Memorandum

MIAMI-DADE COUNTY

Date: May 3, 2011

To: Honorable Joe A. Martinez, Chairman
and Members, Board of County Commissioners

Agenda Item No. 5(E)

From: Alina T. Hudak
County Manager

Subject: Resolution Relating to an Application by Elmer Figueroa for a Class I Permit to Install a Wave Attenuator in Biscayne Bay at 4600 North Bay Road, Miami Beach, Miami-Dade County, Florida

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Attached, please find for your consideration an application by Elmer Figueroa for a Class I permit. Also attached is the recommendation of the Director of the Department of Environmental Resources Management and a proposed resolution approving the issuance of the Class I permit.

Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: May 3, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 5(E)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

✓ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(E)
5-3-11

RESOLUTION NO. _____

RESOLUTION RELATING TO AN APPLICATION BY ELMER FIGUEROA FOR A CLASS I PERMIT TO INSTALL A WAVE ATTENUATOR IN BISCAYNE BAY AT 4600 NORTH BAY ROAD, MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board having considered all the applicable factors contained within Section 24-48.3 of the Code of Miami-Dade County, hereby approves the application by Elmer Figueroa for a Class I permit to install a wave attenuator in Biscayne Bay at 4600 North Bay Road, Miami Beach, Miami-Dade County, Florida subject to the conditions set forth in the memorandum from the Director of the Miami-Dade County Department of Environmental Resources Management, a copy of which is attached hereto and made a part hereof. The issuance of this approval does not relieve the applicant from obtaining all applicable Federal, State, and local permits.

The foregoing resolution was offered by Commissioner ,

who moved its adoption. The motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Jose "Pepe" Diaz	Sally A. Heyman
Barbara J. Jordan	Jean Monestime
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of May, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. ASR

Abbie Schwaderer-Raurell

Date: April 13, 2011

Memorandum

MIAMI-DADE COUNTY

To: Alina T. Hudak
County Manager

From: Carlos Espinosa, P.E., Director
Environmental Resources Management

Subject: Resolution Relating to an Application by Elmer Figueroa for a Class I Permit to Install a Wave Attenuator in Biscayne Bay at 4600 North Bay Road, Miami Beach, Miami-Dade County, Florida

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Recommendation

I have reviewed the attached Class I permit application submitted by Elmer Figueroa. Based upon the applicable evaluation factors set forth in Section 24-48.3 of the Code of Miami-Dade County (Code), Florida, I recommend that the Board of County Commissioners (Board) approve the issuance of a Class I permit for the reasons set forth below.

Scope

The project site is located at 4600 North Bay Road, Miami Beach, Miami-Dade County, Florida in Commission District 4.

Fiscal Impact/Funding Source

Not applicable.

Track Record/Monitor

Not applicable.

Background

The subject Class I permit application requests authorization to install a wave attenuator at a single-family residential property at 4600 North Bay Road, Miami Beach, Miami-Dade County, Florida. The proposed project is required to be reviewed and approved by the Board at a public hearing because the scope of work is not specifically referenced in Section 24-48.2 of the Code as work that can be processed administratively with a short form application. Therefore, a standard form application including a public hearing is required.

The site consists of a single-family residence adjacent to Biscayne Bay with 132 linear feet of shoreline, an L-shaped dock, a boatlift and 3 mooring piles. The existing structures were authorized under Class I permits CC05-043 and CC06-429. The applicant has indicated that the vessel moored in the slip area of the existing dock is subject to intense wave action due to the proximity of the adjacent channel. To protect the moored vessel, the applicant proposes to install a 40 foot long wave attenuator. The wave attenuator will be constructed along 5 wooden piles, and will extend a maximum of 3 feet above the mean high water line.

The existing slip area will be extended 5 feet waterward of its present location to accommodate the installation of the wave attenuator. A benthic survey conducted by biologists from the Department of Environmental Resource Management (DERM) revealed a sparse coverage of benthic resources in the proposed slip area. To mitigate for unavoidable impacts to existing resources, the applicant will provide a contribution to the Biscayne Bay Environmental Enhancement Trust Fund in the amount of $1,800.00, which shall be specifically designated for habitat creation/restoration projects in Biscayne Bay and its foreshore.

The proposed project has been designed in accordance with all relevant Miami-Dade County coastal construction criteria and is consistent with all other Miami-Dade County coastal protection provisions. Please find attached a DERM Project Report which sets forth the reasons the proposed project is recommended for approval by DERM pursuant to the applicable evaluation factors set forth in Section 24-48.3 of the Code. The conditions, limitations, and restrictions set forth in the Project Report attached hereto are incorporated herein by references hereto.

Attachments

Attachment A: Class I Permit Application
Attachment B: Owner/Agent Letter, Engineer Certification Letter and Project Sketches
Attachment C: Zoning Memorandum
Attachment D: Names and Addresses of Owners of All Riparian Property within Three Hundred (300) Feet of the Proposed Work
Attachment E: Florida Department of Environmental Protection Consent of Use of Sovereign Submerged Lands
Attachment F: DERM Project Report

NOTICE OF PUBLIC HEARING ON AN APPLICATION BY ELMER FIGUEROA FOR A CLASS I PERMIT TO INSTALL A WAVE ATTENUATOR IN BISCAYNE BAY AT 4600 NORTH BAY ROAD, MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

NOTICE IS HEREBY GIVEN pursuant to Article IV, Division 1 of Chapter 24 of the Code of Miami-Dade County that the Board of County Commissioners of Miami-Dade County will hold and conduct a public hearing on a request by Elmer Figueroa for a Class I permit to install a wave attenuator in Biscayne Bay at 4600 North Bay Road, Miami Beach, Miami-Dade County, Florida. Such public hearing will be held on the 3rd day of May 2011, in the County Commission Chambers on the 2nd Floor of the Stephen P. Clark Center at 111 NW 1st Street in Miami, Florida.

Plans and details concerning the work requested in the application may be reviewed by interested persons at the office of the Miami-Dade County Department of Environmental Resources Management, 6th Floor, 701 NW 1st Court, Miami, Florida 33136.

Oral statements will be heard and appropriate records made. For accuracy of records, all important facts and arguments should be prepared in writing in triplicate, with two copies being submitted to the Deputy Clerk of the County Commission at the hearing or mailed to her beforehand (Diane Collins, Deputy Clerk), 111 NW 1st Street, Stephen P. Clark Center, Suite 17-202, Miami, Florida 33128; and with one copy being submitted beforehand to the Miami-Dade County Department of Environmental Resources Management, 701 NW 1st Court, Miami, Florida 33136.

A person who decides to appeal any decision made by any Board, Agency, or Commission with respect to any matter considered at its meeting or hearing, will need a record of proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

HARVEY RUVIN, CLERK

BY: _____
Diane Collins, Deputy Clerk

Attachment A

Class I Permit Application

MIAMI-DADE COUNTY

Class I Permit Application

FOR DEPARTMENTAL USE ONLY

Date Received:

Application Number: 2010-CLI-PER-00212

Application Fee: $493.00

Application must be filled out in its entirety. Please indicate N/A for non-applicable fields.

1. Applicant Information:

Name: Elmer Figueroa

Address: 4600 North Bay Road

Miami Beach, Florida Zip Code: 33140

Phone #: (305) 372-8877 Fax#: (305) 372-1097

Email: paularocha@chaf.com

* This should be the applicant's information for contact purposes.

2. Applicant's Authorized Permit Agent:

Agent is allowed to process the application, furnish supplemental information relating to the application and bind the applicant to all requirements of the application.

Name: J. Frederic Blitstein

Address: 1121 Crandon Boulevard E1208

Key Biscayne, Florida Zip Code: 33149

Phone #: (305) 361-9062 Fax #: (305) 365-2884

Email: jfb@sportsalpaca.com

3. Location where proposed activity exists or will occur (latitude and longitude are only necessary for properties without address or folio #):

Folio #(s): 02-3222-011-0150 Latitude: Longitude:

Street Address: 4600 North Bay Road Section: 22 Township: 53 Range: 42

In City or Town: Miami Beach Near City or Town:

Name of waterway at location of the activity: Biscayne Bay

4. Describe the proposed activity (check all that apply):

- ☐ Seawall
  - ☐ New/Replacement Seawall
  - ☐ Seawall Cap
  - ☐ Batter Piles
  - ☐ King Piles
  - ☐ Footer/Toe Wall
  - ☐ Riprap
- ☐ Dock(s)
  - ☐ Pier(s)
  - ☐ Viewing Platform
- ☐ Boatlift
  - ☒ Mooring Piles
  - ☐ Fender Piles
  - ☐ Davits
- ☐ Dredging
  - ☐ Maintenance
  - ☐ New
  - ☐ Filling
- ☐ Mangrove Trimming
  - ☐ Mangrove Removal

☒ Other: Wave Attenuator

Estimated project cost = $ 11,000.00

Are you seeking an after-the-fact approval (ATF)? ☐Yes ☒No If "Yes", describe the ATF work:

5. Proposed Use (check all that apply):

- ☒ Single Family
- ☐ Multi-Family
- ☐ Private
- ☐ Public
- ☐ Commercial
- ☐ Industrial
- ☐ Utility

6. If the proposed work relates to the mooring of vessels provide the following information (please also indicate if the applicant does not have a vessel):

Proposed Vessel Type (s): Sports Yacht

Vessel Make/Model (If known): 48 Sea Ray Sundancer

Draft (s)(range in inches.): 46" Length (s)(range in feet.): 51'

Total Number of Slips: 2

7. List all permits or certifications that have been applied for or obtained for the above referenced work:

Issuing Agency	Type of Approval	Identification Number	Application Date	Approval Date

Revised 11/16/09

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8. Contractor Information (If known):

Name: Southeast Marine Construction, Inc. License # (County/State): CGC060467

Address: 404 NE 32 Street Oakland Park, Florida Zip Code: 33334

Phone #: (954) 630-2300 Fax #: (954) 630-2381 E-mail: troy@semarineconstruction.com

9. **IMPORTANT NOTICE TO APPLICANTS:** The written consent of the property owner is required for all applications to be considered complete. Your application WILL NOT BE PROCESSED unless the Applicant and Owner Consent portion of the application is completed below. You have the obligation to apprise the Department of any changes to information provided in this application.

Application is hereby made for a Miami-Dade County Class I permit to authorize the activities described herein. I agree to or affirm the following:

- I possess the authority to authorize the proposed activities at the subject property, and
- I am familiar with the information, data and plans contained in this application, and
- To the best of my knowledge and belief, the information, data and plans submitted are true, complete and accurate, and
- I will provide any additional information, evidence or data necessary to provide reasonable assurance that the proposed project will comply with the applicable State and County water quality standards both during construction and after the project is completed, and
- I am authorizing the permit agent listed in Section 2 of this application to process the application, furnish supplemental information relating to this application and bind the applicant to all requirements of this application, and
- I agree to provide access and allow entry to the project site to inspectors and authorized representatives of Miami-Dade County for the purpose of making the preliminary analyses of the site and to monitor permitted activities and adherence to all permit conditions.

A. **IF APPLICANT IS AN INDIVIDUAL**

Elmer Figueroa 2/8/11

Signature of Applicant Print Applicant's Name Date

B. **IF APPLICANT IS OTHER THAN AN INDIVIDUAL OR NATURAL PERSON**
(Examples: Corporation, Partnership, Trust, LLC, LLP, etc.)

Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of Registration/Incorporation

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Applicant, to bind the Applicant, and if so required to authorize the issuance of a bond on behalf of the Applicant. (If asked, you must provide proof of such authority to the Department). ***Please Note: If additional signatures are required, pursuant to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signatory names. ***

Signature of Authorized Representative Print Authorized Representative's Name Title Date

C. **IF APPLICANT IS A JOINT VENTURE** Each party must sign below(If more than two members, list on attached page)

Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of Registration/Incorporation

Print Name of Applicant (Enter the complete name as registered) Type (Corp, LLC, LLP, etc.) State of Registration/Incorporation

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Applicant, to bind the Applicant, and if so required to authorize the issuance of a bond on behalf of the Applicant. (If asked, you must provide proof of such authority to the Department). ***Please Note: If additional signatures are required, pursuant to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signatory names. ***

Signature of Authorized Representative Print Authorized Representative's Name Title Date

Signature of Authorized Representative Print Authorized Representative's Name Title

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FEB 14 2011
DERM Coastal Resources Section
Environmental Resources Regulation & Restoration
Division (ERRRD)

Revised 11/09

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10. WRITTEN CONSENT OF THE PROPERTY OWNER OF THE AREA OF THE PROPOSED WORK

I/We are the fee simple owner(s) of the real property located at 4600 North Bay Road, Miami Beach Miami-Dade County, Florida, otherwise identified in the public records of Miami-Dade County as Folio No. 02-3222-011-0150.

