ISLAND DREDGING PROJECT		1" = 500'	11/16/88	GK/P	2 / 12

ATTACHMENT "C"

CONSERVATION EASEMENT

STATE OF FLORIDA
COUNTY OF _____

KNOW ALL PERSONS BY THESE PRESENTS THAT in consideration for the issuance of the State of Florida Department of Environmental Regulation permit number _____ to _____

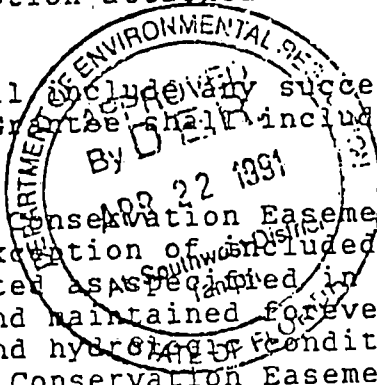
on _____, 199__, _____ (Grantor) has granted to the State of Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida (Grantee), a Conservation Easement in accordance with Section 704.06, Florida Statutes, in and over the real property in _____ County, Florida, as set forth in the legal description attached hereto as Exhibit A.

As used herein, the term Grantor shall include every successor or assignee of the Grantor, and the term Grantee shall include any successor or assignee of the Grantee.

It is the purpose and intent of this Conservation Easement to assure that the subject lands (with the exception of _____ wetlands which are to be enhanced or created as specified in the aforementioned permit) will be retained and maintained forever predominantly in the natural vegetative and hydrologic condition existing at the time of execution of this Conservation Easement. The included wetlands which are to be enhanced or created shall be maintained forever in the enhanced or created conditions required by the aforementioned permit.

Except for such specific activities as authorized pursuant to Department of Environmental Regulation Permit No. _____, including but not limited to creation, enhancement and maintenance of wetlands as specified mitigation in said permit, the following activities are prohibited on the property subject to this Conservation Easement:

1. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
2. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

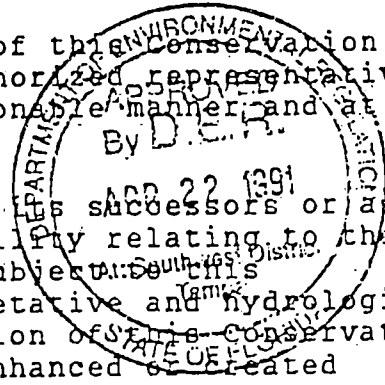


3. Removal or destruction of trees, shrubs, or other vegetation; with exception of nuisance and exotic plant species as may be required by Grantee;
4. Excavation, dredging, or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface;
5. Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
6. Activities detrimental to drainage, food control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation;
7. Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas; and
8. Acts or uses detrimental to the preservation of any features or aspects of the property having historical, archaeological or cultural significance.

It is understood that the granting of this Conservation Easement entitles the Grantee or its authorized representatives to enter the above-described land in a reasonable manner and at reasonable times to assure compliance.

The Grantor on behalf of itself and its successors or assigns hereby agrees to bear all costs and liability relating to the operation and maintenance of the lands subject to this Conservation Easement in the natural vegetative and hydrologic condition existing at the time of execution of this Conservation Easement, including the maintenance of enhanced or created wetlands in the vegetative and hydrologic condition required by the aforementioned permit, and Grantor does hereby indemnify and hold harmless the Grantee from same. The Conservation Easement hereby granted and the obligation to retain and maintain the land forever predominantly in the vegetative and hydrologic condition as herein specified shall run with the land and shall be binding upon the Grantor and its successors and assigns, and shall inure to the benefit of the Grantee and its successors and assigns.

The terms and conditions of this Conservation Easement may be enforced by the Grantee by injunctive relief and other appropriate available remedies. In any enforcement action in which the grantee prevails, Grantee shall be entitled to recover the cost of restoring the land to the natural vegetative and hydrologic condition existing at the time of execution of this Conservation Easement or to the vegetative and hydrologic condition required by the aforementioned permit. These remedies are in addition to any other remedy, fine or penalty which may be applicable under Chapter 403, Florida Statutes.



Any forbearance on behalf of the Grantee to exercise its rights in the event of the failure of Grantor to comply with the provisions of this Conservation Easement shall not be deemed or construed to be a waiver of the Grantee's rights hereunder in the event of any subsequent failure of the Grantor to comply.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal on this _____ day of _____, 199__.

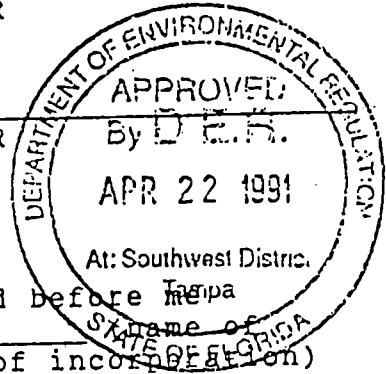
Signed, sealed and delivered in our presence of:

WITNESS

GRANTOR

WITNESS

GRANTOR



ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me on this _____ (date), by _____ (State or place of incorporation), a _____ (State or place of incorporation) corporation, on behalf of the corporation.

[Seal]

Notary Public
State of Florida

My commission
Expires: _____

Prepared by:

(NAME)

(ADDRESS)

FOWLER, WHITE, GILLEN, BOGGS, VILLAREAL AND BANKER, P. A.

ATTORNEYS AT LAW

TAMPA — ST. PETERSBURG — CLEARWATER — FT. MYERS
TALLAHASSEE — WASHINGTON, D. C.

CABLE-FOWHITE
TELEX 52776

501 EAST KENNEDY BLVD.
POST OFFICE BOX 1438
TAMPA, FLORIDA 33601

TELECOPIER
(813) 229-8313

(813) 228-7411

March 24, 1989

D.E.R.

MAR 28 1989

SOUTH WEST DISTRICT
TAMPA

Mr. Ken Huntington
Environmental Supervisor
Department of Environmental Regulations
4520 Oakfair Blvd.
Tampa, Florida 33610

Re: Town of Long Boat Key's Minor Dredge and Fill
Application for Long Boat Pass, Manatee County
Your File No. 411581783
Our File No. 10364/1261

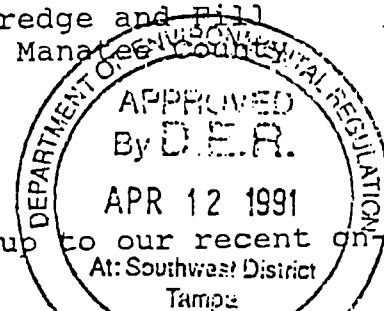
Dear Mr. Huntington:

This letter is to serve as a follow-up to our recent on-site visit to the above-referenced project.

As you are well aware, Mr. Benson had staked out both the proposed dredge area as well as the dredge area which was permitted in 1962 by the Army Corps of Engineers. After viewing the staked-out areas, you, Mr. Stetler, Mr. Benson, Mr. Smalley, Mr. Lovett and I agreed that a workable solution for a dredge project on this site is appropriate and would occur. The most logical dredge area from your point of view was to follow the maintenance dredge area, which runs abutting the dock area, as well as portions of our proposed dredge area, which runs in a parallel direction 50 feet north of the maintenance dredge.

We recognize the sensitivity your agency must be aware of in granting both the maintenance dredge and new minor dredge and fill permits. However, we strongly feel that this dredge is in the public's interest. In an effort to accommodate your requests, the Town of Long Boat Key and Manatee County are both willing to condition this permit stating that the remainder of the 1962 dredge area that will not be dredged during our recent request, will not be dredged at a later date. Our clients are also willing to grant an easement from Manatee County to DER for a portion of the sand spit which runs from Beer Can Island to the tip of where the mangroves end. This preservation easement should solidify the

Attachment "D"



FOWLER, WHITE, GILLEN, BOGGS, VILLAREAL AND BANKER, P. A.

ATTORNEYS AT LAW

TAMPA - ST. PETERSBURG - CLEARWATER

FT. MYERS - TALLAHASSEE

CABLE-FOWHITE
TELEX 52776
TELECOPIER
(904) 681-6036

SUITE 910
101 NORTH MONROE STREET
TALLAHASSEE, FLORIDA 32301
(904) 681-0411

MAILING ADDRESS:
POST OFFICE BOX 11240
TALLAHASSEE, FLORIDA 32302

September 30, 1992

Mr. Neal A. Rogers, Jr., P.E.
Bureau of Coastal Engineering
and Regulation
Florida Department of Natural Resources
3900 Commonwealth Boulevard
Tallahassee, FL 32399

RE: DBS 910293 ME
Manatee County

Dear Mr. Rogers:

Pursuant to your earlier request concerning the status of the requested permission from the Division of State Lands on the above-referenced project, the purpose of this letter is to advise you that the Division of State Lands' matter is still pending. Additional information has been requested by the Division and, therefore, this project has not yet gone before the Board of Trustees for final action.

We will keep you apprised of the status of the project so far as the Trustees' authorization is concerned. With regard to the additional information which you requested in your correspondence, Mr. Len Smally of the Town of Longboat Key will be in touch with you concerning this matter.

Please feel free to contact me at any time if you should have any questions.

Sincerely yours,



Pamela Presnell Garvin

PPG:jl

cc: Mr. Len Smally



FLORIDA DEPARTMENT OF NATURAL RESOURCES

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

September 25, 1992

Lawton Chiles
Governor
Jim Smith
Secretary of State
Bob Butterworth
Attorney General
Gerald Lewis
State Comptroller
Tom Gallagher
State Treasurer
Bob Crawford
Commissioner of Agriculture
Betty Castor
Commissioner of Education

Pamela P. Garvin
Fowler, White, Gillen, ET AL
101 North Monroe Street, Suite 910
Tallahassee, Florida 32301

Dear Ms. Garvin:

Request for Additional Information
File Number: DBS 910293
Applicant Name: Town of Longboat Key
Project: Dredge and Beach Spoil

This is to inform you that an Information Form to Assess and Reduce Impacts to Marine Turtles was received on August 28, 1992 for the subject named permit application. The form has been reviewed and the information provided has not satisfied the Department's application requirements. Receipt of the information listed below is required in order to perform an adequate assessment of the potential impacts to marine turtles.

