STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CHARLES J. WINN and
LYNN S. WINN,

Petitioners,

DOAH CASE NO.: 25-6469
OGC CASE NO.: 25-1894

v.

NORTH RIVER SHORES POA, INC.
And STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Respondents.
_____/

FINAL ORDER

On April 14, 2026, an administrative law judge (ALJ) with the Division of Administrative Hearings (DOAH) issued a Recommended Order in these proceedings. Petitioners had challenged an agency decision in a document dated October 1, 2025 issued in favor of the applicant, North River Shores POA, Inc. The file number for this project, NRS Snow Park Dock Replacement, is 43- 0174298-009-EE.

The applicant had requested authorization to repair and replace an existing 280 square foot dock in an existing overwater footprint. In the challenged agency decision, the Department confirms an exemption from the need to obtain a regulatory permit under part IV, chapter 373 of the Florida Statutes. (the Exemption). The ALJ recommended that the Department of Environmental Protection (the Department) grant the verification of exemption.

The ALJ conducted a one-day formal hearing and has issued the Recommended Order recommending issuance of the Exemption with no changes. The time for filing exceptions has expired, and no party has filed exceptions.

The Recommended Order fully describes the proceedings before DOAH. A transcript of the proceedings is in the record and was available to the ALJ when he prepared the Recommended Order.

CONCLUSION

Having considered the applicable law and the Recommended Order, and otherwise being duly advised, it is ORDERED:

A. The Recommended Order (Exhibit A to this Final Order) is adopted and incorporated herein by reference, in its entirety.

B. The North River Shores Property Owners' Association, Inc.'s Verification of Exemption No. 43-01744298-009-EE, NRS Snow Park Dock Replacement, October 1, 2025 is GRANTED.

JUDICIAL REVIEW

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; or by electronic mail to Agency_Clerk@dep.state.fl.us and by filing a copy of the

Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Final Order is filed with the clerk of the Department.

DONE AND ORDERED this 14 day of May 2026, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

ALEXIS A. LAMBERT
Secretary

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

FILED ON THIS DATE PURSUANT TO § 120.52, FLORIDA STATUTES, WITH THE DESIGNATED DEPARTMENT CLERK, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.

Lea Crandall Digitally signed by Lea Crandall Date: 2026.05.14 14:08:49 -04'00'

Clerk

May 14, 2026
Date

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been sent by electronic mail to the following on this 14th day of May 2026.

Charles J. Winn, pro se Lynn S. Winn, pro se 1520 NW Lakeside Trail Stuart, Florida 34994 wfbhofbuddy@gmail.com ufrsmom@yahoo.com	John W. Wallace Smith, Hulsey and Busey 1 Independent Drive, Suite 3300 Jacksonville Florida 32202 jwallace@smithhulsey.com *Counsel for Respondent, North River Shores POA, Inc.*
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STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

/s/ Jeffrey Brown
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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CHARLES J. WINN AND LYNN S. WINN,

Petitioners,

vs. Case No. 25-6469

NORTH RIVER SHORES POA, INC., AND DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.
_____/

RECOMMENDED ORDER

Pursuant to notice, a formal administrative hearing was conducted via Zoom on February 24, 2026, before Administrative Law Judge Garnett W. Chisenhall of the Division of Administrative Hearings ("DOAH").

APPEARANCES

For Petitioners: Charles John Winn, pro se
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Stuart, Florida 34994

For Respondent North River Shores POA, Inc:

John W. Wallace, Esquire
Smith, Hulsey, & Busey
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Jacksonville, Florida 32202

For Respondent Department of Environmental Protection:

Cameron Michael Polomski, Esquire
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399

STATEMENT OF THE ISSUE

Whether the project at issue, pursuant to section 403.813(1)(d), Florida Statutes (2025),[1] and Florida Administrative Code Rule 62-330.051(5)(d), is exempt from obtaining an environmental resource permit.