I am aware and familiar with the contents of this application for a Miami-Dade County Class I Permit to perform the work on or adjacent to the subject property, as described in Section 4 of this application. I possess the riparian rights to the area of the proposed work (if applicable) and hereby consent to the work identified in this Class I Permit application.

A. IF THE OWNER(S) IS AN INDIVIDUAL

Signature of Owner	Print Owner's Name	Date
	Elmer Figueroa	2/8/11
Signature of Owner	Print Owner's Name	Date

B. IF THE OWNER IS OTHER THAN AN INDIVIDUAL OR NATURAL PERSON
(Examples: Corporation, Partnership, Joint Venture, Trust, LLC, LLP, etc.)

Print Name of Owner (Enter the complete name as registered)	Type (Corp, LLC, LLP, etc.)	State of Registration/Incorporation

Address of Owner

Under the penalty of perjury, I certify that I have the authority to sign this application on behalf of the Owner, to bind the Owner, and if so required to authorize the issuance of a bond on behalf of the Owner. (If asked, you must provide proof of such authority to the Department). ***Please Note: If additional signatures are required, subject to your governing documents, operating agreements, or other applicable agreements or laws, you must attach additional signature pages.***

Signature of Authorized Representative	Print Authorized Representative's Name	Title	Date
Signature of Authorized Representative	Print Authorized Representative's Name	Title	Date

Please Review Above

Appropriate signature(s) must be included in:

Box 9: either A, B or C

AND

Box 10: either A or B

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Natural Resources Regulation & Restoration Division (NRRRD)

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Attachment B

Owner/Agent Letter, Engineer Certification Letter and Project Sketches

PERMIT APPLICANT / AUTHORIZED AGENT STATEMENT

February 4, 2011

Miami Dade County DERM
Class I Permitting Program
701 NW 1st Court
Miami, FL 33136

Re: Class I Standard Form Permit Application Number 2010-CLI-PER-00212

By the attached Class I Standard Form permit application with supporting documents, I, J. Frederic Blitstein, am the applicant's authorized agent and hereby request permission to perform the work associated with Class I Permit Application 2010-CLI-PER-00212. I understand that a Miami-Dade County Class I Standard Form Permit is required to perform this work.

If approval is granted for the proposed work by the Board of County Commissioners, complete and detailed plans and calculations of the proposed work shall be prepared by an engineer registered/licensed in the State of Florida in accordance with the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida. Said plans and calculations shall be subject to the review and approval of the Department of Environmental Resources Management. The permit applicant will secure the services to an engineer registered/licensed in the State of Florida to conduct inspections throughout the construction period, and said engineer shall prepare all required drawings of record. In the event that the proposed work which is the subject of this Class I Permit application involves the cutting or trimming of a mangrove tree(s), a detailed plan of the proposed cutting or trimming shall be prepared by a licensed landscape architect and submitted to the Department for review and approval, and the permit applicant will secure the services of a licensed landscape architect to supervise the trimming or cutting.

Respectfully submitted,

J. Frederic Blitstein, Authorized Agent

Dynamic Engineering Solutions, Inc.

EB # 26829
950 N Federal Hwy., Suite 212
Pompano Beach, FL 33062
Phone 954-545-1740

ENGINEER LETTER OF CERTIFICATION

March 28, 2011

Miami-Dade County DERM
Class I Permitting Program
701 NW 1st Court
Miami, Florida 33136

RE: Class I Permit Application Number 2010-CLI-PER-00212

Ladies and Gentlemen:

This letter will certify that I am an engineer registered/licensed in the State of Florida, qualified by education and experience in the area of construction, and that to the best of my knowledge and belief, the proposed work does not violate any laws of the State of Florida or any provision of the Code of Miami Dade County which may be applicable, that diligence and recognized standard practices of the engineering profession have been exercised in the engineer's design process for the proposed work, and in my opinion based upon my knowledge and belief, the following will not occur:

a. Harmful obstruction or undesirable alteration of the natural flow of the water within the area of the proposed work.

b. Harmful or increased erosion, shoaling of channels or stagnant areas of water. (Not applicable to class IV permits)

c. Material injury to adjacent property.

d. Adverse environmental impacts from changes in water quality or quantity. (Applicable to class IV permits only)

Further, I have been retained by the applicant to provide inspections throughout the construction period and to prepare a set of reproducible record prints of drawings showing changes made during the construction process based upon the marked-up prints, drawings, and other data furnished by the contractor to me.

Sincerely,

3/28/11

John Omslaer
P.E. #52733

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MAR 29 2011
DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

14

LOCATION:

4600 N. BAY ROAD
MIAMI BEACH, FLORIDA

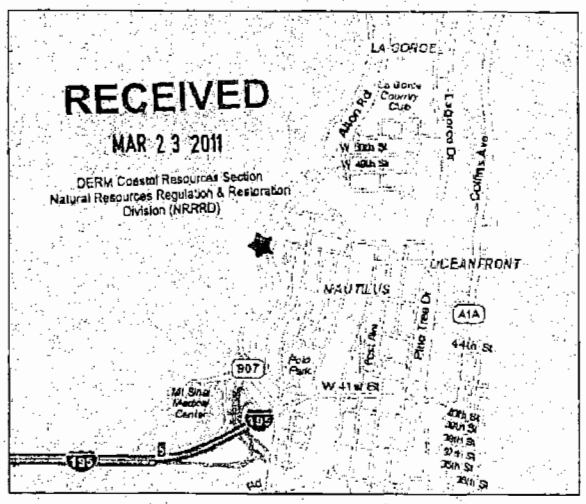
25 DEG 49'19.34"N
80 DEG 08'15.23"W

LEGAL DESCRIPTION:

NAUTILUS SUB PB 8-95 LOT 18 BLK 1 LOT SIZE 107.500 X 181 OR 18510-0642 03 1999 1 OR 18510-0642 0399 00

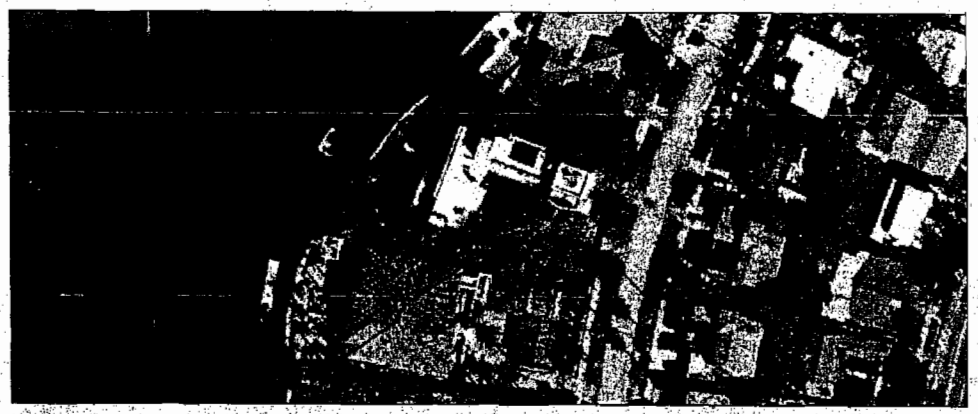
FOLIO: 02-3222-011-0150

S/T/R: 22 / 53S / 42E



LOCATION MAP
SCALE: NTS

KEY MAP
SCALE: NTS



GENERAL NOTES:

1. CONSTRUCTION TO FOLLOW FLORIDA BUILDING CODE 2007 EDITION AND AMENDMENTS AS APPLICABLE AND ALL LOCAL, STATE, AND FEDERAL LAWS.

2. LICENSED CONTRACTOR SHALL VERIFY THE EXISTING CONDITIONS PRIOR TO COMMENCEMENT OF THE WORK. ANY CONFLICTS OR OMISSIONS BETWEEN EXISTING CONDITIONS OR THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO THE COMMENCEMENT OF THE WORK. THE LICENSED CONTRACTOR AND ALL SUBCONTRACTORS ARE RESPONSIBLE FOR ALL LINES, ELEVATIONS, AND MEASUREMENTS IN CONNECTION WITH THEIR WORK.

3. DO NOT SCALE DRAWINGS FOR DIMENSIONS.

4. ANY DEVIATION AND/OR SUBSTITUTION FROM THE INFORMATION PROVIDED HEREIN SHALL BE SUBMITTED TO THE ENGINEER FOR THEIR APPROVAL PRIOR TO COMMENCEMENT OF WORK.

5. ALL UNANTICIPATED OR UNFORESEEN DEMOLITION AND/OR NEW CONSTRUCTION CONDITIONS WHICH REQUIRE DEVIATION FROM THE PLANS AND NOTES HEREIN SHALL BE REPORTED TO THE ENGINEER PRIOR TO COMMENCEMENT OF WORK.

6. ALL NEW WORK AND/OR MATERIALS SHALL CONFORM TO ALL REQUIREMENTS OF EACH ADMINISTRATIVE BODY HAVING JURISDICTION IN EACH PERTAINING CIRCUMSTANCE.

7. ALL NEW MATERIALS AND/OR PATCHWORK SHALL BE PROVIDED TO MATCH EXISTING MATERIALS AND/OR ADJOINING WORK WHERE PRACTICAL EXCEPT AS SPECIFICALLY NOTED HEREIN.

8. LICENSED CONTRACTOR SHALL USE ALL POSSIBLE CARE TO PROTECT ALL EXISTING MATERIALS, SURFACES, AND FURNISHINGS FROM DAMAGE DURING ALL PHASES OF CONSTRUCTION.

9. LICENSED CONTRACTOR TO VERIFY LOCATION OF EXISTING UTILITIES PRIOR TO COMMENCING WORK.

10. THE LICENSED CONTRACTOR TO INSTALL AND REMOVE ALL SHORING AND BRACING AS REQUIRED FOR THE PROPER EXECUTION OF THE WORK.

N

FIGUEROA WAVE BREAK PROJECT

MIAMI BEACH, FLORIDA

CLIENT:
MR. ELMER FIGUEROA
4600 North Bay Road
Miami Beach, Florida 33140

ENVIRONMENTAL CONSULTANT:
OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:
SOUTHEAST MARINE CONSTRUCTION, INC.
404 NE 38th Street
Oakland Park, Florida
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
950 N. Federal Highway, Suite 212
Pompano Beach, FL 33062
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

3/17/11

John Omslaer
PE 52733, EB 26829

CONSTRUCTION DRAWINGS

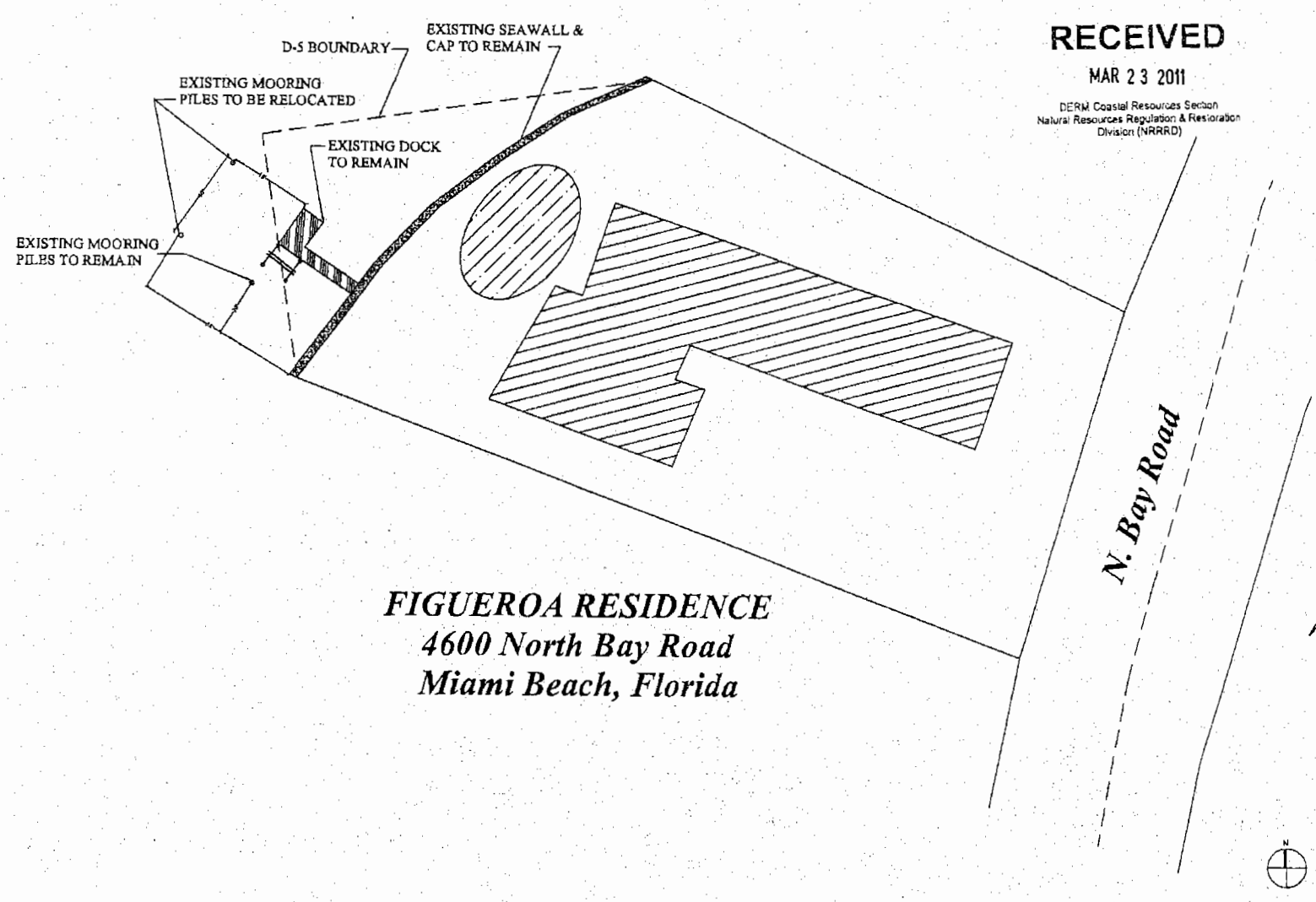
Issue #	Issue Date
1	July 9, 2010

PROJECT: 10-1375

LOCATION & GENERAL NOTES

SCALE : AS SHOWN
SHEET NO.

S-1



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MAR 23 2011
DERM Coastal Resources Section
Natural Resources Regulation & Restoration Division (NRRRD)

FIGUEROA RESIDENCE
4600 North Bay Road
Miami Beach, Florida

FIGUEROA WAVE BREAK PROJECT

MIAMI BEACH, FLORIDA

CLIENT:
MR. ELMER FIGUEROA
4600 North Bay Road
Miami Beach, Florida 33140

ENVIRONMENTAL CONSULTANT:
OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3256

CONTRACTOR:
SOUTHEAST MARINE CONSTRUCTION, INC.
404 NE 38th Street
Oakland Park, Florida
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
950 N. Federal Highway, Suite 212
Pompano Beach, FL 33062
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

3/17/11

John Omsiser
PE 52733, EB 26829

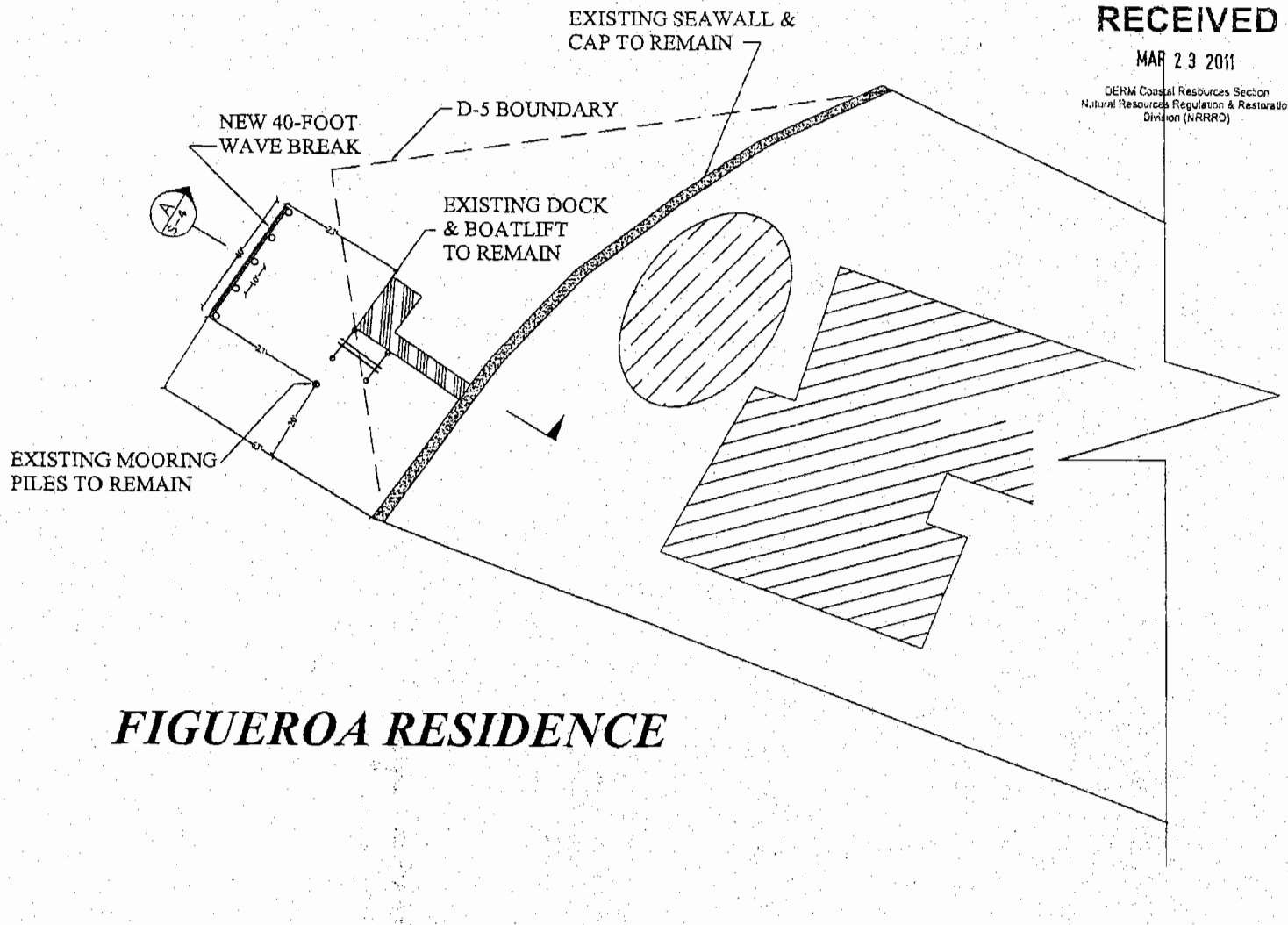
CONSTRUCTION DRAWINGS

Issue #	Issue Date
1	July 9, 2010

PROJECT: 10-1375

EXISTING CONDITIONS

SCALE : AS SHOWN
SHEET NO.
S-2



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DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

FIGUEROA WAVE BREAK PROJECT

MIAMI BEACH, FLORIDA

CLIENT:
MR. ELMER FIGUEROA
4600 North Bay Road
Miami Beach, Florida 33140

ENVIRONMENTAL CONSULTANT:
OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:
SOUTHEAST MARINE CONSTRUCTION, INC.
404 NE 38th Street
Oakland Park, Florida
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
950 N. Federal Highway, Suite 212
Pompano Beach, FL 33062
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

3/17/11

John Omsleer
PE 52733, EB 26829

CONSTRUCTION DRAWINGS

Issue #	Issue Date
1	July 9, 2010

PROJECT: 10-1375

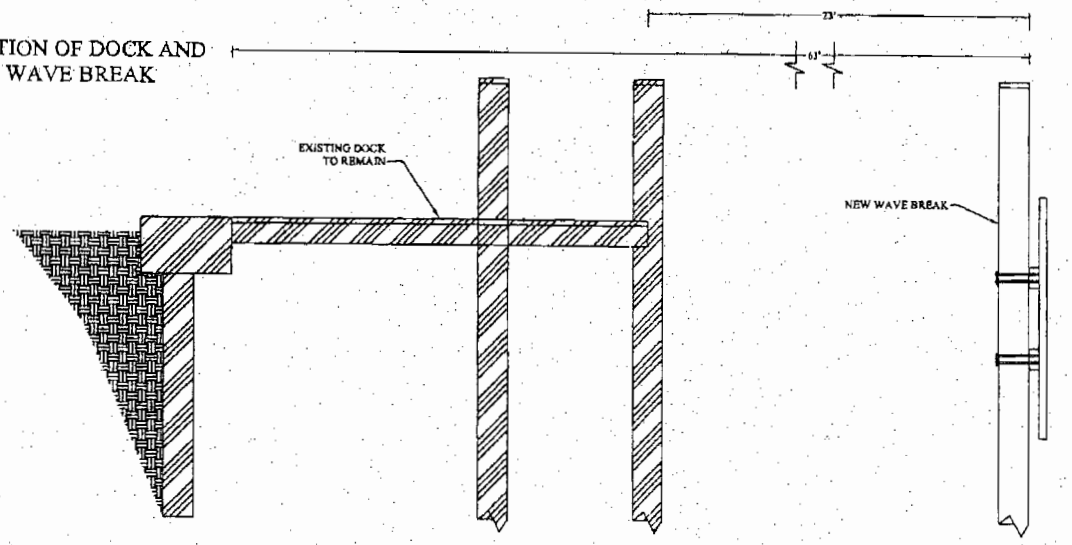
PROPOSED CONDITIONS

SCALE: AS SHOWN

SHEET NO.

S-3

SECTION OF DOCK AND WAVE BREAK



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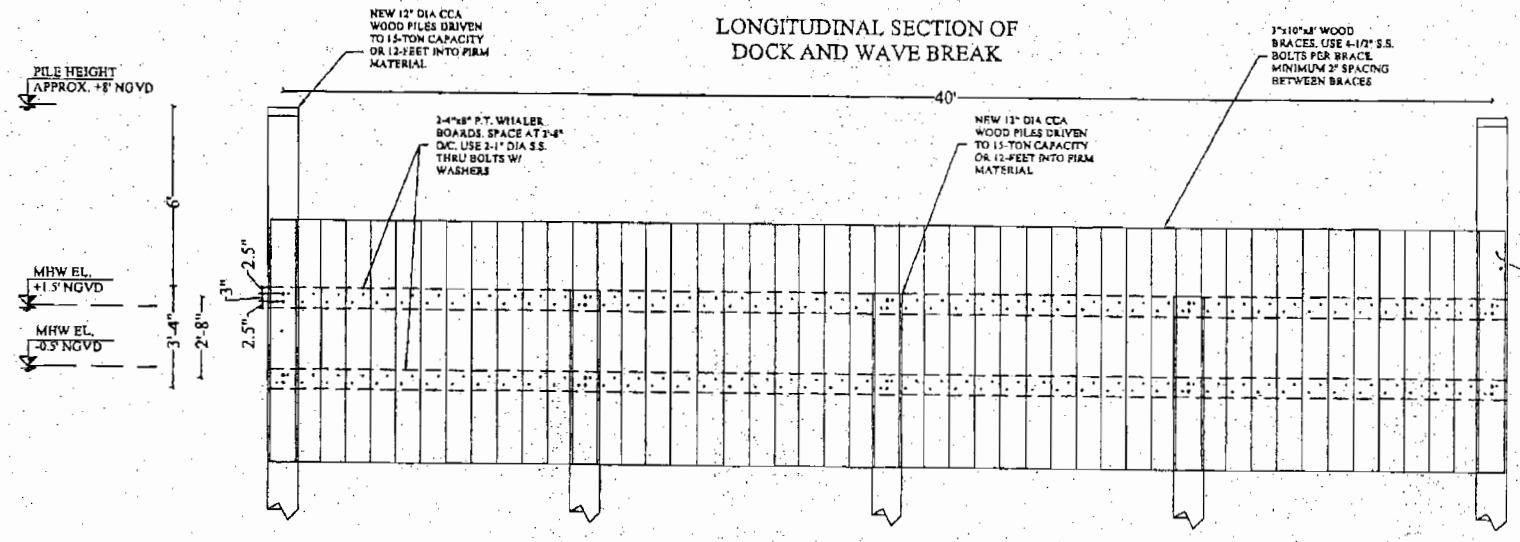
Natural Resources Regulation & Restoration Division (NRRRD)

LONGITUDINAL SECTION OF DOCK AND WAVE BREAK



FIGUEROA WAVE BREAK PROJECT

MIAMI BEACH, FLORIDA

CLIENT:
MR. ELMER FIGUEROA
4600 North Bay Road
Miami Beach, Florida 33140

ENVIRONMENTAL CONSULTANT:
OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-5254

CONTRACTOR:
SOUTHEAST MARINE CONSTRUCTION, INC.
404 NE 38th Street
Oakland Park, Florida
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
950 N. Federal Highway, Suite 212
Pompano Beach, FL 33062
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

5/17/11

John Omslaer
PE-52733, EB 26829

CONSTRUCTION DRAWINGS

Issue #	Issue Date
1	July 9, 2010

PROJECT: 10-1375

TYPICAL SECTION & DETAILS

SCALE : AS SHOWN

SHEET NO.