1. Topographic survey of the area which depicts the present beach conditions and delineates the boundaries of all work associated with the fill in relation to the mean high water line and vegetation line with all elevations referenced in NGVD.
2. All available sediment analysis' conducted for the borrow and fill site which include sample site and depth, sand grain analysis and silt content. Additionally, information regarding silt content of the sediment found at the borrow and fill site is requested.

Note: The soils analysis for the borrow site provided did not depict the location and depth of sample at the proposed borrow area. Additionally, evidence that the single sample taken from the dredge site is representative of all the material to be dredged is needed.

If you have any questions regarding the required information, please contact me at (904) 487-1262 or at the letterhead address, Mail Station 315.

Sincerely,

M. W. Sole, Environmental Specialist
Office of Beach Management
Division of Beaches and Shores

mws/
cc: Neal Rogers

FOWLER, WHITE, GILLEN, BOGGS, VILLAREAL AND BANKER, P. A.

ATTORNEYS AT LAW

TAMPA — ST. PETERSBURG — CLEARWATER
FT. MYERS — TALLAHASSEE

CABLE - FOWHITE
TELEX 52776
TELECOPIER
(904) 681-6036

SUITE 910
101 NORTH MONROE STREET
TALLAHASSEE, FLORIDA 32301
(904) 681-0411

MAILING ADDRESS:
POST OFFICE BOX 11240
TALLAHASSEE, FLORIDA 32302

September 30, 1992

Mr. Leonard A. Smally, P.E.
Director of Public Works
Town of Longboat Key
501 Bay Isles Road
Longboat Key, FL 34228

RE: Bear Can Island Project

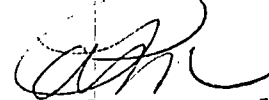
Dear Len:

Enclosed are copies of the latest correspondence received yesterday from the Department of Natural Resources concerning the above-referenced project. As you can see from the correspondence, a great deal of information is still required by Beaches and Shores before they will consider the pending application complete. If you are going to be responsible for providing the responses to the Request For Additional Information, I recommend that you contact DNR and ascertain specifically what information it wants and why the information previously submitted was incomplete.

With regard to the question concerning the apparent action taken by the Division of State Lands, I will draft a letter today to Neal Rogers of DNR, and notify him that the file is still pending.

Please contact me if you wish to discuss any of these issues.

Sincerely yours,



Pamela Presnell Garvin

PPG:jl

Enclosure



FLORIDA DEPARTMENT OF NATURAL RESOURCES

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

September 25, 1992

Lawton Chiles
Governor
Jim Smith
Secretary of State
Bob Butterworth
Attorney General
Gerald Lewis
State Comptroller
Tom Gallagher
State Treasurer
Bob Crawford
Commissioner of Agriculture
Betty Castor
Commissioner of Education

Leonard A. Smally, P.E.
Director of Public Works
Town of Longboat Key
c/o Fowler, White, Gillen, et al.
101 N. Monroe, Suite 910
Tallahassee, Florida 32301

Dear Mr. Smally:

Request for Additional Information
File Number: DBS91293 ME
Applicant Name: Manatee County

This is to acknowledge receipt of the information that you submitted on August 28, 1992, in response to the request for additional information sent to you on March 4, 1992, and to advise you that the information that was submitted was not sufficient to satisfy the Department's application requirements. Your responses to items 1,3,5,and 8 of the request are not sufficient to consider your application complete. Also note that your response did not include the information requested on July 15, 1992, regarding the apparent action taken by the Division of State Lands.

Therefore, your application is considered to be incomplete as provided for by Chapter 16B-24, Florida Administrative Code, and Section 120.60, Florida Statutes. The following is a summary of the errors and omissions in the information which you provided. Your application will remain incomplete until these items have been adequately satisfied. The following items are numbered to correspond to the earlier request for additional information.

1. The description of the activity is inadequate. On June 15, 1992, the Bureau received a copy of a draft agenda item prepared by the Division of State Lands regarding your request for consent from the Board of Trustees. That draft agenda item appeared to describe the activity as part maintenance dredging and part new dredging. The Division of State Lands' recommendation appears to have been for approval of the maintenance dredging and denial of the new dredging. Your description of the activity did not differentiate between the two quantities. The permit sketches also did not differentiate between the two quantities. Please provide an explanation of the total quantity to be dredged, differentiating between the maintenance quantity and the " new " quantity.

Leonard A. Smally, P.E.
September 25, 1992
Page 2

Note that the I cannot recommend for approval of the activity as it appears to be proposed, because of the apparent position taken by the Division of State Lands. The applicant must provide evidence of " owners' authorization " to seek the permit prior to completing the application.

3. The copies of the drawings submitted to demonstrate ownership of the spoil area were not adequate. These were not very legible and cannot be considered a legal representation of proof of ownership. The deed was not attached as indicated in your letter. Please provide a copy of the deed and legal description of the spoil area.

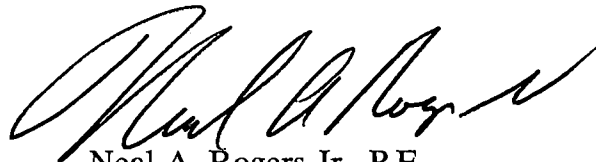
5. A set of construction drawings was not submitted as requested. In fact two complete sets are required in accordance with items 5 through 5.4 of the earlier request for additional information. These must be signed and sealed in accordance with item 5.

8. The evidence of Department of Environmental Regulation Notice of a Proposed Agency Action is not adequate to satisfy The Department of Natural Resources requirements of requesting public comment. An example of the required " Request for Public Comment" is enclosed. Note that if approved, the permittee will be required to publish a " Public Notice of Agency Action"

So that I might provide the staff with a favorable recommendation regarding your application, it should be amended to reflect a position consistent with the apparent position of the Division of State Lands. If you have any questions, please contact me at the letterhead address or by telephone at (904) 487-4475.

Sincerely,

DIVISION OF BEACHES AND SHORES



Neal A. Rogers Jr., P.E.
Bureau of Coastal Engineering
and Regulation

/nar
enclosure

cc: Anura Karunamuni
Pam Gerard DNR, DSL

REQUEST FOR PUBLIC COMMENT
THE STATE OF FLORIDA DEPARTMENT OF NATURAL RESOURCES
3900 COMMONWEALTH BOULEVARD
TALLAHASSEE, FLORIDA 32399
MAIL STATION 310

PERMIT APPLICATION FILE NUMBER: DBS910293
APPLICANT NAME: THE TOWN OF LONGBOAT KEY

You are hereby notified that the Department of Natural Resources is considering the referenced application for a coastal construction permit for activities seaward of mean high water on sovereignty lands of Florida, pursuant to Section 161.041, Florida Statutes, and Rule 16B-24, Florida Administrative Code, for the dredging of approximately 4147 cubic yards from the lagoon landward of Beer Can Island and spoiling of the material on the islands' beaches . The project is located in Manatee County, and is within the local jurisdiction of .

This public comment notice is being distributed in order to assist the Department of Natural Resources in developing facts on which to base a decision on the permit application. For accuracy and completeness, all comments concerning this proposed project and its potential impacts should be submitted in writing with supporting data, evidence, or rationale to furnish a clear understanding of the basis for the comments. The decision as to whether a permit will be issued will be based on an evaluation of: (1) The potential impact of the project on the sandy beaches of the state. (2) The design adequacy of the project. (3) The interference of the project with public beach access seaward of the mean-high water. (4) The potential cumulative effect of the project on the beach/dune system or coastal processes. (5) The expected impact of the proposed construction on nesting sea turtles and hatchlings and their habitat.

Comments received within thirty (30) calendar days of the date of this notice will be made a part of the record and will be considered in determining whether or not a permit will be granted. Plans for the proposed work may be seen at the office of the Bureau of Coastal Engineering and Regulation at the above address.

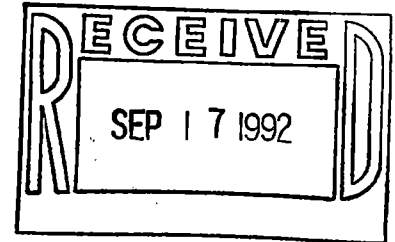


TOWN OF
LONGBOAT KEY

Incorporated November 14, 1955

501 Bay Isles Road
Longboat Key, Florida 34228
(813) 383-3721
FAX 383-7231

September 14, 1992



Linda Ackerman
Manatee County Community Services
P.O. Box 1000
Bradenton, Fl. 34206

Re: Beer Can Island Spit - Dredging Project


Dear Linda:

This is to request an extension of our WCIND funding for the above mentioned project.

We have answered the request for additional information sent by DNR and expect to go before the Governor and Cabinet (Board of Trustees) late in 1992. That will complete the permitting process. Our DER and ACE permits are in hand. We hope to begin work this winter.

If there are any questions, please let me know.

Sincerely,

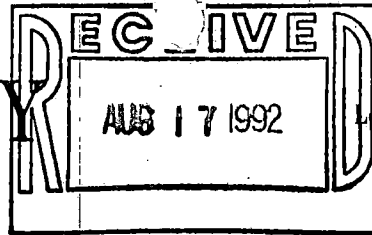

Leonard A. Smally, P.E.
Director of Public Works

/cmg
cc: Jim Armstrong, WCIND
Albert T. Cox, Town Manager
Pamela P. Garvin, Fowler, White, Gillen, etal



TOWN OF
LONGBOAT KEY

Incorporated November 14, 1955



501 Bay Isles Road
Longboat Key, Florida 34228
(813) 383-3721
FAX 383-7231

August 12, 1992


Pamela P. Garvin
Fowler, White, Gillen, et al
101 North Monroe
Suite 910
Tallahassee, Fl. 32301

Re: Greer Island Spit

Dear Pam:

Enclosed please find a draft of the letter I propose to send to Anura, along with the attachments. Please review and let me have your comments and recommendations at your earliest convenience. I appreciate your returning the whole package for our file.

