



# Florida Department of Environmental Protection

South District Branch Office  
2796 Overseas Highway Suite 221  
Marathon, FL 33050

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

January 4, 2012

Conch Harbor Retail Center LLC  
C/O Philip A. Frank, Terramar Environmental Services  
1241 Crane Boulevard  
Sugarloaf Key, FL 33042

Re: Monroe County – ERP  
File No. 44-0306205-002

Dear Applicant,

This is to acknowledge receipt of your application on December 5, 2011 for an Environmental Resource permit, pursuant to Part IV, Chapter 373, Florida Statutes (F.S.), and an authorization to use state-owned submerged lands, pursuant to Chapter 253, F.S., to reconfigure an existing dock within Key West Bight.

In order to review your application, we need the items listed in the enclosed request for additional information (RAI) by **April 3, 2012**. If necessary, you may request an extension up to ninety (90) additional days. If neither the information nor a request for an extension is received by April 3, 2012, your application may be denied without prejudice. If you revise your project after submitting the initial joint application, please contact us as soon as possible.

We appreciate your cooperation. **If you have any questions, please contact Celia Hitchins at the letterhead address, by phone (305) 289-7079, or via email at [celia.hitchins@dep.state.fl.us](mailto:celia.hitchins@dep.state.fl.us).**

Sincerely,

Bruce Franck  
Environmental Manager  
Submerged Lands and  
Environmental Resources Program  
BF/ch

Enclosures

cc: Owner/Applicant  
U.S. Army Corps of Engineers, Miami

**REQUEST FOR ADDITIONAL INFORMATION**  
(Chapter 373, F.S., and Chapters 62-4 and 62-343, F.A.C.)

Part I  
(Chapter 62-343, Florida Administrative Code)

- 1) It appears that a portion of the proposed dock extension is located within a perpetual right of way and spoil disposal easement (No. 24526) granted by the Board of Trustees of the Internal Improvement Fund (TIIF) to the United States of America on April 20, 1967. Please provide the following:
  - a. assurance that navigation will not be affected by the proposed project, and
  - b. a letter of permission from the U. S. Army Corps of Engineers to encroach into this easement.

Part II  
LEASE  
(Chapter 18-21, Florida Administrative Code)

Preliminary review of your proposed project by the Division of State Lands indicates that your proposed project will affect sovereignty (state-owned) submerged lands. Therefore, the dock reconfiguration will require a lease for the use of sovereign, submerged lands.

- 1) Please provide a \$581.00 non-refundable lease processing fee payable to the Department of Environmental Protection.
- 2) Pursuant to Rule 18-21.004(3)(d), F.A.C., all structures, including mooring pilings, breakwaters, jetties and groins, and activities must be set back a minimum of 25 feet inside the applicant's riparian rights lines. The proposed dock is less than 25 feet from the applicant's riparian lines. Therefore, please revise your project to meet this minimum requirement or obtain and submit a setback waiver from the affected adjacent property owner(s). A setback waiver form is attached for your use.
- 3) Pursuant to Rule 18-21.004(1)(g), F.A.C, activities on sovereignty lands should be limited to water dependent activities only unless the Board determines that it is in the public interest to allow an exception as determined on a case by case evaluation. The existing dockmaster's office and ship's store located at the terminus of the dock are on sovereignty lands and are not water dependent. Please relocate the dockmaster's office and ship's store to an upland location.

- 4) Please complete and return the enclosed affidavit to provide the Department with reasonable assurance that the applicant has the financial capability to comply with sovereignty submerged lands lease requirements.
- 5) Please be advised that submerged land leases in Monroe County for multi-slip docking facilities cannot be located over benthic communities such as grass beds, algae beds, sponge beds, and corals.
- 6) If your project will preempt 3,000 or more square feet of sovereign, submerged land, a certified, sealed survey of the lease area will be required. Refer to the enclosed package (SLER 0950) for specific survey requirements and information.

If your project will preempt less than 3,000 square feet of sovereign submerged land, a sketch and description of the lease area will be required. Refer to the enclosed package (SLER 0960) for specific requirements and information.

- 7) Please provide a detailed statement describing the existing and proposed upland uses and activities.

For commercial uses, indicate the specific type of activity, such as marina, ship repair, upland dry storage (include the number of storage spaces), commercial fishing/seafood processing, fish camp, apartment/unit rentals hotel, motel, resort, restaurant, office complex, manufacturing operation, etc.

For all projects, please provide details regarding the assignment of boat slips at the proposed docking facility. For instance, how will slips be assigned? Will there be a direct or indirect fee for the use of a boat slip on sovereignty submerged lands? If there will be a boat slip user agreement between the grantee/lessee and the boat slip user, please provide a copy.

- 8) Requests for submerged land leases must be noticed. Please provide a list of names and addresses of all property owners within a 500-foot radius of the proposed lease area. This list must be verified by the County Property Appraiser's Office as coming from the latest tax assessment rolls. Specific written instructions for noticing (SLER 0905) will be provided to you at the appropriate time during the application process. Do not proceed with noticing until you are specifically informed by staff to do so.
- 9) Please complete and return the enclosed data sheet (SLER 0910) which provides billing information, sales tax information, and other data required pursuant to Section 24.115(4), Florida Statutes.

- 10) Please provide "satisfactory evidence of sufficient upland interest." This may be demonstrated by documentation, such as a warranty deed; a certificate of title issued by a clerk of the court; a lease; an easement; or condominium, homeowners or similar association documents that clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity. Other forms of documentation may be accepted if they clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity.
  
- 11) Please provide either a copy of your local government permit, a copy of an intent to issue a permit from your local government, or a statement from local government which explicitly indicates that the proposed project is consistent with the local government's comprehensive plan.
  
- 12) Part of your project appears to be located within Board of Trustees easement no. 24526 granted to the United States of America. Please provide evidence of authorization from the record easement holder.