S-4

Attachment C

Zoning Memorandum

Memorandum

MIAMI-DADE COUNTY

Date: April 13, 2011

To: Lisa Spadafina, Manager
Coastal Resources Section
Environmental Resources Management

From: Martha Fundora, Biologist I
Coastal Resources Section
Environmental Resources Management

Subject: Class I Permit Application by Elmer Figueroa to Install a Wave Attenuator in Biscayne Bay at 4600 North Bay Road, Miami Beach, Miami-Dade County, Florida

---

Pursuant to Section 24-48.2(II)(A)(7), of the Code of Miami-Dade County, Florida, a substantiating letter shall be submitted stating that the proposed project does not violate any zoning laws. Said letter will be submitted after the approval by the Board of County Commissioners and prior to the issuance of a Class I permit.

Attachment D

Names and Addresses of Owners of All Riparian Property within Three Hundred (300) Feet of the Proposed Work

Tibor Hollo
4622 North Bay Road
Miami Beach, FL 33140

Stanley M. Rosenblatt
66 W Flagler Street
Miami, FL 33130

4570 North Bay Road LLLP
12000 Biscayne Boulevard
Penthouse 810
Miami, FL 33181

Craig W. Herman
4550 North Bay Road
Miami Beach, FL 33140

Ireland 4580 LTD
12000 Biscayne Boulevard #810
Miami, FL 33181

North Bay LLC
c/o Eric Dorsky, PA
7320 Griffin Road
Suite 220
Davie, FL 33314

Daniel D. Nixon
4646 North Bay Road
Miami Beach, FL 33140

Attachment E

Florida Department of Environmental Protection
Consent of Use of Sovereign Submerged Lands

Jack Long, Director
Southeast District Office

DEC 22 2010

Florida Department of Environmental Protection

Southeast District Office
400 N. Congress Avenue, Suite 200
West Palm Beach, FL 33401
561-681-6600

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Mimi A. Drew
Secretary

Elmer Figueroa
4600 North Bay Road
Miami Beach, FL 33140

Re: File Name: Figueroa, Elmer
File No.: 13-0302946-002
Modification of File No.: 13-0302946-001

Dear Mr. Figueroa:

This office has completed the review of your request to modify the referenced file number 13-0302946-001. The project description is hereby modified to read as follows. Please note that additions are underlined and deletions are stricken:

On September 27, 2010, we received your application for an exemption to install 40-linear feet of wave attenuator, ~~attached to existing piles,~~ which is to be installed 5-feet waterward from the existing mooring piles and where the bottom of the proposed structure shall be a minimum of 2.5-feet above the sediment grade, all of which is associated with a 320 ft^2 dock. The project is located in the Biscayne Bay, within the Biscayne Bay Aquatic Preserve, Outstanding Florida Waters, Class III Waters, adjacent to 4600 North Bay Road, Miami Beach (Section 22, Township 53 South, Range 42 East), in Miami-Dade County (25° 49' 19.34" North Latitude, 80° 8' 15.23" West Longitude).

Your modified project is still exempt from the need for an environmental resource permit pursuant to Chapter 373.406(6), Florida Statutes. The proposed modification is not expected to result in any additional or significant water quality/biological resource degradation.

All conditions and other authorizations included in the original authorization, dated October 22, 2010, still apply to your project. By copy of this letter and the attached drawings, we are notifying all necessary parties of the modifications. This letter and accompanying drawings must be attached to the original authorization.

This letter does not relieve you from the responsibility of obtaining any local or federal permits which may be required for the project.

NOTICE OF RIGHTS OF SUBSTANTIALLY AFFECTED PERSONS

This letter acknowledges that the proposed activity is exempt from ERP permitting requirements under Chapter 373.406(6), F.S. This determination is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. The procedures for petitioning for a hearing are set forth in the attached notice.

This determination is based on the information you provided the Department and the statutes and rules in effect when the application was submitted and is effective only for the specific activities proposed. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In

addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required. In any event, this determination shall expire after one year.

Be advised that your neighbors and other parties who may be substantially affected by the proposed activities allowed under this determination of exemption have a right to request an administrative hearing on the Department's decision that the proposed activities qualify for this exemption. Because the administrative hearing process is designed to re-determine final agency action on the application, the filing of a petition for an administrative hearing may result in a final determination that the proposed activities are not authorized under the exemption established under Chapter 373.406(6), F.S.

The Department will not publish notice of this determination. Publication of this notice by you is optional and is not required for you to proceed. However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activities before the time period for requesting an administrative hearing has expired would mean that the activities were conducted without the required permit.

If you wish to limit the time within which all substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, written notice in the legal advertisement section of a newspaper of general circulation in the county where the activities are to take place. A single publication will suffice.

If you wish to limit the time within which any specific person(s) may request an administrative hearing, you may provide such person(s), by certified mail a copy of this determination.

For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of sections 50.011 and 50.031 of the Florida Statutes. In the event you do publish this notice, within seven days of publication, you must provide to the following address proof of publication issued by the newspaper as provided in section 50.051 of the Florida Statutes. If you provide direct written notice to any person as noted above, you must provide to the following address a copy of the direct written notice.

Florida Department of Environmental Protection
Southeast District
Submerged Lands & Environmental Resources Program
400 North Congress Avenue, Suite 200
West Palm Beach, Florida 33401

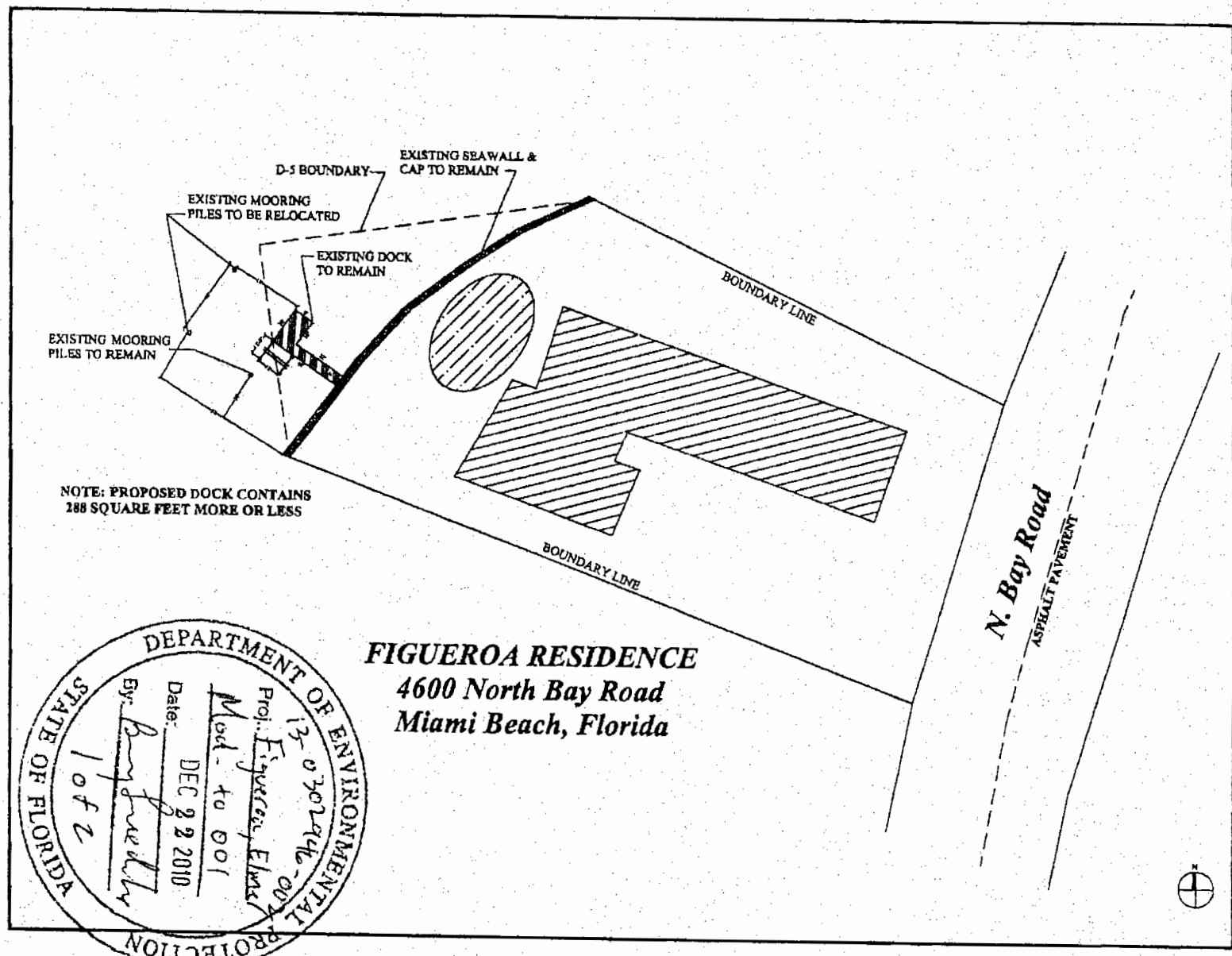
If you have any questions, please contact Benny Luedike at 561/681-6646 or at Benny.Luedike@dep.state.fl.us. When referring to your project, please use the FDEP file name and number listed above.

Sincerely,

Jennifer K. Smith
Environmental Administrator
Submerged Lands and Environmental Resources Program

Enclosures

cc: Rosalinda Rodriguez, USACOE- Miami-Dade, Rosalinda.Rodriguez@usace.army.mil
Martha Fundora, Miami-Dade County DERM, fundom@miamidade.gov
J Frederic Blitstein, PhD, jfb@sportsalpaca.com



FIGUEROA WAVE BREAK PROJECT

MIAMI BEACH, FLORIDA

CLIENT:
MR. ELMER FIGUEROA
4600 North Bay Road
Miami Beach, Florida 33140

ENVIRONMENTAL CONSULTANT:
OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:
SOUTHEAST MARINE CONSTRUCTION, INC.
404 NE 38th Street
Oakland Park, Florida
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:
ZURWELLE - WHITTAKER
SURVEYORS & ENGINEERS
SINCE 1926
LB 000166, EB 029651
1140 W 50th St., Suite 207
Hialeah, FL 33012
Tel: (305) 534-4668
Fax: (305) 531-4589

SEAL / SIGNATURE / DATE

John J. Johnson
PE 57891, State of Florida

CONSTRUCTION DRAWINGS

Issue #	Issue Date
1	Nov. 1st, 2010

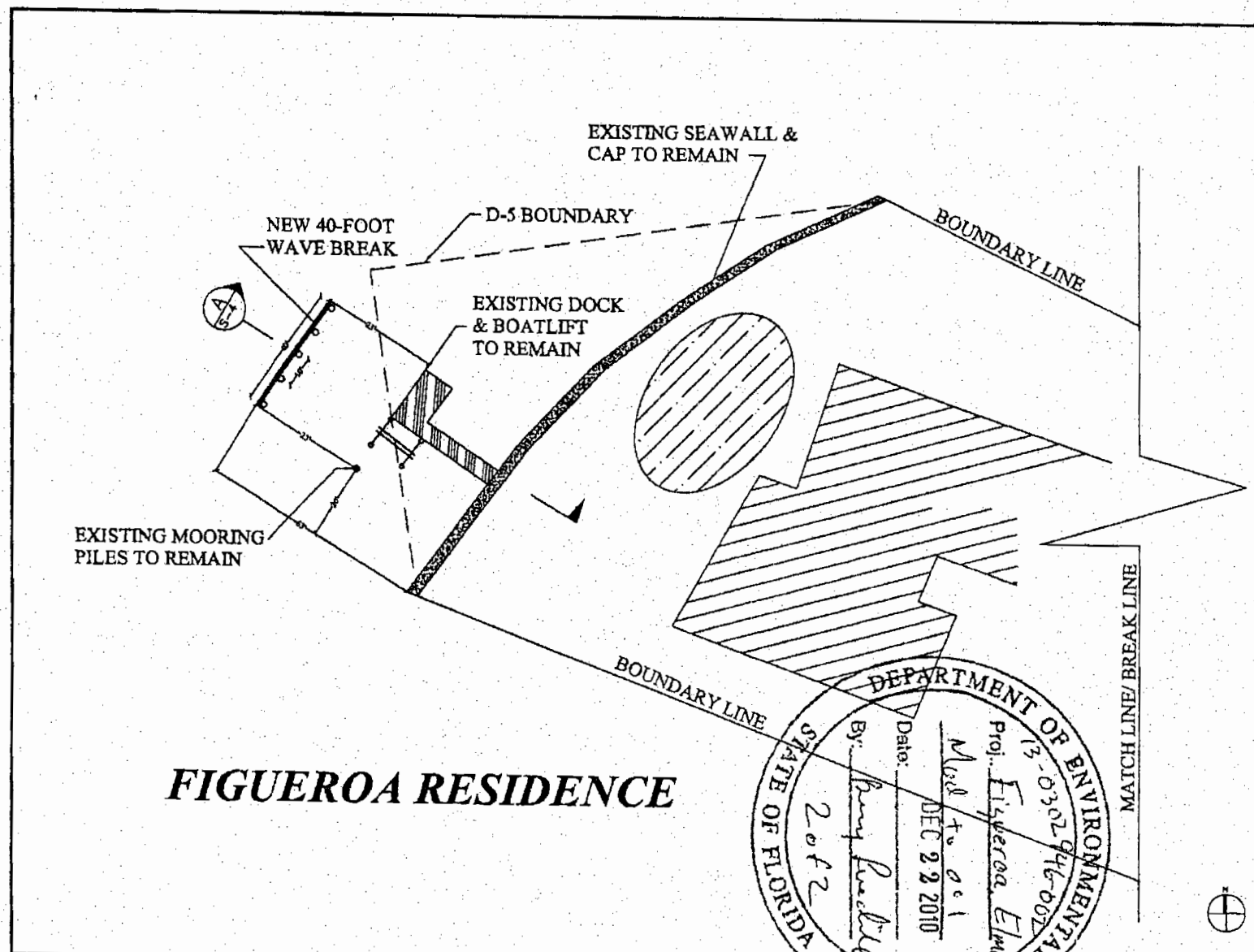
PROJECT: 4600 N.Bay Rd.

LOCATION & GENERAL NOTES

SCALE: AS SHOWN
SHEET NO.

S-2

24



DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF FLORIDA
13-0302 946-002
Proj. Figueroa, Elmer
Mod to oc1
Date: DEC 22 2010
By: Barry Ruedle
2 of 2

FIGUEROA WAVE BREAK PROJECT
MIAMI BEACH, FLORIDA

CLIENT:
MR. ELMER FIGUEROA
4600 North Bay Road
Miami Beach, Florida 33140

ENVIRONMENTAL CONSULTANT:
OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:
SOUTHEAST MARINE CONSTRUCTION, INC.
404 NE 38th Street
Oakland Park, Florida
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:
ZURWELLE - WHITTAKER
SURVEYORS & ENGINEERS
SINCE 1926
LB 000166, BB 028651
1140 W 50th St., Suite 307
Hialeah, FL 33012
Tel: (305) 534-4668
Fax: (305) 531-4589

SEAL / SIGNATURE / DATE
John J. Johnson
PE 57891, State of Florida

CONSTRUCTION DRAWINGS

Issue #	Issue Date
1	Nov. 1st, 2010

PROJECT: 4600 N.Bay Rd

LOCATION & GENERAL NOTES
SCALE : AS SHOWN
SHEET NO.
S-3

27

Jack Long, Director
Southeast District Office

Florida Department of Environmental Protection

Southeast District Office
400 N. Congress Avenue, Suite 200
West Palm Beach, FL 33401

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Mimi A. Drew
Secretary

OCT 22 2010

Elmer Figueroa
4600 North Bay Road
Miami Beach, FL 33140

Re: File No.: 13-0302946-001
File Name: Figueroa, Elmer

Dear Mr. Figueroa:

On September 27, 2010, we received your application for an exemption to install 40-linear feet of wave attenuator, attached to existing piles, where the bottom of the proposed structure shall be a minimum of 2.5-feet above the sediment grade, all of which is associated with a 320 ft^2 dock. The project is located in the Biscayne Bay, within the Biscayne Bay Aquatic Preserve, Outstanding Florida Waters, Class III Waters, adjacent to 4600 North Bay Road, Miami Beach (Section 22, Township 53 South, Range 42 East), in Miami-Dade County (25° 49' 19.34" North Latitude, 80° 8' 15.23" West Longitude).

Your application has been reviewed to determine whether it qualifies for any of three kinds of authorization that may be necessary for works in wetlands or waters of the United States. The kinds of authorization are (1) regulatory authorization, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal authorization (State Programmatic General Permit). The authority for review and the outcomes of the reviews are listed below. Please read each section carefully. Your project may not have qualified for all three forms of authorization. If your project did not qualify for one or more of the authorizations, refer to the specific section dealing with that authorization for advice on how to obtain it.

1. Regulatory Review. – VERIFIED

The Department has reviewed the submitted information and has determined that the project is not expected to cause the release of pollutants in sufficient quantity, quality, content, or character with respect to the circumstances surrounding the location, use, and operation of the project, as to contribute to pollution in contravention of the provisions of Chapters 373 and 403, Florida Statutes (F.S.), or Title 62, Florida Administrative Code (F.A.C.).

Therefore, based solely upon the documents submitted to the Department, the project to install 40-linear feet of wave attenuator, attached to existing piles, where the bottom of the proposed structure shall be a minimum of 2.5-feet above the sediment grade, all of which is associated with a 320 ft^2 dock has been determined to qualify as an activity that is exempt from the need for an environmental resource permit pursuant to Chapter 373.406(6), F.S.

This determination is applicable only pursuant to the statutes and rules in effect at the time the information was submitted. This determination may not be valid in the event subsequent changes occur in the applicable statutes and rules of the Department. Pursuant to Rule 62-302, F.A.C., activities that qualify for this exemption must be constructed and operated using appropriate best management practices and in a manner that does not cause water quality violations.

The determination that your project qualifies as an exempt activity pursuant to Chapter 373.406(6), F.S, may be revoked if the installation is substantially modified, or if the basis for the exemption is determined to be materially incorrect, or if the installation results in water quality violations. Any changes made in the construction plans or location of the project may necessitate a permit or certification from the Department. Therefore, you are advised to contact the Department before beginning the project and before beginning any work in waters or wetlands which is not specifically described in your submittal.

2. Proprietary Review. – GRANTED

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereignty submerged lands. The Department has the authority to review your project under Chapters 253 and 258, F.S., 18-18 and 18-21, F.A.C., and Section 62-343.075, F.A.C.

Your project will occur on sovereignty submerged land and will require authorization from the Board of Trustees to use public property. As staff to the Board of Trustees, we have reviewed the proposed project and have determined that, as long as it is located within the described boundaries and is consistent with the attached general consent conditions, the project qualifies for a letter of consent to use sovereignty submerged lands. Therefore, pursuant to Chapter 253.77, Florida Statutes, you may consider this letter as authorization from the Board of Trustees to perform the project.

3. Federal Review (SPGP) – NOT GRANTED

Federal authorization for the proposed project is reviewed by DEP pursuant to an agreement between the Department and the U.S. Army Corps of Engineers (Corps). The agreement is outlined in a document titled *Coordination Agreement Between the U.S. Army Corps of Engineers and the Florida Department of Environmental Protection State Programmatic General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.*

Your project has been reviewed for compliance with a State Programmatic General Permit (SPGP). As shown on the attached drawings, the proposed project is not consistent with the SPGP program. A copy of your application has been sent to the Corps who may require a separate permit. Failure to obtain their authorization prior to construction could subject you to enforcement action. For further information, contact the Corps directly at 305/526-7181.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification will expire after one year, and will not be valid at any other time if site conditions materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. However, the activity may still be conducted without further notification to or verification from the Department after the one-year expiration of this verification, provided: 1) the project design does not change; 2) site conditions do not materially change; and 3) there are no changes to the statutes or rules governing the exempt activity. In the event you need to re-verify the exempt status for the activity after the one-year expiration of this verification, a new application and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required. Conditions of compliance with the regulatory exemption are contained in Attachment A.

This letter does not relieve you from the responsibility of obtaining other permits (federal, state, or local) that may be required for the project.

NOTICE OF RIGHTS OF SUBSTANTIALLY AFFECTED PERSONS

This letter acknowledges that the proposed activity is exempt from ERP permitting requirements under Chapter 373.406(6), F.S. This determination is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. The procedures for petitioning for a hearing are set forth in the attached notice.

This determination is based on the information you provided the Department and the statutes and rules in effect when the application was submitted and is effective only for the specific activity proposed. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required. In any event, this determination shall expire after one year.

Be advised that your neighbors and other parties who may be substantially affected by the proposed activity allowed under this determination of exemption have a right to request an administrative hearing on the Department's decision that the proposed activity qualifies for this exemption. Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a final determination that the proposed activity is not authorized under the exemption established under Chapter 373.406(6), F.S.

The Department will not publish notice of this determination. Publication of this notice by you is optional and is not required for you to proceed. However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permit.

If you wish to limit the time within which all substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, the enclosed notice (Attachment A) in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place. A single publication will suffice.

If you wish to limit the time within which any specific person(s) may request an administrative hearing, you may provide such person(s), by certified mail, a copy of this determination, including Attachment A.

For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of sections 50.011 and 50.031 of the Florida Statutes. In the event you do publish this notice, within seven days of publication, you must provide to the following address proof of publication issued by the newspaper as provided in section 50.051 of the Florida Statutes. If you provide direct written notice to any person as noted above, you must provide to the following address a copy of the direct written notice.

Florida Department of Environmental Protection
Southeast District
Submerged Lands and Environmental Resources Program
400 North Congress Avenue, Suite 200
West Palm Beach, Florida 33401

If you have any questions, please contact Benny Luedike at (561) 681-6646 or by email at Benny.Luedike@dep.state.fl.us. When referring to your project, please use the FDEP file name and number listed above.

Sincerely,

Jennifer K. Smith 10/22/10
Jennifer K. Smith Date
Program Administrator
Submerged Lands and Environmental Resources Program

Enclosures

cc: Rosalinda Rodriguez, USACOE- Miami-Dade, Rosalinda.Rodriguez@usace.army.mil
Lisa Spadafina, Miami-Dade County DERM, spadaL2@miamidade.gov
J Frederic Blitstein, PhD, jfb@sportsalpaca.com

FILING AND ACKNOWLEDGMENT

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

Linda Hadwell OCT 22 2010
Clerk Date

GENERAL CONSENT CONDITIONS:

(1) Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.

(2) Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.

(3) Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.

(4) Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.

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

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

(7) Structures or activities shall not create a navigational hazard.

(8) Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule 18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident, or fire.

(9) Structures or activities shall be constructed, operated, and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(f), F.A.C., or any other applicable law.

Attachment A

File No.: 13-0302946-001

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF DETERMINATION OF EXEMPTION

The Department of Environmental Protection gives notice that the project to install 40-linear feet of wave attenuator, attached to existing piles, where the bottom of the proposed structure shall be a minimum of 2.5-feet above the sediment grade, all of which is associated with a 320 ft^2 dock, located in the Biscayne Bay, within the Biscayne Bay Aquatic Preserve, Outstanding Florida Waters, Class III Waters, adjacent to 4600 North Bay Road, Miami Beach (Section 22, Township 53 South, Range 42 East), in Miami-Dade County (25° 49' 19.34" North Latitude, 80° 8' 15.23" West Longitude) has been determined to be exempt from requirements to obtain an environmental resource permit.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Mediation is not available.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with rules rule 62-110.106(3), F.A.C., petitions for an administrative hearing must be filed within 21 days of publication of the notice or receipt of written notice, whichever occurs first. Under rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 prior to the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. Upon motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect, the Department may also grant the requested extension of time.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that right.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;
(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
(c) A statement of when and how the petitioner received notice of the agency decision;
(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and
(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301.

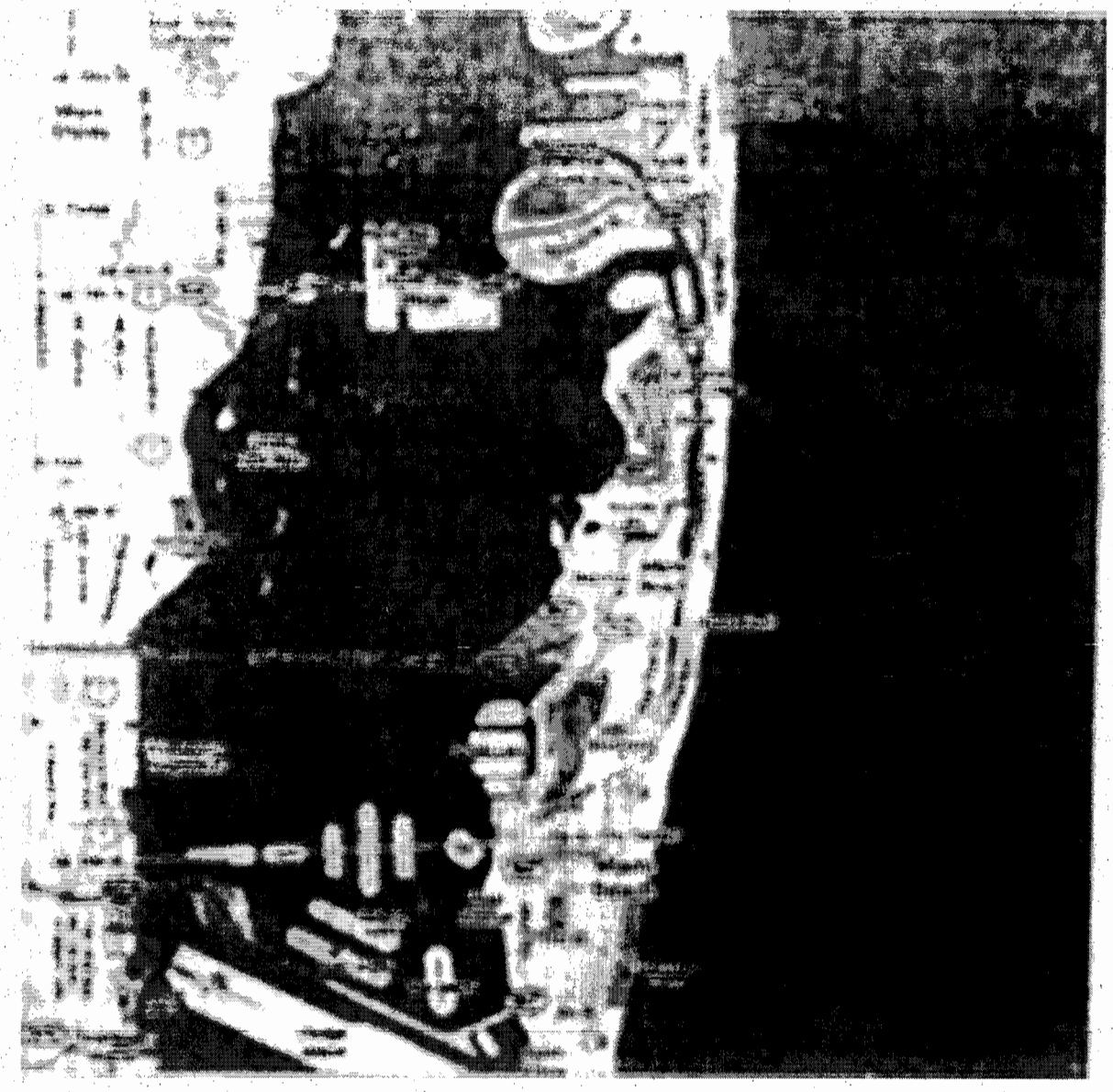
Under sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing shall be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

Complete copies of all documents relating to this determination of exemption are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, at the Southeast District office, 400 North Congress Avenue, West Palm Beach, Florida.

Pri

Google maps Address **4600 N Bay Rd**
Miami Beach, FL 33140

Notes



DEPARTMENT OF ENVIRONMENTAL PROTECTION
(13-0302946-00)
Proj.. Figueroa Elmer
Wave Breaker
Date: OCT 22 2010
By: Barry Luedtke
1 of 4
STATE OF FLORIDA

My Home
Miami-Dade County, Florida

miamidade.gov

MIAMI-DADE

Property Information Map

Aerial Photography - 2009 0 — 31 ft

This map was created on 10/13/2010 2:36:20 PM for reference purposes only.

Web Site © 2002 Miami-Dade County. All rights reserved.

Close

DEPARTMENT OF ENVIRONMENTAL PROTECTION
17-0302446-001
Proj.. Figueroa, Elmer
Wave Break
Date: OCT 22 2010
By: Amy Fredele
2 of 4
STATE OF FLORIDA

Summary Details:

Folio No.:	02-3222-011-0150
Property:	4600 N BAY RD
Mailing Address:	ELMER FIGUEROA &W MARINA %CHAF ENTERPRISES 1717 N BAYSHORE DRSUITE 2146 MIAMI FL 33132-

Property Information:

Primary Zone:	2100 SINGLE FAMILY RESIDENCE
CLUC:	0001 RESIDENTIAL-SINGLE FAMILY
Beds/Baths:	5/6
Floors:	2
Living Units:	1
Adj Sq Footage:	6,564
Lot Size:	19,457.50 SQ FT
Year Built:	2003
Legal Description:	NAUTILUS SUB PB 8-95 LOT 18 BLK 1 LOT SIZE 107.500 X 181 OR 18510-0642 03 1999 1 OR 18510-0642 0399 00

Assessment Information:

Year:	2010	2009
Land Value:	$3,231,276	$4,039,396
Building Value:	$1,992,130	$2,002,100
Market Value:	$5,223,406	$6,041,496
Assessed Value:	$4,898,022	$4,769,253

Exemption Information:

Year:	2010	2009
Homestead:	$25,000	$25,000
2nd Homestead:	YES	YES

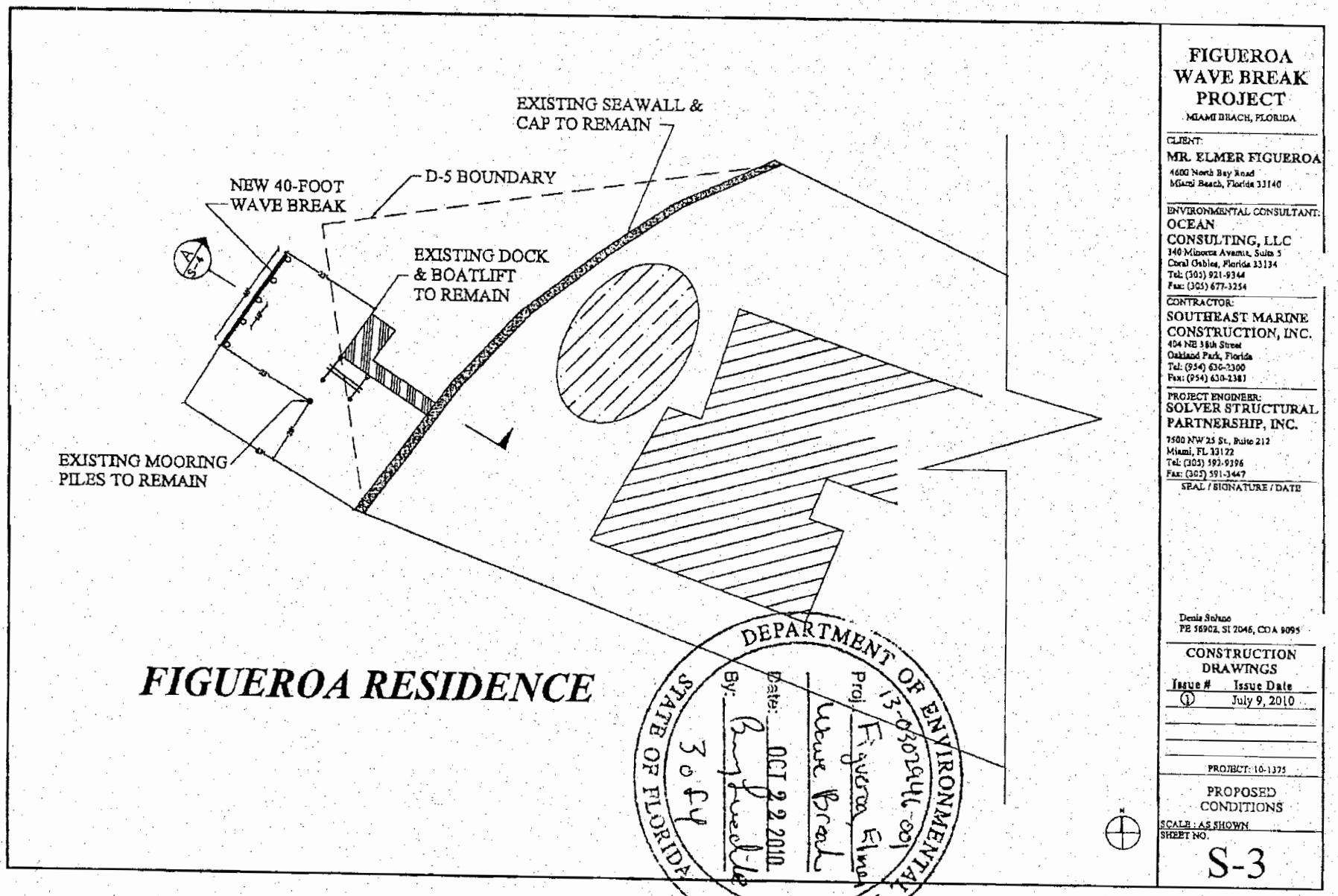
Taxable Value Information:

Year:	2010	2009
Taxing Authority:	Applied Exemption/ Taxable Value:	Applied Exemption/ Taxable Value:
Regional:	$50,000/ $4,848,022	$50,000/ $4,719,253
County:	$50,000/ $4,848,022	$50,000/ $4,719,253
City:	$50,000/ $4,848,022	$50,000/ $4,719,253
School Board:	$25,000/ $4,873,022	$25,000/ $4,744,253

Sale Information:

Sale Date:	3/1999
Sale Amount:	$1,300,000
Sale O/R:	18510-0642
Sales Qualification Description:	Sales which are qualified

View Additional Sales


EXISTING SEAWALL &
CAP TO REMAIN
D-5 BOUNDARY
NEW 40-FOOT
WAVE BREAK
EXISTING DOCK
& BOATLIFT
TO REMAIN
EXISTING MOORING
PILES TO REMAIN
FIGUEROA RESIDENCE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF FLORIDA
13-0302946-001
Proj: Figueroa Elmer
Wave Break
Date: OCT 22 2010
By:
3 of 4
FIGUEROA
WAVE BREAK
PROJECT
MIAMI BEACH, FLORIDA
CLIENT:
MR. ELMER FIGUEROA
4600 North Bay Road
Miami Beach, Florida 33140
ENVIRONMENTAL CONSULTANT:
OCEAN
CONSULTING, LLC
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254
CONTRACTOR:
SOUTHEAST MARINE
CONSTRUCTION, INC.
404 NE 38th Street
Oakland Park, Florida
Tel: (954) 630-2300
Fax: (954) 630-2383
PROJECT ENGINEER:
SOLVER STRUCTURAL
PARTNERSHIP, INC.
7500 NW 25 St., Suite 212
Miami, FL 33122
Tel: (305) 592-9396
Fax: (305) 591-3447
SEAL / SIGNATURE / DATE
Denis Solano
PE 56902, SI 2046, CDA 9095
CONSTRUCTION
DRAWINGS
Issue # Issue Date
1 July 9, 2010
PROJECT: 10-1375
PROPOSED
CONDITIONS
SCALE : AS SHOWN
SHEET NO.
S-3

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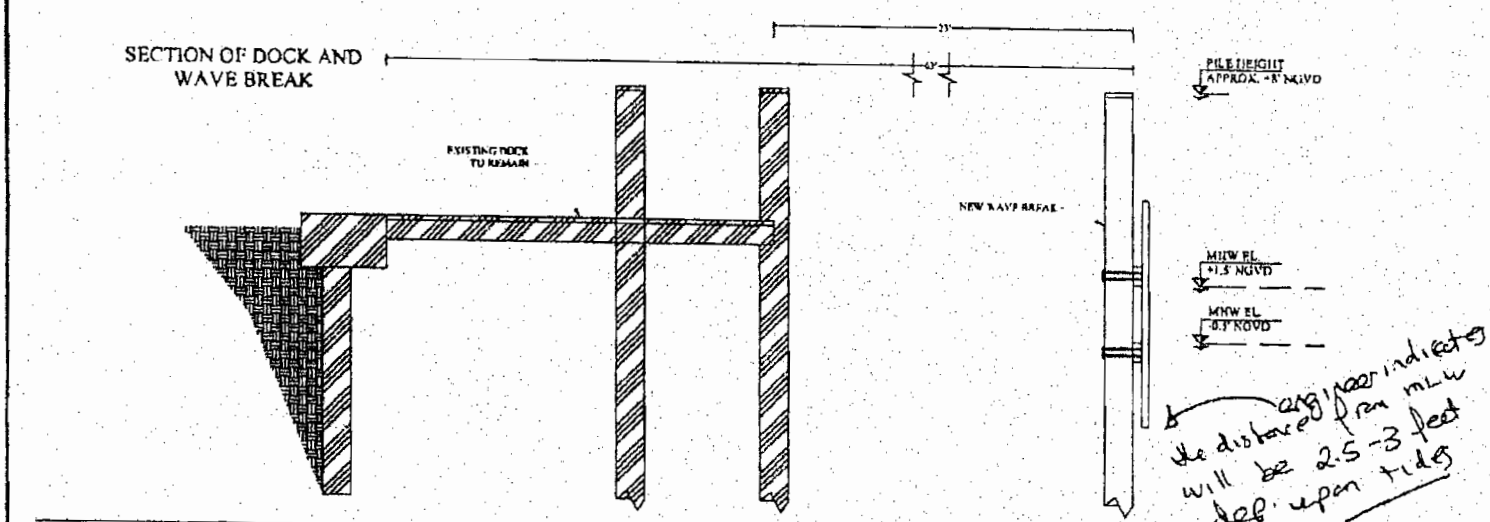

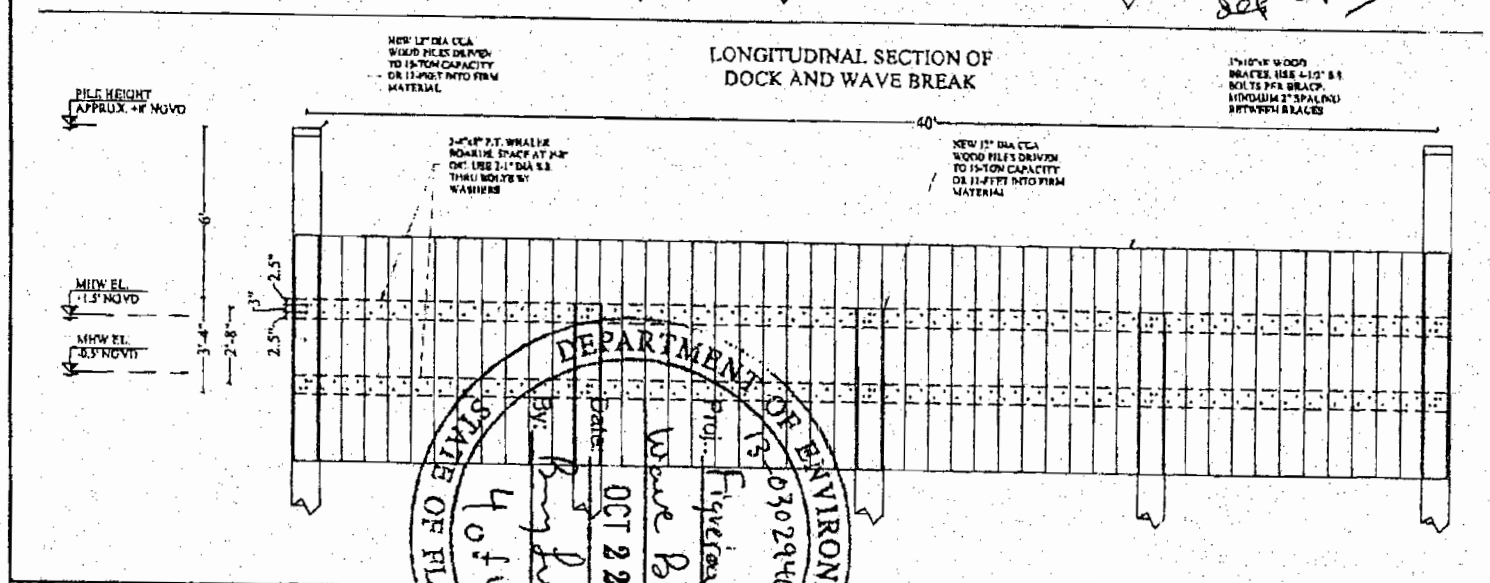

FIGUEROA WAVE BREAK PROJECT

MIAMI BEACH, FLORIDA

CLIENT:
MR. ELMER FIGUEROA
4600 North Bay Road
Miami Beach, Florida 33140

ENVIRONMENTAL CONSULTANT:
OCEAN CONSULTING, LLC
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Coral Gables, Florida 33134
Tel: (305) 921-9344
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CONTRACTOR:
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PROJECT ENGINEER:
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7500 NW 25 St., Suite 212
Miami, FL 33122
Tel. (305) 592-9306
Fax: (305) 591-3447

SEAL / SIGNATURE / DATE

Denis Solano
PE 56902, SI 2046, COA 9095

CONSTRUCTION DRAWINGS

Issue #	Issue Date
1	July 9, 2010

PROJECT: 10-1375

TYPICAL SECTION & DETAILS

SCALE: AS SHOWN

SHEET NO

S-4

DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OF FLORIDA
13-0302946-001
Proj. Figueroa Elmer
Wave Break
Date: OCT 22 2010
By: Bing Lucille
4 of 4

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Attachment F

DERM Project Report

PROJECT REPORT
CLASS I PERMIT APPLICATION NO. 2010-CLI-PER-00212

Class I Permit Application by Elmer Figueroa to Install a Wave Attenuator in Biscayne Bay at 4600 North Bay Road, Miami Beach, Miami-Dade County, Florida

Date: February 15, 2011

Staff's recommendation of approval for the above-referenced permit application is based on the applicable evaluation factors under Section 24-48.3 of the Code of Miami-Dade County (Code), Florida. The following is a summary of the proposed project with respect to each applicable evaluation factor:

1. **Potential Adverse Environmental Impact** – The potential for any adverse environmental impacts from the proposed project is minimal. A benthic survey conducted by biologists from the Department of Environmental Resources Management (DERM) revealed a sparse density of seagrass within the footprint of the proposed work. The potential for adverse environmental impacts will be minimized during construction operations through the use of standard turbidity control methods. In order to mitigate for unavoidable environmental impacts to existing resources, the applicant will provide a contribution to the Biscayne Bay Environmental Enhancement Trust Fund in the amount of $1,800.00 which shall be specifically designated for habitat creation/restoration projects in Biscayne Bay and its foreshore.

   The project is not located within an area designated as essential manatee habitat for the *Trichechus manatus* (West Indian Manatee) by the Miami-Dade County Manatee Protection Plan (MDCMPP). However, the Class I permit will require that all standard manatee conditions be followed during all in-water construction operations. Additionally, the Class I permit will have conditions to minimize turbidity and protect rare, threatened, and endangered species.

2. **Potential Cumulative Adverse Environmental Impact** – The proposed project is not reasonably expected to result in potential cumulative adverse environmental impacts.

3. **Hydrology** – The proposed project is not reasonably expected to adversely affect existing patterns or volumes of flow in the area.

4. **Water Quality** – The proposed project may temporarily affect surface water quality during construction operations. However, these impacts will be minimized by the implementation of proper turbidity control devices.

5. **Wellfields** – Not applicable.

6. **Water Supply** – Not applicable.

7. **Aquifer Recharge** – Not applicable.

8. **Aesthetics** – The proposed project is not reasonably expected to have negative aesthetic impacts.

9. **Navigation** – The proposed project is not reasonably expected to adversely affect navigation.

10. **Public Health** - The proposed project is not reasonably expected to adversely affect public health.

11. **Historic Values** - The proposed project is not reasonably expected to adversely affect historic values.

12. **Archaeological Values** - The proposed project is not reasonably expected to adversely affect archaeological values.

13. **Air Quality** – The proposed project is not reasonably expected to adversely affect air quality.

14. **Marine and Wildlife Habitats** – The proposed project is not reasonably expected to adversely affect marine and wildlife habitats. The proposed work is located within an area designated as critical habitat for *Halophila johnsonii* (Johnson's seagrass), a Federally Listed Threatened Species. However, Johnson's seagrass was not documented on-site, and a benthic survey conducted by DERM biologists revealed a sparse density of seagrass within the footprint of the proposed work.

The proposed project will cause temporary disturbances of the substrate during pile installation and relocation. Marine soils in the area of the proposed work may support marine epifauna (animals living on the sediment surface or on the surface of other plants or animals) and infauna (animals living within submerged sediment). However, these temporary environmental impacts will be minimized during construction operations through the use of standard turbidity control methods.

In order to mitigate for unavoidable environmental impacts to existing resources, the applicant will provide a contribution to the Biscayne Bay Environmental Enhancement Trust Fund in the amount of $1,800.00 which shall be specifically designated for habitat creation/restoration projects in Biscayne Bay and its foreshore.

The project is not located within an area designated as essential manatee habitat for the West Indian Manatee by the MDCMPP. However, the Class I permit will require that all standard manatee conditions be followed during all in-water construction operations. Additionally, the Class I permit will have conditions to minimize turbidity and protect rare, threatened, and endangered species.

15. **Wetland Soils Suitable for Habitat** – The proposed project does not involve any work in wetland soils.

16. **Floral Values** – The proposed project will result in minimal impacts to marine flora. A benthic survey conducted by biologists from DERM revealed a sparse density of seagrass within the footprint of the proposed work. In order to mitigate for unavoidable environmental impacts to existing resources, the applicant will provide a contribution to the Biscayne Bay Environmental Enhancement Trust Fund in the amount of $1,800.00 which shall be specifically designated for habitat creation/restoration projects in Biscayne Bay and its foreshore.

17. **Fauna Values** – The proposed project is not reasonably expected to adversely affect marine fauna. The proposed project will cause temporary disturbances of the substrate during construction operations. Marine soils in the area of the proposed work may support marine epifauna (animals living on the sediment surface or on the surface of other plants or animals) and infauna (animals living within submerged sediment). However, these temporary environmental impacts will be further minimized during construction operations through the use of standard turbidity control methods.

    The project is not located within an area designated as essential manatee habitat for the West Indian Manatee by the MDCMPP. However, the Class I permit will require that all standard manatee conditions be followed during all in-water construction operations. Additionally, the Class I permit will have conditions to minimize turbidity and protect rare, threatened, and endangered species.

18. **Rare, Threatened and Endangered Species** – The proposed work is not reasonably expected to result in adverse environmental impacts to rare threatened or endangered species. The proposed work is located within an area designated as critical habitat for Johnson's seagrass, a Federally Listed Threatened Species. However, Johnson's seagrass was not documented on-site, and a benthic survey conducted by DERM biologists revealed a sparse density of seagrass within the footprint of the proposed work.

    The project is not located within an area designated as essential manatee habitat for the West Indian Manatee by the MDCMPP. However, the Class I permit will require that all standard manatee conditions be followed during all in-water construction operations. Additionally, the Class I permit will have conditions to minimize turbidity and protect rare, threatened, and endangered species.

19. **Natural Flood Damage Protection** - The proposed project is not reasonably expected to adversely affect surface water drainage or retention of stormwater.

20. **Wetland Values** – The proposed project is not reasonably expected to adversely affect wetland values.

21. **Land Use Classification** – Pursuant to Section 24-48.2(II)(A)(7), of the Code of Miami-Dade County, Florida, a substantiating letter shall be submitted stating that the proposed project does not violate any zoning laws. Said letter will be submitted after the approval by the Board of County Commissioners and prior to the issuance of a Class I permit.

22. **Recreation** - The proposed project does not conflict with the recreation element of the Miami-Dade County Comprehensive Development Master Plan.

23. **Other Environmental Values Affecting the Public Interest** - The proposed project is not reasonably expected to adversely affect environmental values affecting the public interest. The proposed work will occur on sovereign submerged lands, and the Florida Department of Environmental Protection (FDEP) has determined that the project qualifies for a letter of consent to use sovereign submerged lands and has issued an exemption for the proposed work.

24. **Conformance with Standard Construction Procedures and Practices and Design and Performance Standards** – The proposed project complies with the standard construction procedures and practices and design and performance standards of the following:

    a) Chapter 33B of the Code of Miami-Dade County
    b) Biscayne Bay Management Plan (Sections 33D-1 through 33D-4 of the Code of Miami-Dade County)

25. **Comprehensive Environmental Impact Statement (CEIS)** – In the opinion of the Director, the proposed project is not reasonably expected to result in either adverse environmental impacts or cumulative adverse environmental impacts. Therefore, a CEIS was not required by DERM to evaluate the proposed project.

26. **Conformance with All Applicable Federal, State and Local Laws and Regulations** - The proposed project is in conformance with the following applicable State, Federal and local laws and regulations:

    a) Chapter 24 of the Code of Miami-Dade County
    b) United States Clean Water Act (US Army Corps of Engineers permit is required)
    c) Florida Department of Environmental Protection (project has received exemption for the FDEP)
    d) Biscayne Bay Aquatic Preserve Act

27. **Conformance with the Miami-Dade County Comprehensive Development Master Plan (CDMP)** - In the opinion of DERM, the proposed project is in conformance with the CDMP. The following is a summary of the proposed project as it relates to the CDMP:

LAND USE ELEMENT I:

Objective 2/Policy 2A - Level of Service. The proposed project does not involve new or significant expansion of existing urban land uses.

Objective 3/Policies 3A, 3B, 3C - Protection of natural resources and systems. – The proposed project is consistent with the Conservation and Coastal Management Elements of the CDMP. The project is compatible with surrounding land uses in Biscayne Bay and does not involve development in the Big Cypress area of Critical State concern or the East Everglades.

TRANSPORTATION ELEMENT II

Aviation Subelement/Objective 9 - Aviation System Expansion - There is no aviation element to the proposed project.

Port of Miami River Subelement/Objective 3 - Minimization of impacts to estuarine water quality and marine resources. The proposed project will not take place within the tidal waters of the Miami River.

CONSERVATION, AQUIFER RECHARGES AND DRAINAGE ELEMENT IV:

Objective 3/Policies 3A, 3B, 3D - Wellfield protection area protection. - The proposed project is not located within a wellfield protection area.

Objective 3/Policy 3E - Limestone mining within the area bounded by the Florida Turnpike, the Miami-Dade/Broward Levee, N.W. 12 Street and Okeechobee Road. - The proposed project is not located within this area.

Objective 4/Policies 4A, 4B, 4C - Water storage, aquifer recharge potential and maintenance of natural surface water drainage. - The proposed project is not reasonably expected to adversely affect water storage, aquifer recharge potential or natural surface water drainage.

Objective 5/Policies 5A, 5B, 5F - Flood protection and cut and fill criteria. – The proposed project does not compromise flood protection, involve filling for development purposes, and is not related to cut and fill activities.

Objective 6/Policy 6A - Areas of highest suitability for mineral extraction. - The proposed project is not located in an area proposed or suitable for mineral extraction.

Objective 6/Policy 6B - Guidelines for rock quarries for the re-establishment of native flora and fauna. - The proposed project is not located in a rock quarry.

Objective 6/Policy 6D - Suitable fill material for the support of development. – The proposed project does not involve filling for the purposes of development.

Objective 7/Policy 7A - No net loss of high quality, relatively unstressed wetlands. - The proposed project will not result in a net loss of any such wetlands.

Objective 9/Policies 9A, 9B, 9C – Protection of habitat critical to Federal or State-designated threatened or endangered species. – The proposed project is not reasonably expected to adversely affect habitat critical to Federal or State-designated threatened or endangered species. The proposed work is located within an area designated as critical habitat for Johnson's seagrass, a Federally Listed Threatened Species. However, Johnson's seagrass was not documented on-site, and a benthic survey conducted by DERM biologists revealed a sparse density of seagrass within the footprint of the proposed work.

The proposed project is not located within an area designated as essential manatee habitat for the West Indian Manatee by the MDCMPP. However, the Class I permit will require that all standard manatee conditions be followed during all in-water construction operations.

COASTAL MANAGEMENT ELEMENT VII:

Objective 1/Policy 1A - Tidally connected mangroves in mangrove protection areas. – The proposed project is not located within a designated "Mangrove Protection Area."

Objective 1/ Policy 1B - Natural surface flow into and through coastal wetlands. – The project will not affect natural surface flow into and through coastal wetlands.

Objective 1/ Policy 1C - Elevated boardwalk access through mangroves. – The proposed project does not involve access through mangroves.

Objective 1/Policy 1D - Protection and maintenance of mangrove forests and related natural vegetational communities. – The proposed project does not involve work in mangrove forests, coastal hammock, or other natural vegetational communities.

Objective 1/Policy 1E - Mitigation for the degradation and destruction of coastal wetlands. Monitoring and maintenance of mitigation areas. – The proposed project does not involve the degradation and destruction of coastal wetlands and therefore does not involve monitoring of mitigation for impacts to coastal wetlands.

Objective 1/Policy 1G - Prohibition on dredging or filling of grass/algal flats, hard bottom or other viable benthic communities, except as provided for in Chapter 24 of the Code of Miami-Dade County, Florida. – The proposed project does not involve dredging or filling of grass/algal flats, hard bottom or other viable benthic communities.

Objective 2/Policies 2A, 2B - Beach restoration and renourishment objectives. - The proposed project does not involve beach restoration or renourishment.

Objective 3/Policy 3E, 3F - Location of new cut and spoil areas for proper stabilization and minimization of damages. - The proposed project does not involve the development or identification of new cut or spoil areas.

Objective 4/Policy 4A, 4C, 4E, 4F – Protection of endangered or threatened animal species. - The proposed work is not reasonably expected to adversely affect endangered or threatened animal species. The proposed project is not located within an area designated as essential manatee habitat for the West Indian Manatee by the MDCMPP. However, the Class I permit will require that all standard manatee conditions be followed during all in-water construction operations. Additionally, the Class I permit will have conditions to minimize turbidity and to protect rare, threatened, and endangered species.

Objective 5/Policy 5B - Existing and new areas for water-dependent uses. – The proposed project will not affect water dependent use.

Objective 5/Policy 5D - Consistency with Chapter 33D, Miami-Dade County Code (shoreline access, environmental compatibility of shoreline development) - The Shoreline Development Review Committee has evaluated the proposed project and determined that the thresholds for review under the Shoreline Ordinance do not apply and the proposed project is not subject to shoreline development review.

Objective 5/Policy 5F - The siting of water dependent facilities. - The proposed project does not involve the creation of any new water dependent facilities.

28. **Conformance with Chapter 33B, Code of Miami-Dade County** (East Everglades Zoning Overlay Ordinance) – The proposed project is not located within the East Everglades Area.

29. **Conformance with Miami-Dade County Ordinance 81-19** (Biscayne Bay Management Plan Sections 33D-1 through 33D-4 of the Code of Miami-Dade County) - The proposed project is in conformance with the Biscayne Bay Management Plan.

30. **Conformance with the Miami-Dade County Manatee Protection Plan** – The proposed project is not located within an area designated as essential manatee habitat for the West Indian Manatee by the MDCMPP. However, the Class I permit will require that all standard manatee conditions be followed during all in-water construction operations.

31. **Consistency with Miami-Dade County Criteria for Lake Excavation** – The proposed project does not involve lake excavation.

32. **Municipality Recommendation** – Pursuant to Section 24-48.2(II)(A)(7), of the Code of Miami-Dade County, Florida, a substantiating letter shall be submitted stating that the proposed project does not violate any zoning laws. Said letter will be submitted after the approval by the Board of County Commissioners and prior to the issuance of a Class I permit.

33. **Coastal Resources Management Line** - A coastal resources management line was not required for the proposed project, pursuant to Section 24-48.2(II)(A)(10)(b) of the Code of Miami-Dade County, Florida.

34. **Maximum Protection of a Wetland's Hydrological and Biological Functions** – The proposed project is not reasonably expected to impact wetland hydrological and biological functions.

35. **Class I Permit Applications Proposing to Exceed the Boundaries Described in Section D-5.03(2)(a) of the Miami-Dade County Public Works Manual**

    i. **Whether the proposed exceedance is the minimum necessary to avoid seagrasses or other valuable environmental resources** – The previously permitted dock configuration was designed to avoid impacts to dense resources.
    ii. **Whether the proposed exceedance is the minimum necessary to achieve adequate water depth for mooring of a vessel** – The proposed project complies with the water depth requirements set forth in Section 24-48.3(3) of the Code of Miami-Dade County.
    iii. **Whether the applicant has provided notarized letters of consent to DERM from adjoining riparian property owners** – The applicant intends to provide notarized letters of consent from the adjoining riparian property owners.
    iv. **Whether any letters of objection from adjoining riparian property owners were received by DERM** – No letters of objection from adjoining property owners have been received by DERM.

The proposed project was also evaluated for compliance with the standards contained in Section 24-48.3(2), (3), and (4) of the Code of Miami-Dade County, Florida. The following is a summary of how the standards relate to the proposed project:

24-48.3 (2) Dredging and Filling for Class I Permit - The proposed project does not involve dredging and filling activities.

24-48.3 (3) Minimum Water Depth Required for Boat Slips Created by the Construction or Placement of Fixed or Floating Docks and Piers, Piles and Other Structures Requiring a Permit Under Article IV, Division 1 of Chapter 24 of the Code of Miami-Dade County – The proposed project complies with the water depth requirements set forth in Section 24-48.3(3) of the Code of Miami-Dade County.

24-48.3 (4) Clean Fill in Wetlands – The proposed project does not involve placing clean fill in wetlands.

BASED ON THE FOREGOING, IT IS RECOMMENDED THAT A CLASS I PERMIT BE APPROVED.

Lisa Spadafina, Manager
Coastal Resources Section

Martha Fundora, Biologist I
Coastal Resources Section