Sincerely,


Leonard A. Smally, P.E.
Director of Public Works

/cmg
enc.

August 12, 1992

Anura Karunamuni, Engineer
Bureau of Coastal Engineering & Regulation
Division of Beaches and Shores
Department of Natural Resources
3900 Commonwealth Boulevard
Tallahassee, Florida 32399

Re: File No. DBS 91293 ME, BEER CAN ISLAND DREDGE
PROJECT

Dear Anura:

This is in response to your request for additional
information dated 3-4-92.

1. As shown on the attached drawings, we are dredging 4147 cy from the sand spit and depositing the spoil along the public beach between our North Shore Road dune walkover and Beer Can Island. We hope to improve public access to the Manatee County park which, as you know, has been severely restricted by erosion.
2. See location map with DER Permit.
3. All work to be seaward of the E.C.L. (drawing attached) or on Beer Can Island north of E.C.L. (deed attached).
4. We would like to begin and end in January 1993, as as not to work during turtle nesting season.
5. In DER Application, attached.
7. See attached sand analysis from Applied Technology and Management, Inc.
9. The area of spoil is the access to the County park, Beer Can Island. Currently the area is severely eroded making access difficult. This fill would serve to enhance the area between our North Shore Road dune walkover and the park (see aerial photos).
10. None planned, amount of fill is too small. The area will provide a buffer to vegetated dunes currently

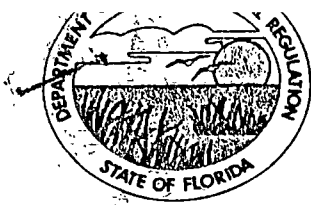
Anura
August 12, 1992
Page: 2

being eroded.

Sincerely,

Leonard A. Smally, P.E.
Director of Public Works

/cmg



Florida Department of Environmental Regulation

Southwest District

4520 Oak Fair Boulevard

Tampa, Florida 33610-7347

Lawton Chiles, Governor

813-623-5561

Carol M. Browner, Secretary

PERMITTEE

Town of Longboat
c/o Fowler, Gillen, Boggs
Villareal & Banker
Post Office Box 1438
Tampa, FL 33601

PERMIT/CERTIFICATION

Permit No: 411581783
Date of Issue: April 25, 1991
Expiration Date: 12/1/1995
County: Manatee
Project: Dredging

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code Rule(s) 17-4 and 17-312. The above named permittee is hereby authorized to perform the work or operate the facility shown on the application and approved drawing(s), plans, and other documents, attached hereto or on file with department and made a part hereof and specifically described as follows:

To hydraulically dredge 4,147 cubic yards of material to create a channel with a maximum depth of 4.0 NGVD, establish a conservation easement over 0.60 acres of wetlands and enhance approximately 1.4 acres of existing wetlands as indicated in the permit submittals and attachments, in and adjacent to Longboat Pass a natural and man altered Class III waterbody, an Outstanding Florida Water, in Section 15, Township 35 South, Range 16 East, near the south side of Longboat Pass, Manatee County.

FDER FORM 17-1.201(5)

PAGE 1 of 8.



FDER FORM 17-1.201(5)

PAGE 2 of 8.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

Cross-Section

Page Number

0+80	5
1+60	6
2+40	7
3+20	8

6. All excavated material must be deposited within a self contained upland soil disposal site as indicated in attached permit submittals. No material (including water) shall be allowed to discharge back to State waters.

7. A mixing zone for turbidity shall be established within the limits of the proposed dredging for a maximum of 30 days. State water quality standards shall be met outside of this established mixing zone. Turbidity screens shall effectively encompass the limits of the proposed dredge area. A second turbidity screen shall encompass the immediate area of the dredge cutter head.

8. The following turbidity monitoring program must be implemented and adhered to:

a. One control and three monitoring stations shall be established. The control station shall be located in area indicated on Sheet 13. The monitoring stations shall be located in areas indicated on Sheet 14. A fourth monitoring station shall be immediately established within the central portion of any visible turbidity plume outside of the turbidity screens.

b. Turbidity shall be determined for surface waters in Nephelometric Turbidity Units (NTU's) at three hour intervals during dredging activities.

c. If at any time the turbidity measured at any of the monitoring stations exceed the turbidity measured at the control station, all dredging activities shall be discontinued until control station turbidity levels have returned at the monitoring stations.

d. Within 7 days subsequent to the conclusion of the authorized dredging, a turbidity monitoring report shall be submitted to the Department. The report shall tabulate: sample date, sample time, sample station, total water depth at each station, turbidity measured, tidal stage and antecedent weather conditions. A plan view shall be included showing all station locations. The permittee shall also include a narrative describing sampling and analysis methods.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

9. The permittee shall encompass immediate work areas within double turbidity screens during all dredging activities. Screens shall remain in place until all generated turbidity has subsided.
10. The hydraulic dredge pipe route shall be that which is indicated in Sheet 2 of permit submittals. Dredging equipment and vessels shall be precluded from operating/mooring in seagrass beds.
11. Seagrasses shall not be impacted by dredging activities. Dredging limits shall be staked in field for Department inspection and approval. Prior to initiation of dredging, the permittee shall contact the Department to verify seagrass limits within proximity to project area and modify dredge area if necessary.
12. The permittee shall establish Conservation Easement over area described in Attachments A and B of permit. The Conservation Easement boundaries shall extend to dredge area limits on eastern end.
13. The attached Conservation Easement (Attachment C) shall be executed and recorded in the public record within ninety (90) days of the signature date of this permit. A certified copy of the Conservation Easement shall be submitted to the Southwest District Dredge and Fill office within thirty (30) days of the recorded date. The receipt of the recorded easement will precede any placement of fill or construction authorized by this permit.
14. The applicant shall provide a description of the Conservation Easement including a legal survey and a scaled plan view for Department approval of the dimensions of the easement area, the permittee shall comply with Specific Condition #13.
15. The following protection construction conditions shall be implemented and adhered to:
 - A. The contractor instructs all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees.
 - B. All construction personnel are advised that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act of 1978. The permittee and/or contractor will be held responsible for any manatee harmed, harassed, or killed as a result of construction activities.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

- C. Siltation barriers are made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exit from essential habitat.
- D. All vessels associated with the project operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four foot clearance from the bottom and that vessels will follow routes of deep water whenever possible.
- E. All construction activities in open water shall cease upon sighting of a manatee(s) within 100 yards of the project area. Construction activities will not resume until the manatee(s) has departed the project area.
- F. Any collision with and/or injury to a manatee shall be reported immediately to the "Manatee Hotline" (1-800-DIAL FMP) and to the U.S. Fish and Wildlife Service, Jacksonville Field Office (904-791-2580).
- G. The contractor maintains a log detailing sightings, collisions, or injuries to manatees should they occur during the contract period.
- H. Following project completion, a report summarizing the above incidents and sightings is submitted to the Florida Department of Natural Resources (FDNR), Marine Mammals Section, 100 Eighth Avenue, S.E., St. Petersburg, Florida 33701-5095 and to the U.S. Fish and Wildlife Service, 3100 University Blvd. South, Suite 120, Jacksonville, FL 32216.
- I. A minimum of two manatee awareness temporary construction signs are installed and maintained at prominent locations within the construction area/docking facility prior to initiation of construction. One temporary sign will be located prominently adjacent to the construction permit(s).

The secondary temporary construction sign will be installed in a location prominently visible to water related construction crews. A temporary construction sign "Manatee Habitat-Idle Speed in Construction Area" criteria sheet is attached.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

16. The permittee shall enhance a minimum of 1.4 acres within existing wetlands in area indicated on Sheet 14 through the removal of all Australian pines (Casuarina spp.) and Brazilian pepper (Schinus terebinthifolius). The permittee shall submit to the Department for review and approval, plan views of specific areas of proposed removal and removal techniques within 60 days of the signature date of this permit. Nuisance species removal shall be implemented with initiation of authorized dredging activities. Enhanced areas shall be maintained free of the above cited nuisance species in perpetuity. The permittee shall enter into a long term agreement with the Department to provide for perpetual maintenance of the enhancement area within 60 days of permit issuance.

17. Cross Sectional Drawing 2+40 shall be revised to exclude area adjacent to seawall as indicated in Plan View (Sheet 3) of permit submittals.

18. Pursuant to Attachment "D" of permit submittals, the permittee shall enter into an agreement with the Department which shall stipulate that the area previously dredged (as indicated in Attachment G) pursuant to U.S.A.C.O.E. permit issued October 26, 1962 and outside of this permit area limits will be precluded from any future dredging activities. This agreement shall be entered into with the Department prior to initiation of dredging activities.

19. A point shall be established directly below the centerpoint of the waterward end of the dock located at 7250 Gulf of Mexico Drive. The elevation of this point shall be surveyed and recorded by a professional engineer prior to the initiation of dredging authorized by this permit. This same point shall also be surveyed and recorded after all turbidity generated by the dredging authorized by this permit has subsided. The permittee shall provide the elevation of this permit surveyed point within 1 week of the date of survey to the DER Wetlands Management Section in Tampa at 4520 Oak Fair Boulevard, Tampa, FL 33610.

20. A staff gauge at least six feet in height which is marked in 0.1' increments shall be installed and the elevation of top of the substrate surveyed at the terminal end of the dock prior to the initiation of any dredging activities authorized by this permit. The permittee shall determine the elevation of the top of substrate at staff gauge location on a daily basis during dredging activities. If at any time during these activities, accumulation of sediments in excess of 6 inches occurs, all dredging activities shall immediately cease. The survey data shall be provided to the Department within one week of the survey date. Additionally, a

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

pre and post dredging bathymetric survey of the bottoms immediately adjacent to the deck shall be conducted and submitted to the Department within two weeks prior to and two weeks subsequent to dredging activities respectively.

21. A minimum of 3 marker buoys shall be permanently installed within the area circle on Sheet 15. The permittee shall stake buoy locations and obtain Department review and approval of these locations prior to initiation of any permitted activities.

22. Permanent manatee awareness signs shall be installed and permanently maintained within the project area. Prior to initiation of permitted activities, the permittee will send a project site plan to the FDNR Marine Mammals Section (100 Eighth Avenue S.E., St. Petersburg, FL 33701-5095). FDNR personnel will specify permanent sign locations.

The signs shall be 3 ft. by 4 ft., 125 gauge 61TS aluminum, covered with white, engineer grade, reflecting sheeting; black, painted lettering; black, screened design; and orange, engineer grade, reflective tape border. The 3 ft. by 4 ft. "Caution Manatee Area" signs shall conform to the Florida Uniform Waterway Marking System in accordance with the FDNR specifications for such signs. Sign installation specifications will be furnished to the permittee when sign locations are designated.

Verification that signs have been installed at designated locations shall be provided to FDNR and FDER, Southwest District initiation of permitted activities of the owner(s) and are to be permanently maintained. A permanent manatee awareness sign criteria sheet is attached.

23. The permittee shall submit an approved Department of Natural Resources turtle nest monitoring plan to DER prior to initiation of activities authorized by this permit.

PERMITTEE: TOWN OF LONGBOAT
FILE NO: 411581783

SPECIFIC CONDITION:

24. The permittee shall be aware of and operate under the attached "General Permit Conditions #1 thru #15". General Permit Conditions are binding upon the permittee and enforceable pursuant to Chapter 403 of the Florida Statutes.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL REGULATION


Richard D. Garrity, Ph.D.
Deputy Assistant Secretary

RDG/msb

Copies furnished to:


Southwest Florida Water Management District
U.S. Corps of Engineers

CERTIFICATE OF SERVICE

This is to certify that this NOTICE OF PERMIT and all copies were mailed before the close of business on 4/25/91 to the listed persons.

Clerk Stamp

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant
to §120.52(9), Florida
Statutes, with the designated
Department Clerk, receipt of
which is hereby acknowledged.

 4/25/91
(Clerk) (Date)

ATTACHMENT - GENERAL CONDITIONS:

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.161, 403.727, or 403.859 through 403.861, Florida Statutes. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, State, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.

4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgement of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:

- (a) Have access to and copy any records that must be kept under conditions of the permit;
- (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and

14. The permittee shall comply with the following:

- (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
- (b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.
- (c) Records of monitoring information shall include:
 - 1. the date, exact place, and time of sampling or measurements;
 - 2. the person responsible for performing the sampling or measurements;
 - 3. the dates analyses were performed;
 - 4. the person responsible for performing the analyses;
 - 5. the analytical techniques or methods used;
 - 6. the results of such analyses.

15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

JOINT APPLICATION
DEPARTMENT OF THE ARMY/FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION
For Activities in the Waters of the State of Florida

CORPS APPLICATION NUMBER (official use only)

DER APPLICATION NUMBER (official use only)

41158128

1. APPLICANT'S NAME AND ADDRESS

T O W N O F L O N G B O A T
 NAME

5 0 1 B A Y I S L E S R O A D
 STREET

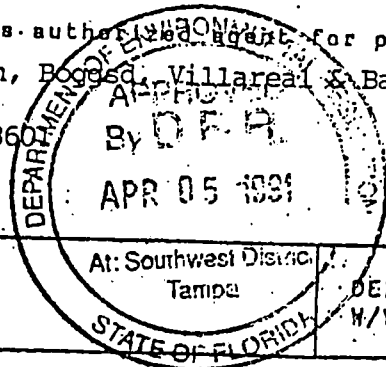
L O N G B O A T K E Y F L 3 4 2 2 8
 CITY STATE ZIP

TELEPHONE NUMBER (Day) (813) 383 3721 (Night) ()

2. Name, address, zip code and title of applicant's authorized agent for permit application coordination

Fowler, White, Gillen, Boggs, Villareal & Banker
 P.O. Box 1438
 Tampa, Florida 33601

Telephone Number (813) 792-6161



3. NAME OF WATERWAY AT LOCATION OF THE ACTIVITY.

Longboat Pass

DER Code _____
 W/W Code _____

4. LOCATION WHERE PROPOSED ACTIVITY EXISTS OR WILL OCCUR.

Longboat Pass
 Street, road or other descriptive location
 South side of Longboat Pass
 Incorporated city or town
 Manatee
 County

15	35	16
Section	Township	Range
27°26'22"	82°41'45"	
Latitude	Longitude	
Tax Assessor's Description: (if known)		
Map No.	Subdiv. No.	Lot No.

5. NAME AND ADDRESS INCLUDING ZIP CODE OF ADJOINING PROPERTY OWNERS WHOSE PROPERTY ALSO ADJOINS THE WATERWAY.

SEE ATTACHED

6. PROPOSED USE

Private Single Dwelling [] Private Multi-dwelling [] Public [X]
 Commercial [] Other [] (Explain in remarks)

DEC 09 1998

SOUTH

8. Date activity is proposed to commence within 30 days of permit issuance ; to be completed within 180 days of commencement

9. Previous permits for this project have been
A. Denied (date) _____ DER # _____ Corps # _____
B. Issued (date) _____
C. Other (please explain) _____

Differentiate between existing work and proposed work on the drawings.

10. Remarks (See Instruction Pamphlet for additional information required for all applications and certain activities. Use additional sheets if necessary.)

11. AFFIDAVIT OF OWNERSHIP OR CONTROL of the property on which the proposed project is to be undertaken

I CERTIFY THAT: (please check appropriate space)

I am the record owner, lessee, or record easement holder of the property described below.

I am not the record owner, lessee, or record easement holder of the property described below; but I will have before undertaking the proposed work the requisite property interest. (Please explain what the interest will be and how it will be acquired.)

LEGAL DESCRIPTION OF PROPERTY SITUATED IN MANATEE COUNTY, FLORIDA
(Use additional sheets if necessary)

SEE ATTACHED

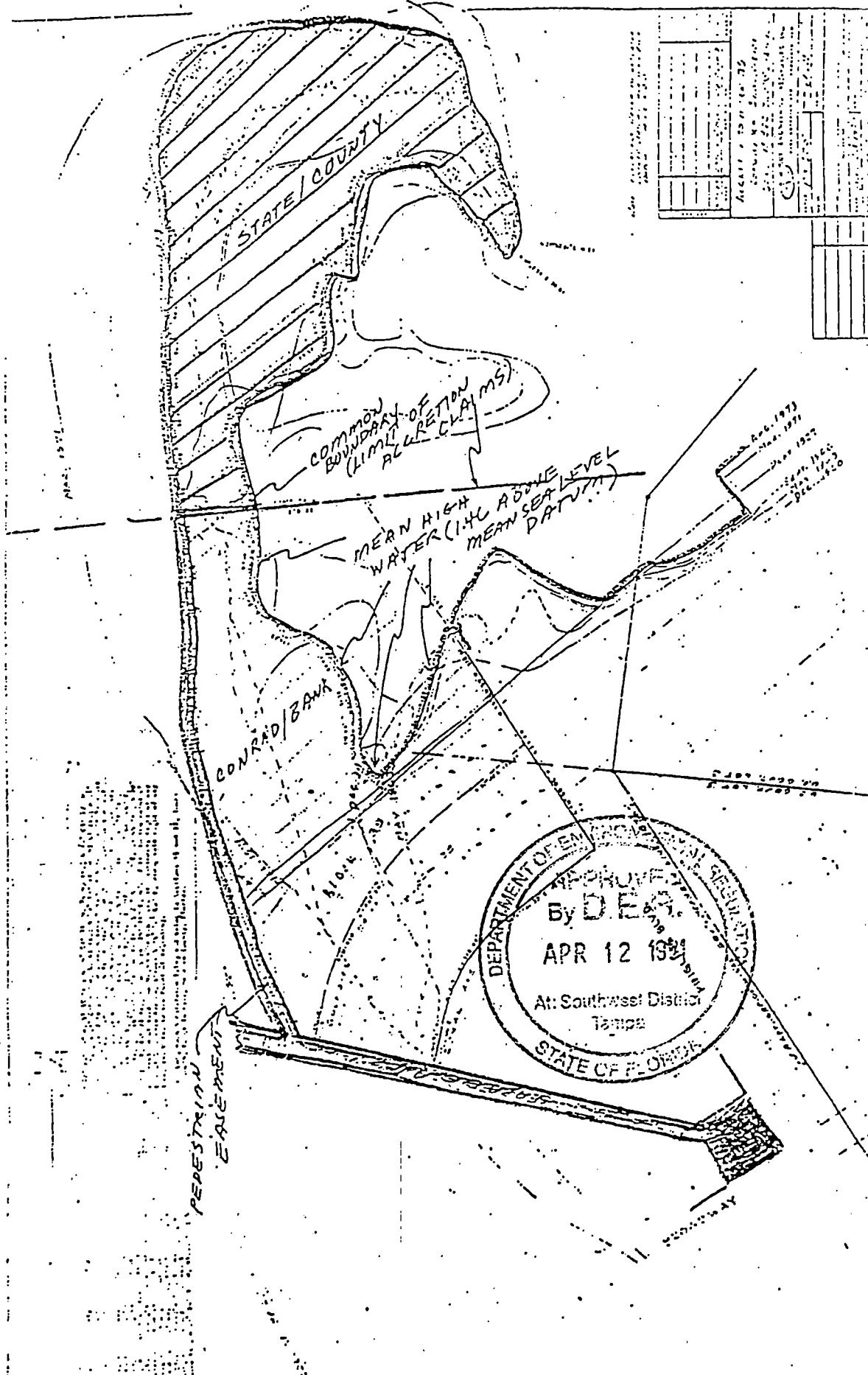
Joseph C. Miller Jr.
Joseph C. Miller, Signature Acting Director

Sworn and subscribed before me at Manatee County County,

Florida, this 8th day of December, 1988.