PRELIMINARY STATEMENT

Via a letter dated October 1, 2025, the Department of Environmental Protection ("the Department") notified North River Shores Property Owners' Association, Inc. ("North River Shores") of its determination that a permit was not required in order for North River Shores to repair and replace an existing 280-square foot dock. On November 24, 2025, the Department received an "Amended Petition for Formal Administrative Hearing" ("the Amended Petition") from Charles J. Winn and Lynn S. Winn (hereinafter referred to as "the Winns") requesting that the Department rescind its determination that repair and replacement of the existing dock was exempt from permitting requirements. The Department referred this matter to DOAH on December 18, 2025, and the undersigned scheduled a final hearing for February 24 and March 5, 2026.

On January 22, 2026, North River Shores filed a "Motion to Strike Irrelevant Disputed Issues of Material Fact and Alleged Ultimate Facts" ("the Motion to Strike"). Via the Motion to Strike, North River Shores argued that the Amended Petition: (a) "goes far beyond the Department's action on [North River Shores]' request for verification of exemption"; and (b) "raises claims that are outside the jurisdiction of [DOAH]." In response to an Order to Show Cause issued on January 26, 2026, the Winns filed a pleading setting forth the following assertions as "material facts" in dispute:

[1] Unless stated otherwise, all statutory references shall be to the 2025 version of the Florida Statutes. *See generally Lavernia v. Dep't of Pro. Regul., Bd. of Med.*, 616 So. 2d 53 (Fla. 1st DCA 1993)(stating that a change in a licensure statute that occurs during the pendency of a licensure application applies to that application).

> a. [North River Shores] did not provide evidence that the existing dock was either substantially damaged or non-functional, so as to justify removal and replacement under a regulatory exemption. The existing structure is a 280 square foot fishing dock supported by 12 pilings, constructed in or about 2013, and was intact and functional at the time of application.
>
> b. [North River Shores'] plans formed the basis of [the Department's] Exemption issued on October 1, 2025. The project description submitted by [North River Shores] reads: "Remove existing dock and replace with new. Dock Piles: (12) 8" wood. All piles to be jetted or hand dug."
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> c. Exemption criteria under section 403.813 of Florida Statutes and applicable [Department] rules require replacement structures [to] be of substantially similar size, footprint and function. [North River Shores'] plans for a 310 square foot replacement dock constitute an increase of 30 square feet over the existing structure, [along with] the removal and replacement of all pilings. The changes exceed routine maintenance or in-kind replacement, materially altering the size and scope of the project.
>
> d. [North River Shores'] exemption application identified "Snow Park" as the project rather than the correct and [Department]-registered name Lake Park. [The Winns] previously notified [the Department] of similar false or misleading information by [North River Shores] in a prior exemption application dated February 24, 2024 concerning Nosaw Park. Despite this notice, [the Department] . . . issued the exemption under appeal on October 1, 2025.

On February 17, 2026, the undersigned issued an Order partially granting the Motion to Strike. In doing so, the undersigned ruled that the questions to be determined in this proceeding are the following: (1) whether the project at issue satisfies the criteria for an exemption set forth in section 403.813(1)(d)

and rule 62-330.051(5)(d); and (2) whether mangroves near the project site may be adversely and permanently impacted by the project at issue.[2]

The final hearing was convened and completed on February 24, 2026, and Joint Exhibits 1 through 11 were accepted into evidence. The Winns presented testimony from Andrew Torian, Shauna Banks, Kelly Perelli Minetti, and Lynn Winn. Petitioners' Exhibits 6 and 12 were accepted into evidence. North River Shores presented testimony from Morgan Loundon, Evan Tridone, David Weston, and Drew Gatewood. Respondent's Exhibits 1, 7, 10, 11, 13, and 14 were accepted into evidence.[3]

A one-volume final hearing transcript was filed on March 16, 2026. All parties filed timely Proposed Recommended Orders that were considered in the preparation of this Recommended Order.

FINDINGS OF FACT

Based on the oral and documentary evidence adduced at the final hearing, the entire record of this proceeding, reasonable inferences drawn from the totality of the evidence, stipulated facts, and matters subject to official recognition, the following Findings of Fact are made:

1. The Department is the state agency responsible for administering Chapter 403 and administrative rules promulgated thereunder. The Department is also an agency responsible for assessing whether a

[2] The Amended Petition alleged that "[i]ncreased navigation will also greatly increase threats to endangered manatees that, in colder weather, take refuge in this warmer waterway." While the undersigned was unable to locate any precedent designating manatees as an aquatic resource, the undersigned, in an abundance of caution, elected to consider whether manatees would be adversely and permanently impacted by the project at issue.

[3] In the Joint Pre-Hearing Stipulation, the Department identified a "Title Determination" as its only proposed exhibit. That exhibit was accepted into evidence as Respondent's Exhibit 1. The Department identified Evan Tridone as its only potential witness and called him during its rebuttal presentation.

particular activity is exempt from environmental resource permitting. *See* Fla. Admin. Code R. 62-330.050

2. North River Shores is a homeowners' association for a neighborhood located between 1400 and 1440 Northwest Lakeside Trail in Stuart, Florida. North River Shores owns the upland property where the proposed, replacement dock will be located.

3. The Winns reside within the North River Shores community, but they are not Association members.

4. The existing dock is located in a residential canal that was dredged from uplands. It has an 8' x 20' terminal platform and a 6' x 20' access. Collectively, the existing dock is 280 square feet.

5. The existing dock is functional and lawfully permitted.[4]

6. On September 18, 2025, North River Shores requested that the Department verify that an environmental resource permit would not be needed in order to replace the existing dock.

7. The replacement dock would have an 8' x 20' terminal platform and a 6' x 25' access. Accordingly, at 310 square feet, the proposed dock would be 5' longer than the existing dock. The portion of the replacement dock that will be larger than the existing dock will be entirely on uplands, and the replacement dock will not extend any further into the residential canal than the existing dock.

8. The preponderance of the evidence demonstrated that: (a) the replacement dock will not use fill material; (b) the replacement dock will be within 5 feet of the existing dock's location; (c) the over-water portion of the replacement dock will be no larger than the existing dock; and (d) construction of the replacement dock will not adversely and permanently impact any aquatic resources such as mangroves or manatees.

[4] The parties stipulated to these facts.

CONCLUSIONS OF LAW

9. DOAH has jurisdiction over the parties to and the subject matter of this proceeding. §§ 120.569 and 120.57, Fla. Stat. (2025).

10. This is a de novo proceeding intended to formulate final agency action and not to review action taken earlier and preliminarily. *Young v. Dep't of Cmty. Aff.*, 625 So. 2d 831, 833 (Fla. 1993); *Hamilton Cnty. Bd. of Cnty. Comm'rs v. Dep't of Envtl. Reg.*, 587 So. 2d 1378, 1387 (Fla. 1st DCA 1991). Therefore, the Department's October 1, 2025 letter, notifying North River Shores that a permit was not required for the replacement dock, was preliminary in nature.

11. In its Proposed Recommended Order, North River Shores asserts that the Winns failed to demonstrate that they have standing. Standing to participate in a section 120.57(1), Florida Statutes, proceeding is limited to parties whose substantial interests will be affected by the proposed agency action at issue. § 120.52(13), Fla. Stat. In order for a party's substantial interests to be at stake, that party must demonstrate that: (a) it will suffer an injury-in-fact; and that (b) the alleged injury is within the zone of interests to be protected or regulated. *See St. Johns Riverkeeper, Inc. v. St. Johns River Water Mgmt. Dist.*, 54 So. 3d 1051, 1054 (Fla. 5th DCA 2011); *Agrico Chem. Co. v. Dep't of Env't Reg.*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981).

12. The Winns did not establish how they would be injured by the replacement dock or how any foreseeable injury would be within the zone of interests protected by the exemption criteria. The Winns' case largely focused on issues irrelevant to whether the replacement dock was entitled to an exemption from environmental resource permitting. