



REPLY TO
ATTENTION OF

**DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BLVD, SUITE 310
FORT MYERS, FL 33919**

April 23, 2019

Regulatory Division
West Permits Branch
Fort Myers Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2011-01543(SP-EPL)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) as described below:

APPLICANT: Edwin Siddons
Legacy Moss Landing, LLC
8700 E Vista Bonita Drive, Suite 224
Scottsdale, AZ 85255

WATERWAY AND LOCATION: The project would affect waters of the United States within the Caloosahatchee River. The project site is located within Section 2, Township 43 South, Range 29 East at 900 Aqua Isles Blvd, Labelle, Hendry County, Florida.

Directions to the site are as follows: From I-75, take Exit 141; travel east on SR80/ Palm Beach Boulevard for 24 miles (becomes W. Hickpochee Avenue); turn left onto Shady Oaks Avenue for 0.1 mile; then turn left onto Shady Oaks Lane to mobile home/ RV park entrance on right.

APPROXIMATE CENTRAL COORDINATES: Latitude: 26.764927° N
Longitude: -81.453724° E

PROJECT PURPOSE:

Basic: Improve watercraft access.

Overall: To improve an existing private multi-family marina to accommodate larger vessels in Northern Hendry County.

EXISTING CONDITIONS: The project area consists of an existing multifamily marina with a non-vegetated bottom. Currently ten of the originally proposed twenty 4' x 40' wooden finger piers and an additional L-shaped pier have been constructed. The project area is surrounded to the east and west by single family residential properties, to the

south by a multifamily trailer park, and to the north by a cemetery across the Caloosahatchee River.

BACKGROUND: A Department of the Army permit was issued for the proposed work on 30 January 2014 with an expiration date of 30 January 2019. On 30 October 2018, a modification request was received requesting a five year extension of the permit.

PROPOSED WORK: The applicant seeks authorization to extend the permit expiration date by 5 years. The current permit authorizes the expansion of a docking facility at an existing multi-family residential development (mobile home/RV park complex) and to rebuild an existing staging area structure/launching dock. The project involves: a) construction of (20) new finger piers to support 40 new slips for private recreational vessels; b) rebuild of an existing L-shaped launching dock with terminal platform (total: 520 square-feet) within the same footprint; c) installation of one lift per slip or 10-inch diameter mooring pilings per slip; d) installation of a water utility line/hose bibs and low-level lighting along the docks and access walkway. The finished over-water docking structures will measure 3,720 square-feet and will include 40 slips.

AVOIDANCE AND MINIMIZATION INFORMATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

Applicant has agreed to adhere to all manatee conditions for in-water work, the National Marine Fisheries Service Project Design Criteria (NMFS PDC) conditions, as well as all sea turtle and smalltooth sawfish construction conditions. A turbidity curtain will be deployed during all in-water work to avoid secondary impacts.

COMPENSATORY MITIGATION: The applicant has provided the following explanation why compensatory mitigation should not be required:

There are no resource impacts associated with the project and therefore no mitigation is proposed.

CULTURAL RESOURCES: The activity is of such limited scope there is little likelihood of impact upon a historic property; therefore, the proposed project would have "No Potential to Cause Effect".

ENDANGERED SPECIES: The Corps has determined the proposed project may affect, but is not likely to adversely affect the green sea turtle (*Chelonia mydas*), Loggerhead sea turtle (*Caretta caretta*), Leatherback sea turtle (*Dermochelys coriacea*), Hawksbill sea turtle (*Eretmochelys imbricata*), Kemp's ridley sea turtle (*Lepidochelys kempii*), West Indian Manatee (*Trichechus manatus*), and smalltooth sawfish (*Pristis pecinata*). The Corps has received concurrence from the National Marine Fisheries Service and US Fish and Wildlife Service with these determinations pursuant to Section 7 of the Endangered Species Act.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. The proposal would only impact approximately 3,720 square feet of sand/mud bottom within the proposed project area utilized by various life stages of shrimp, red drum, reel fish, spiny lobster, snappers, and groupers. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries within the Caloosahatchee River. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

AUTHORIZATION FROM OTHER AGENCIES: Water Quality Certification may be required from the Florida Department of Environmental Protection and/or one of the state Water Management Districts.

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Fort Myers Permits Section, 1520 Royal Palm Square Boulevard Suite 310, Fort Myers, FL within 15 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, Eric Larrat, in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Boulevard Suite 310, Fort Myers, FL 33919; by electronic mail at eric.p.larrat@usace.army.mil; by facsimile transmission at (239) 334-0797; or, by telephone at (239) 334-1975.

IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from

the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

SECTION: 2
TOWNSHIP: 43 S
RANGE: 29 E

2012 Hendry County Aerial

0 100 200
SCALE FEET

Approximate centerline of
channel based on depth
contours defining deepest
channel alignment.

Federal Channel
@ 90' Wide

Detail A

Property Boundary

Note: Upland site information and boundary is a
compilation provided by Millman Surveying, Inc. &
H.L. Bennett & Associates. Bathymetric survey
completed 5-26-11. All depths reference Average
Waterline datum of 3.46' NGVD 1929.

Total shoreline length @ 911' \pm 1'

Overall Site Plan

SCALE: 1" = 200'



PERMIT PLANS, NOT FOR CONSTRUCTION



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

6-1-17

jon

Aqua Isles, LLLP

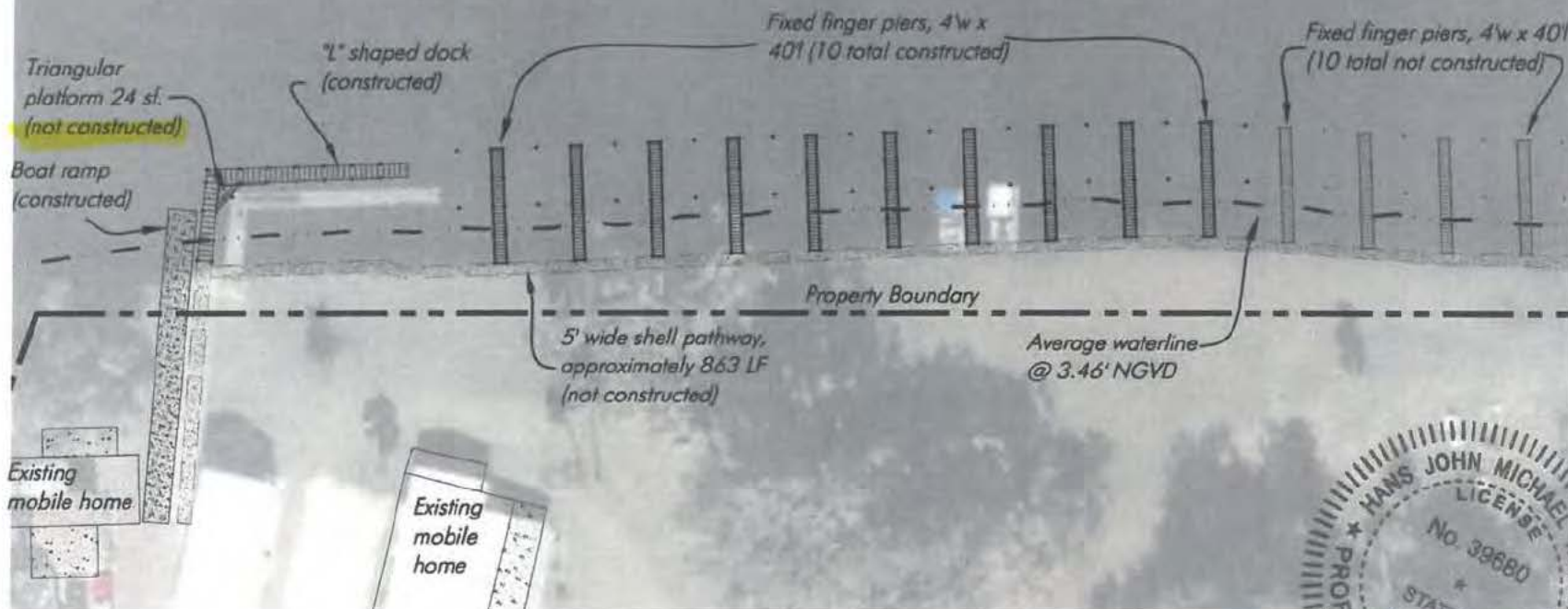
SHEET

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SECTION: 2
TOWNSHIP: 43 S
RANGE: 29 E

0 30 60
SCALE FEET

Caloosahatchee River



Note: Upland site information and boundary is a compilation provided by Millman Surveying, Inc. & H.L. Bennett & Associates. Bathymetric survey completed 5-26-11. All depths reference Average Waterline datum of 3.46' NGVD 1929.

Detail A - Current Site Conditions West

SCALE: 1" = 60'



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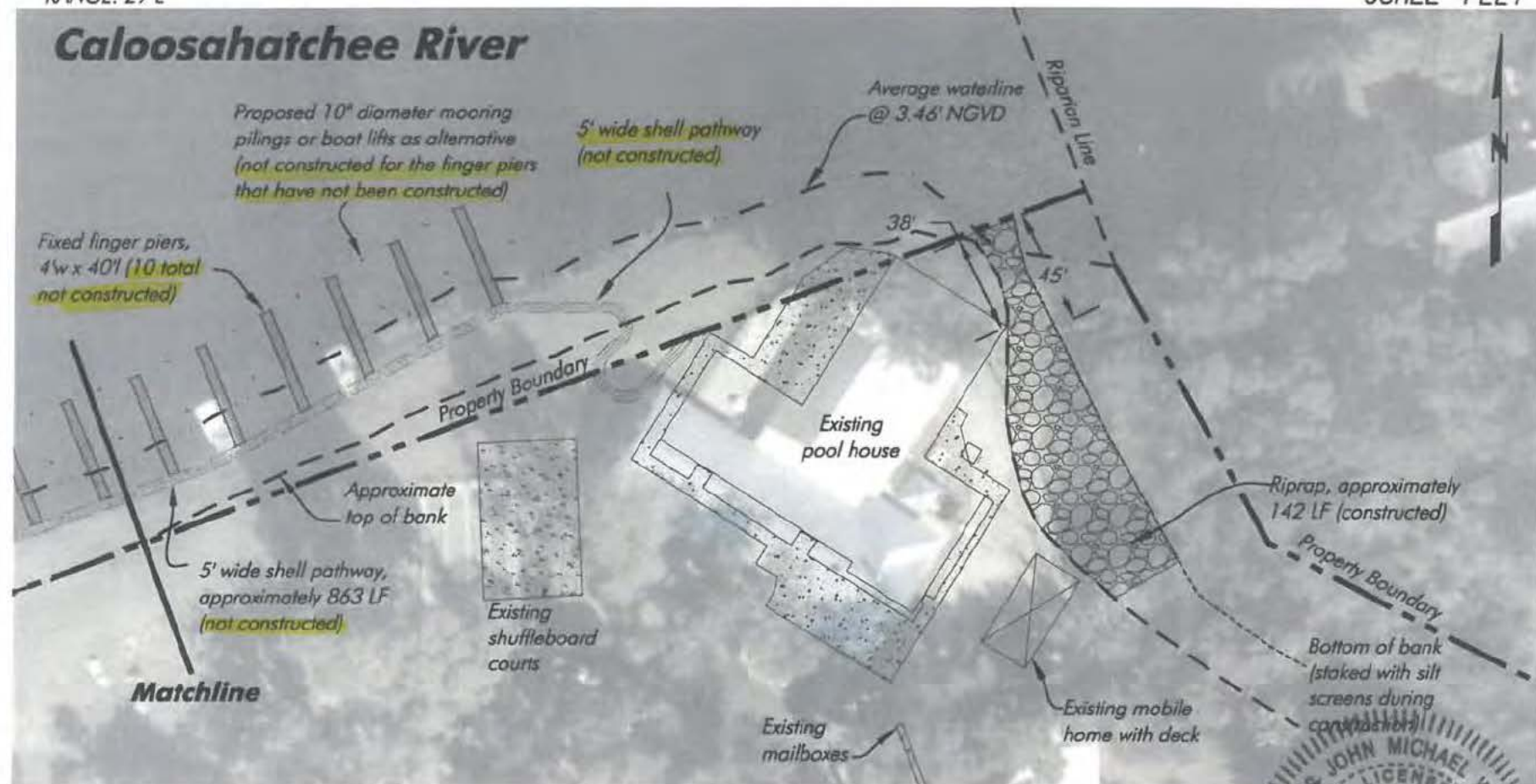
SHEET

2/4

SECTION: 2
TOWNSHIP: 43 S
RANGE: 29 E

0 30 60
SCALE FEET

Caloosahatchee River



Note: Upland site information and boundary is a compilation provided by Millman Surveying, Inc. & H.L. Bennett & Associates. Bathymetric survey completed 5-26-11. All depths reference Average Waterline datum of 3.46' NGVD 1929.

Detail A - Current Site Conditions East

SCALE: 1" = 60'



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SHEET

3/4

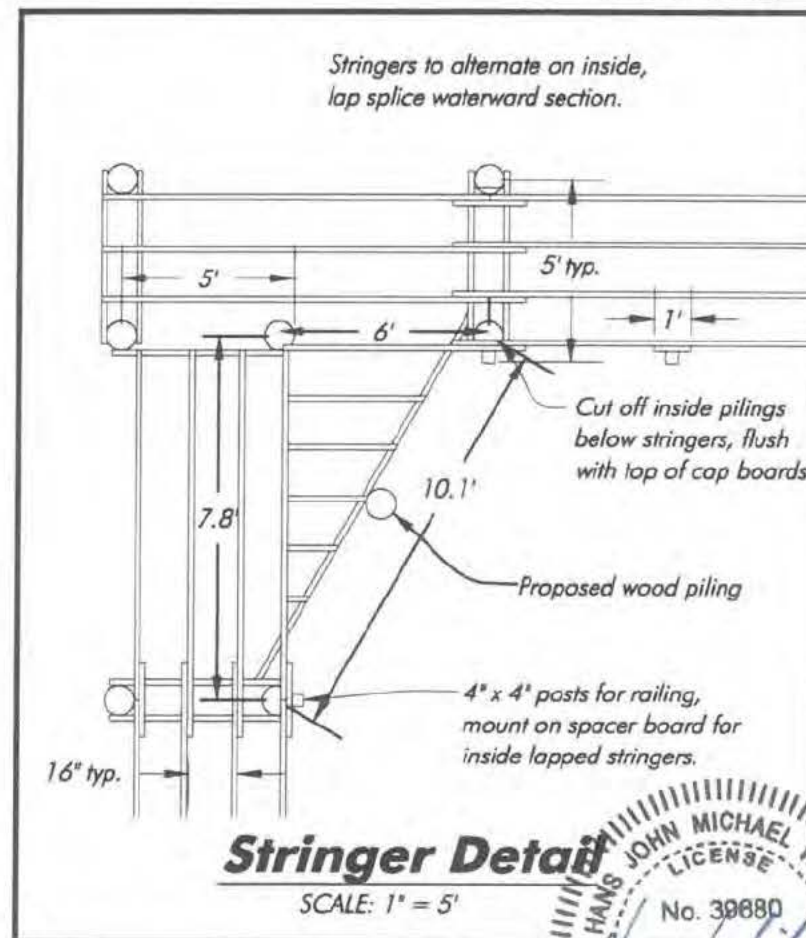
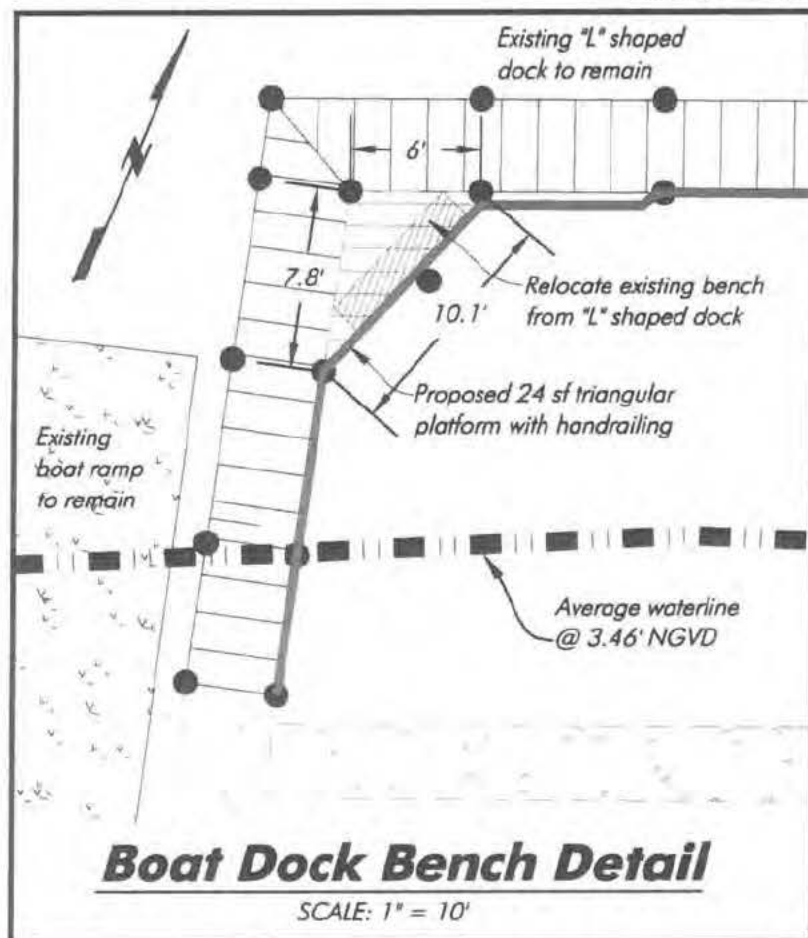
SECTION: 2

TOWNSHIP: 43 S
RANGE: 29 E

LATITUDE: 26° 45' 54"
LONGITUDE: 81° 27' 09"

0 5 10
SCALE FEET

0 2.5 5
SCALE FEET



NOTES: Upland site information and boundary is a compilation provided by Millman Surveying, Inc. & H.L. Bennett & Associates. Bathymetric survey completed 5-26-11. All depths reference Average Waterline datum of 3.46' NGVD 1929.

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

10-27-14

TC

Aqua Isles, LLLP

SHEET

4/4

HANS JOHN MICHAEL WILSON
LICENSE
No. 39880
STATE OF FLORIDA
REGISTERED PROFESSIONAL ENGINEER
FLORIDA REGISTRATION NO. 39880
CA. LIC. NO. 9819
DATE: June 01, 2007 10:49:31 a.m.
Drawing: AQUA ISLES MASTER.DWG