Bernard J. Krupp
NOTARY PUBLIC

My commission expires: 8/27/1991



STATE/COUNTY

COMMON BOUNDARY OF SECTION
(LIMIT ALL CLAIMS)

MEAN HIGH WATER (I.H.C. ABOVE LEVEL
MEAN SEA LEVEL DATUM)

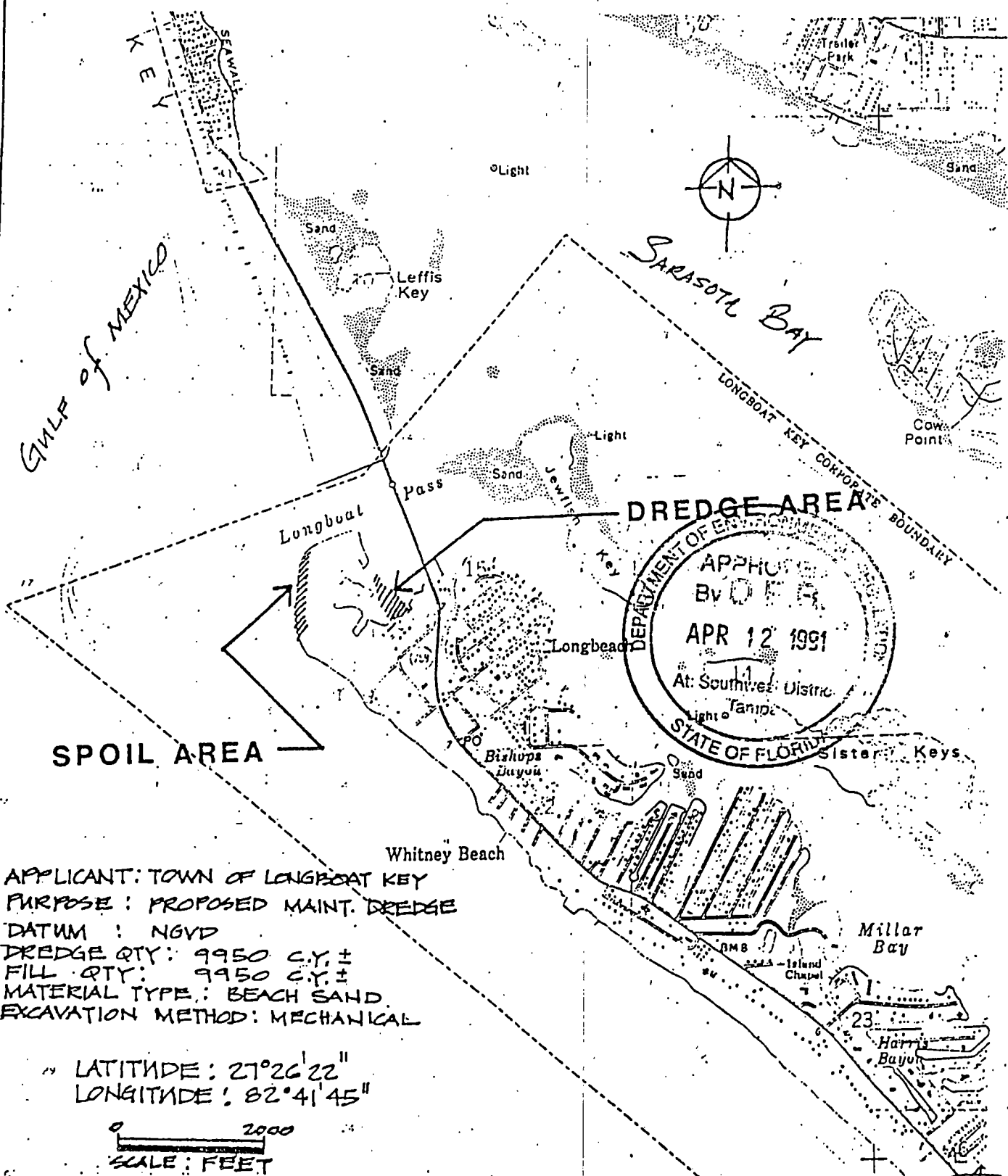
CONRAD/BANA

PEDESTRIAN EASEMENT

DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF FLORIDA
APPROVED
By DEA
APR 12 1981
At: Southwest District
Tampa
STATE OF FLORIDA

DATE	BY	REVISION
Aug. 1971	J. M. ...	
Nov. 1971	J. M. ...	
Dec. 1971	J. M. ...	
Jan. 1972	J. M. ...	
Feb. 1972	J. M. ...	
Mar. 1972	J. M. ...	
Apr. 1972	J. M. ...	

FROM U.S.G.S. QUAD Rev. 1969 - BRADENTON BEACH



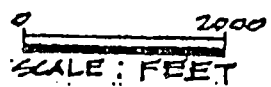
SPOIL AREA

DREDGE AREA

DEPARTMENT OF ENGINEERING AND CONSTRUCTION
 STATE OF FLORIDA
 APR 12 1991
 At: South West District
 District Engineer

APPLICANT: TOWN OF LONGBOAT KEY
 PURPOSE: PROPOSED MAINT. DREDGE
 DATUM: NGVD
 DREDGE QTY: 9950 C.Y. ±
 FILL QTY: 9950 C.Y. ±
 MATERIAL TYPE: BEACH SAND
 EXCAVATION METHOD: MECHANICAL

LATITUDE: 27°26'22"
 LONGITUDE: 82°41'45"

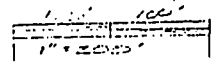


SHEET TITLE **LOCATION MAP**

CLIENT: TOWN OF LONGBOAT KEY

PROJECT	BENSON ENGINEERING ENGINEERS-PLANNERS-SURVEYORS BRADENTON FLORIDA	SCALE	DATE	DWN	SHEET
"BEER CAN" (a.k.a. GREER) ISLAND DREDGE		1"=2000'	10.11.88		1A 18

FROM Manatee Co
 1/2 Section Map
 Sht 5A/S15



SITE

APPLICANT: TOWN OF LONGBOAT KEY

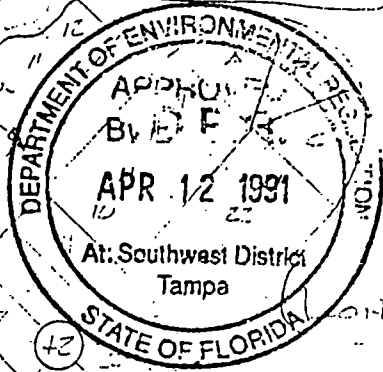
FRONT YARD MAINTENANCE RESERVING

LAND AREA - 270 SQ FT
 SIDE YARD - 20' x 41' 45"
 DATUM USED: NGVD

DREDGE QTY: 4147 CY₁₀₀₀
 FILL QTY: 4147 CY₁₀₀₀

MATERIAL TYPE: BEACH SAND
 EXCAVATION METHOD: HYDRAULIC DREDGE

LONGREACH SUB.
 PLAT. 002, PAGES 00



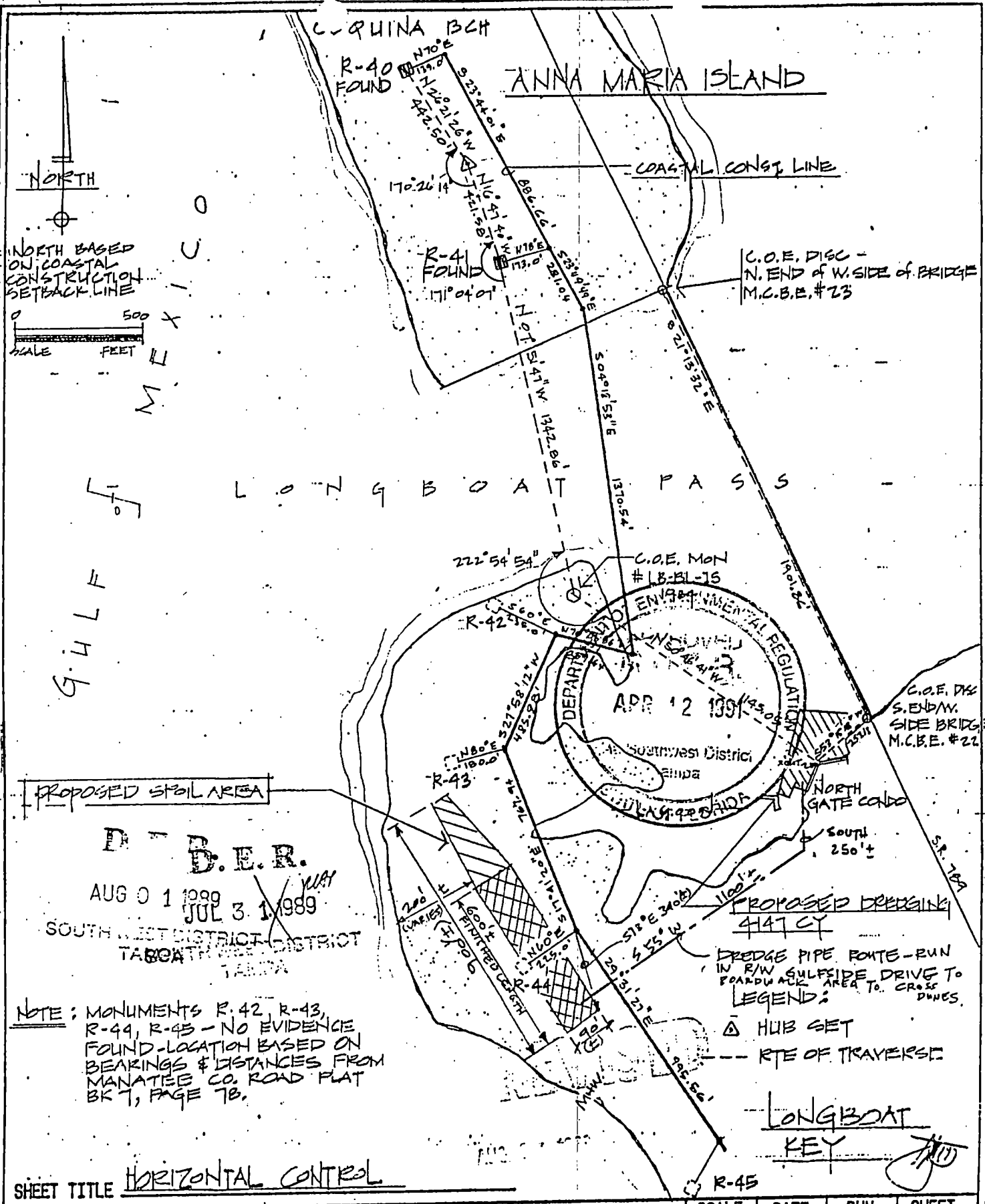
D.E.R.
 JUL 21 1989

SHEET TITLE

PROJECT

BENSON ENGINEERING
 ENGINEERS-PLANNERS-SURVEYORS
 BRADENTON FLORIDA

SCALE	DATE	DWN	SHEET
1"=200'	6/15/89	CF	1/12



PROPOSED SPOIL AREA

D.B.E.R.

AUG 01 1989
 JUL 31 1989

SOUTH WEST DISTRICT DISTRICT
 TABOAT MUSEUM TARDIA

NOTE: MONUMENTS R. 42, R-43,
 R-44, R-45 - NO EVIDENCE
 FOUND - LOCATION BASED ON
 BEARINGS & DISTANCES FROM
 MANATEE CO. ROAD PLAT
 BK 7, PAGE 7B.

PROPOSED DREDGING
 4147 CY

DREDGE PIPE ROUTE - RUN
 IN R/W SULFIDE DRIVE TO
 BOARDWALK AREA TO CROSS
 LEGEND:
 Δ HUB SET
 --- RTE OF TRAVERSE

LONGBOAT
 KEY

SHEET TITLE HORIZONTAL CONTROL

PROJECT
 BEER CAN (GREEK) ISLAND
 DREDGING PROJECT

BENSON ENGINEERING
 ENGINEERS-PLANNERS-SURVEYORS
 BRADENTON FLORIDA

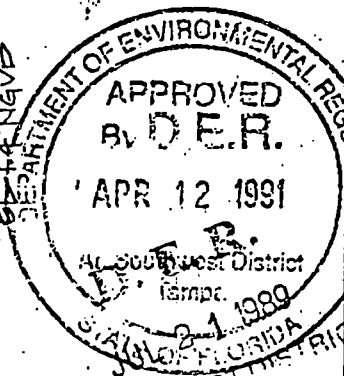
SCALE	DATE	DWN	SHEET
1"=500'	11-16-88	SKIP	2/12

BASELINE

TOP OF SEAWALL
ELEV. 4.5 NGVD

MEAN HIGH WATER
ELEV. 4.1 NGVD

KEEP DREDGING OPERATION
5' FROM SEAWALL



SCALE: 1" = 40' HORIZONTAL
1" = 4' VERTICAL

EXISTING BOTTOM

CROSS SECTION # 0+00

+4
+3
+2
+1
0
-1
-2
-3
-4
-5
-6
FEET

100 90 80 70 60 50 40 30 20 10 0 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 160 170 180 190 200 210
FEET

SHEET TITLE 0+00

PROJECT
GREEK CAN (GREEK) ISLAND
DREDGE PROJECT

BENSON ENGINEERING
ENGINEERS-PLANNERS-SURVEYORS
BRADENTON FLORIDA

SCALE	DATE	DWN	SHEET
NOTED	6-21-89		4 / 12

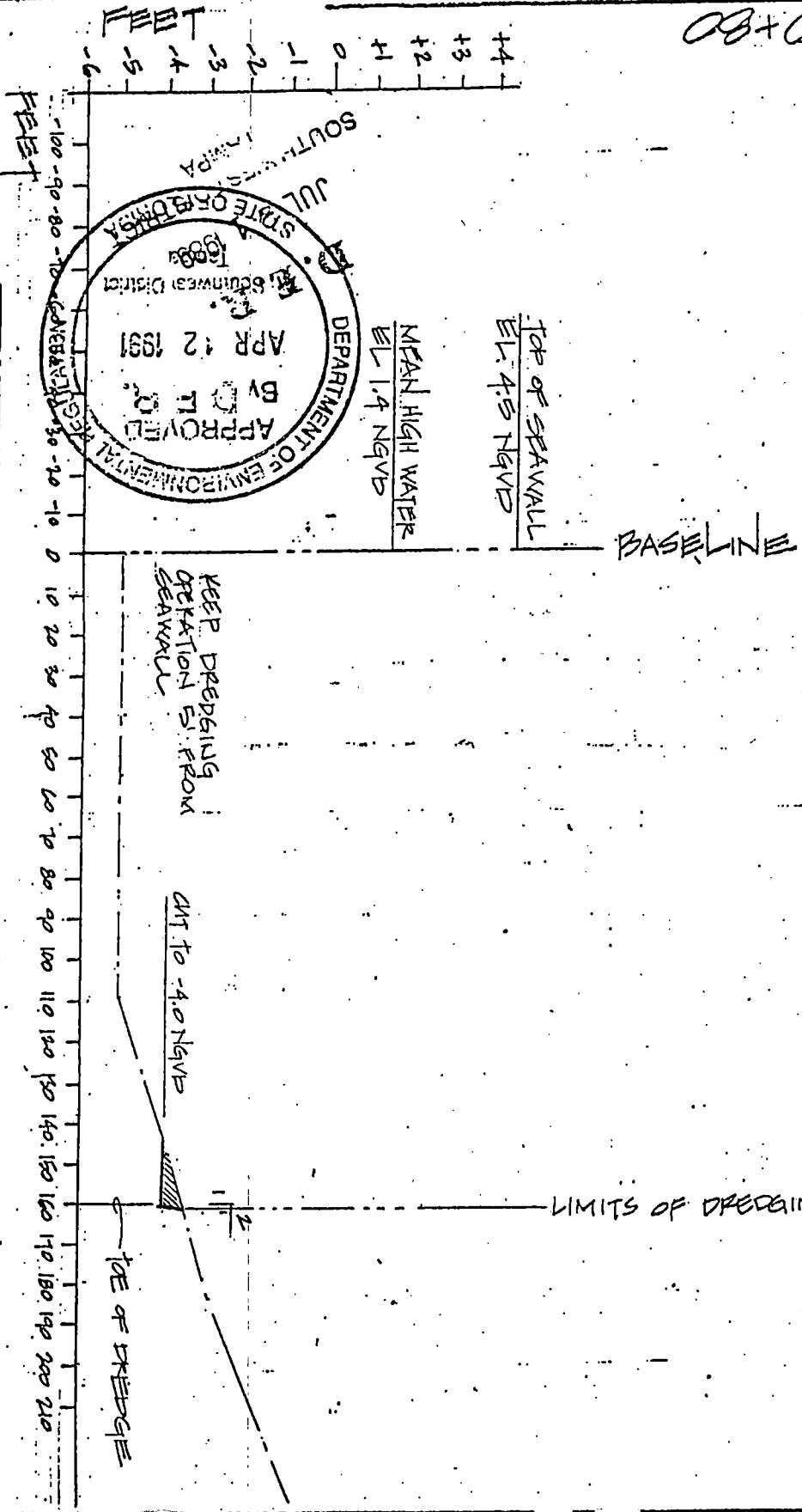
PROJECT
 BECK CAN (GREEN) ISLAND
 DREDGE PROJECT

BENSON ENGINEERING
 ENGINEERS-PLANNERS-SURVEYORS
 BRADENTON, FLORIDA

SCALE	DATE	DWN	SHEET
NOTED 6-21-89	SKIP	5	12

SHEET TITLE

0+80



EXISTING BOTTOM
 PROPOSED BOTTOM

SCALE: 1" = 40' HORIZONTAL
 1" = 4' VERTICAL

CROSS SECTION No. 0+80

SHEET TITLE 1+60

PROJECT
REEK SAN (GREEK) ISLAND
DRIDGE PROJECT

BENSON ENGINEERING
 ENGINEERS-PLANNERS-SURVEYORS
 BRADENTON FLORIDA

SCALE NOTED

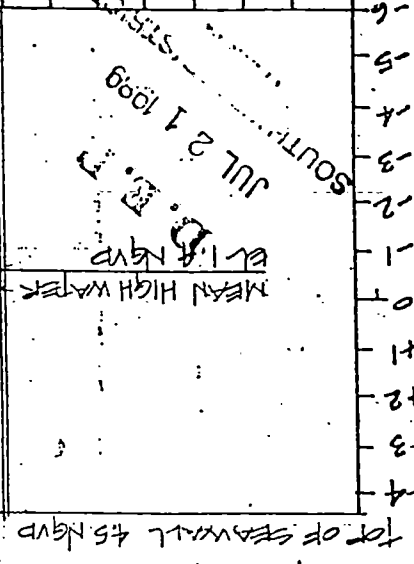
DATE 6-21-89

DWN SKL

SHEET 6 / 12

FEET

+4
+3
+2
+1
0
-1
-2
-3
-4
-5
-6



EXISTING BOTTOM

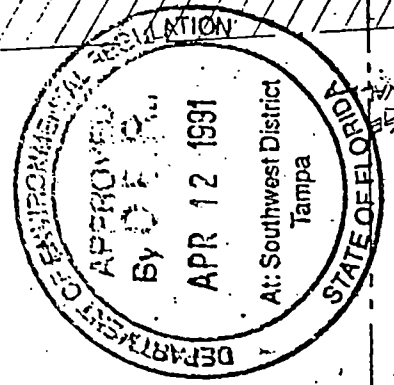
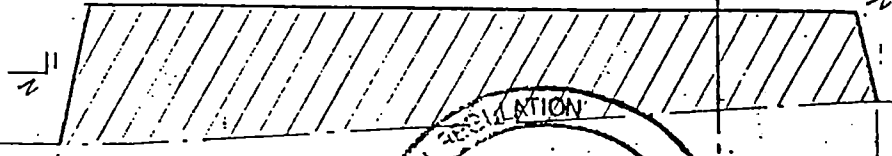
PROPOSED BOTTOM

CROSS SECTION 1+60

SCALE: 1" = 40' HORIZONTAL
 1/2" = 4' VERTICAL

100 90 80 70 60 50 40 30 20 10 0 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 160 170 180 190 200 210

TOE OF BRIDGE



LIMITS OF DREDGING

BASELINE

LIMITS OF DREDGING

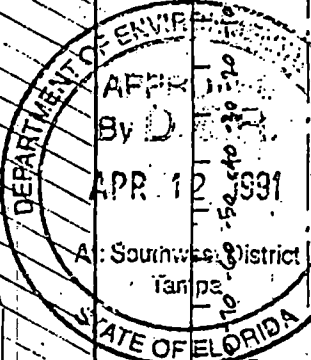
BASELINE

TOE OF DREDGE

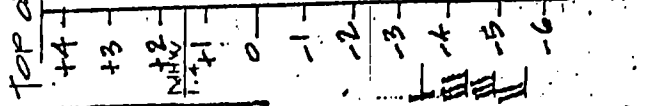
SCALE: 1" = 40' HORIZONTAL
1" = 4' VERTICAL

CROSS SECTION No. 2+40

TOP OF SEAVALL
EL 45 NGVD
SOUTH WIND
JUL 21
HOLD DREDGE
STOP AT
EL 44 STRIP



EXISTING BOTTOM
PROPOSED BOTTOM



SHEET TITLE

2+40

PROJECT
GREEK CAN (GREEK) ISLAND
DREDGE PROJECT

BENSON ENGINEERING
ENGINEERS-PLANNERS-SURVEYORS
BRADENTON FLORIDA

SCALE	DATE	DWN	SHEET
NOTED	6-21-89	SKP	7 / 12



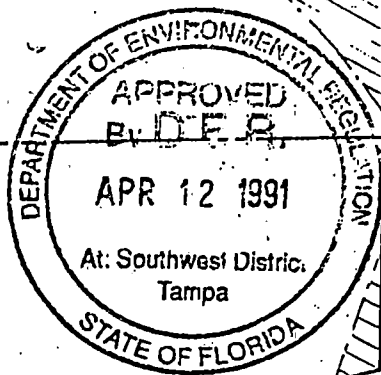
LIMITS OF DREDGING

BASELINE

BANKRY COE 62-258
LIMITS OF DREDGE

MHW EL 1.4 NGVP

TOE OF DREDGE



JUL 21 1983
SOUTHWEST DISTRICT
TAMPA

SCALE: 1" = 40' HORIZONTAL
1" = 4' VERTICAL

EXISTING BOTTOM

PROPOSED BOTTOM

CROSS SECTION No 3+20

100 90 80 70 60 50 40 30 20 10 0 -10 -20 -30 -40 -50 -60 -70 -80 -90 -100
FEET

+4 +3 +2 +1 0 -1 -2 -3 -4 -5 -6
FEET

SHEET TITLE

3+20

PROJECT
REEF CAN (GREEK) ISLAND
DREDGE PROJECT

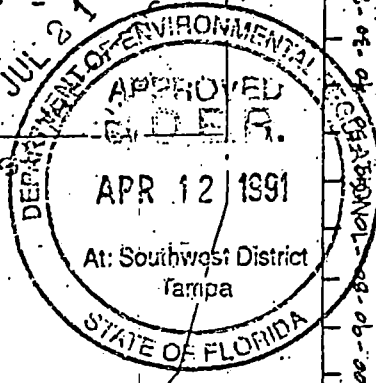
BENSON ENGINEERING
ENGINEERS-PLANNERS-SURVEYORS
BRADENTON FLORIDA

SCALE	DATE	DWN	SHEET
NOTED	6-21-89	SKP	8
			12

BASELINE

BOUNDARY COE 62-258
LIMITS OF DREDGE

D. E. P.
JUL 21 1989



MEAN HIGH WATER
BL 1.4 NGVP

SCALE: 1" = 40' HORIZONTAL
1" = 4' VERTICAL

EXISTING BOTTOM

CROSS SECTION No 4+00

+4
+3
+2
+1
0
-1
-2
-3
-4
-5
-6
FEET

100 90 80 70 60 50 40 30 20 10 0 -10 -20 -30 -40 -50 -60 -70 -80 -90 -100
FEET

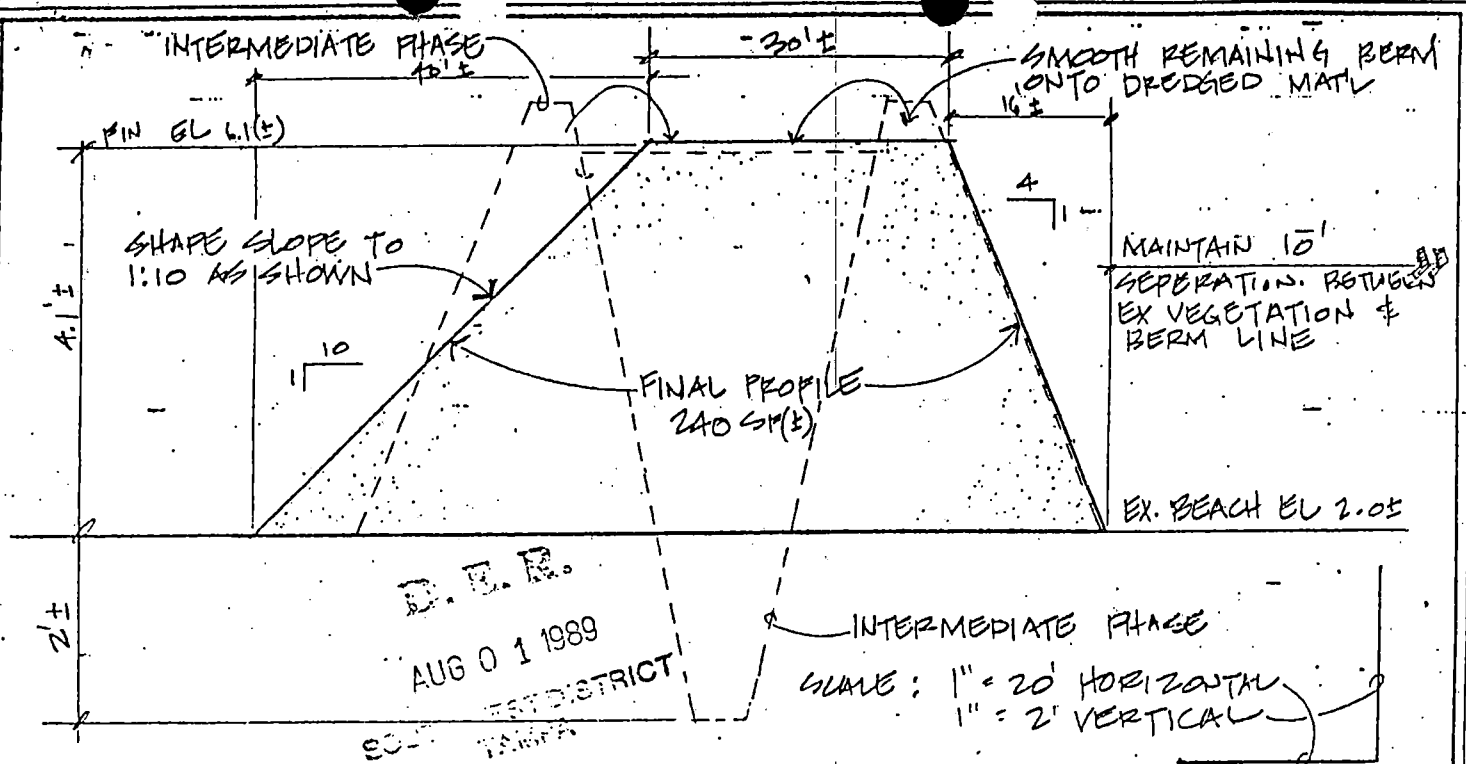
SHEET TITLE

4+00

PROJECT
BEEK CAN (GREEK) ISLAND
DREDGE PROJECT

BENSON ENGINEERING
ENGINEERS-PLANNERS-SURVEYORS
BRADENTON FLORIDA

SCALE	DATE	DWN	SHEET
NOTED	6-21-89		9 / 12



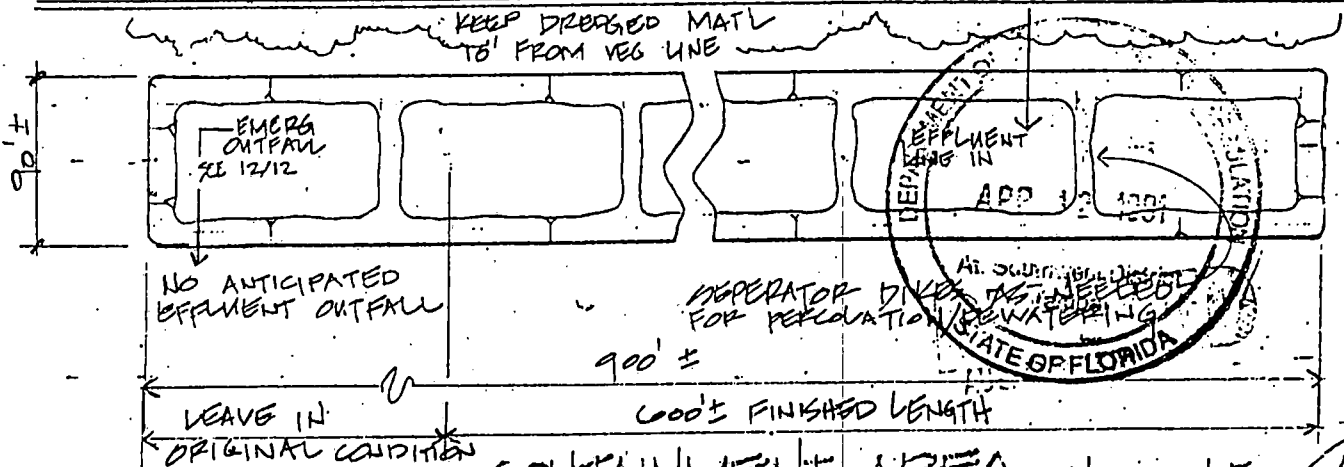
SECTION THROUGH DISPOSAL AREA - FINAL PHASE

TABULATION

JUL 5 1 1989
SOUTH DISTRICT

VOLUME DREDGED = 4147 CUBIC YDS x 27 = 111969 CUBIC FEET
 111969 CUBIC FEET x 1.3 (SWELL FACTOR) = 145560 CUBIC FEET

145560 CF ÷ 240 SF (FINAL X-SECTION AREA) = 607 FEET(±)
 TOTAL LENGTH REQ'D FOR DISPOSAL



CONTAINMENT AREA NO SCALE

PROJECT	BENSON ENGINEERING	SCALE	DATE	DWN	SHEET
BEER CAN ISLAND DREDGING PROJECT	ENGINEERS-PLANNERS-SURVEYORS BRADENTON FLORIDA	NOTED	6-23-89	SKIP	11/12

BEER CAN (GREER) ISLAND DREDGING PROJECT FOR CITY OF LONGBOAT KEY

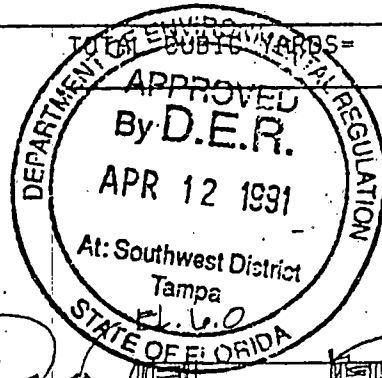
END-AVERAGING OF SECTIONS TO DERIVE DREDGED VOLUME (REV. 6/21/89)

DRAWING SCALE: VERTICAL : 1" = 4' ; HORIZONTAL : 1" = 40'

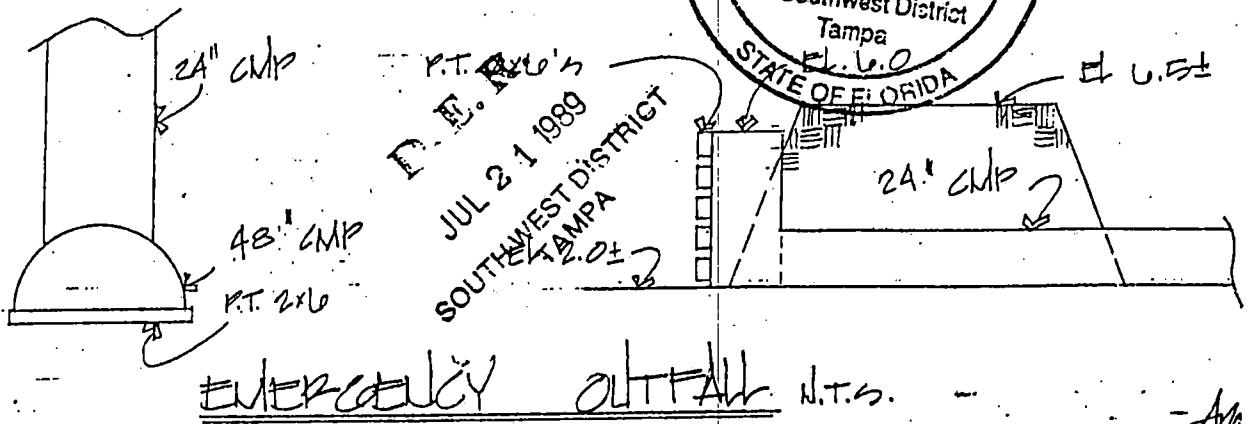
AREAS IN SQUARE FEET ARE COMPUTER PLANIMETER READINGS

FORMULA = $[(A1+A2)(4*40/2)*DISTANCE=CUBIC FEET/27 = CUBIC YARDS$

SECTION#	DISTANCE(ft)	AREA(sf)	AVG AREA(sf)	VOLUME(cy)
0+00		0		
	80		1.81	5.37
0+80		3.616		
	80		195.328	578.74
1+60		387.04		
	80		577.672	1711.63
2+40		768.304		
	-80		504.416	1494.55
3+20		240.528		
	80		120.264	356.33
4+00		0		



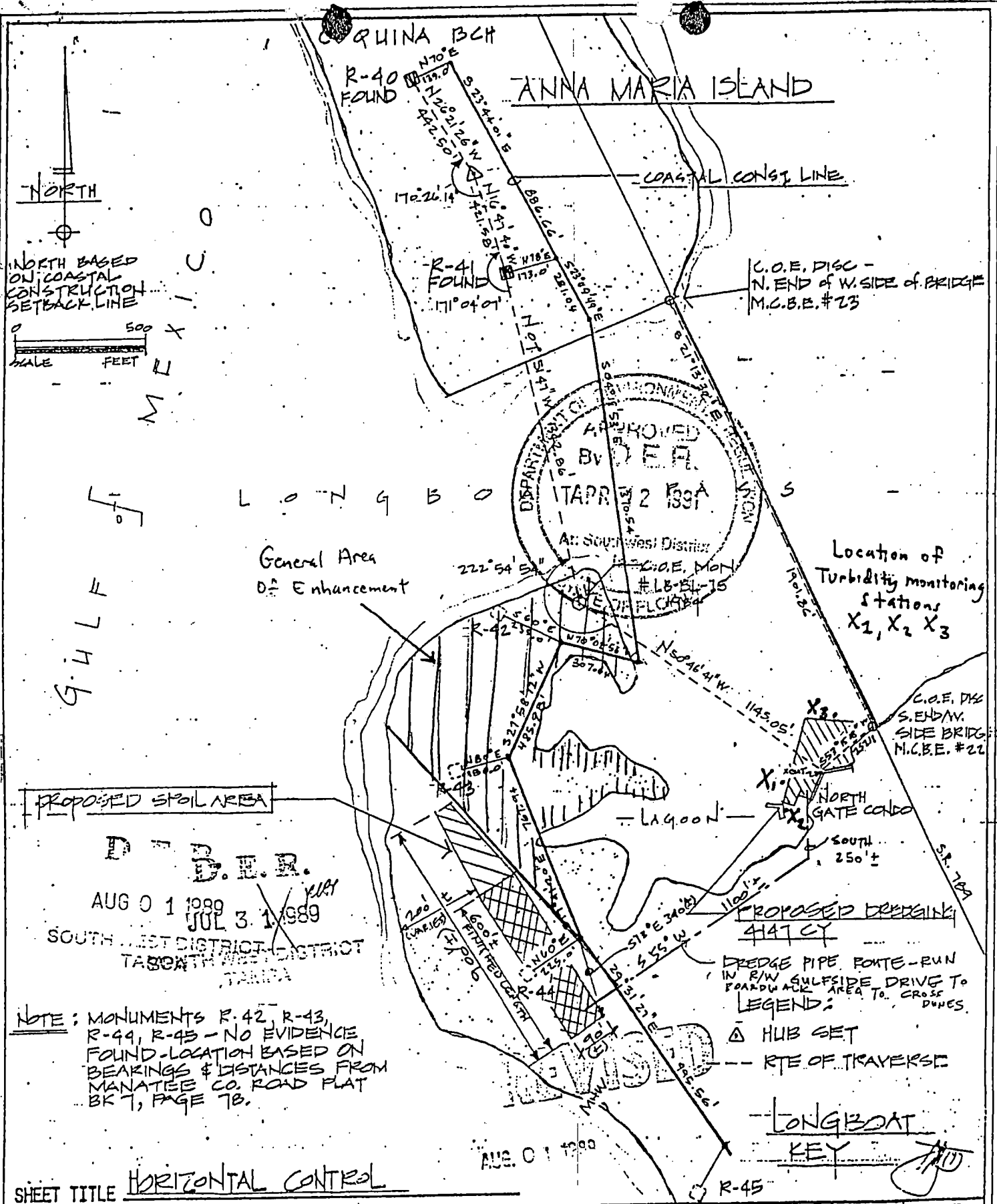
TOTAL CUBIC YARDS = 4147'



EMERGENCY OUTFALL N.T.S.

SHEET TITLE QUANTITY TABULATION

PROJECT	BENSON ENGINEERING ENGINEERS-PLANNERS-SURVEYORS BRADENTON FLORIDA	SCALE	DATE	DWN	SHEET
BEER CAN ISLAND DREDGING PROJECT		NONE	6-21-89 02 7/29/89	SKIP	12 / 12



NORTH
 NORTH BASED ON COASTAL CONSTRUCTION SETBACK LINE
 SCALE 0 500 FEET

APPROVED BY DEPT. OF ENVIRONMENTAL REGULATION
 APR 2 1989
 All South West District
 C.O.E. MON #LB-51-15
 SE 7/8 FLORIDA

C.O.E. DISC - N. END OF W. SIDE OF BRIDGE M.C.B.E. #23

Location of Turbidity monitoring stations X1, X2, X3

C.O.E. DISC S. END W. SIDE BRIDGE M.C.B.E. #22

PROPOSED SPOIL AREA

D.E.R.

AUG 01 1989
 JUL 31 1989

SOUTH WEST DISTRICT DISTRICT
 TARRANT COUNTY TAMPA

NOTE: MONUMENTS R-42, R-43, R-44, R-45 - NO EVIDENCE FOUND - LOCATION BASED ON BEARINGS & DISTANCES FROM MANATEE CO. ROAD PLAT BK 7, PAGE 7B.

DREDGE PIPE ROUTE - RUN IN R/W SULFIDE DRIVING TO ROADWAY AREA TO CROSS DUNES.
 LEGEND:

△ HUB SET
 --- RTE OF TRAVERSE

LONGBOAT KEY

SHEET TITLE HORIZONTAL CONTROL

PROJECT	BENSON ENGINEERING	SCALE	DATE	DWN	SHEET
BEER CAN (GREEK) ISLAND DREDGING PROJECT	ENGINEERS-PLANNERS-SURVEYORS BRADENTON FLORIDA	1"=500'	11-16-88	SKIP	14

REV 2-13-89 REV 6-21-89
 REV 7-27-89 WOOD PIPE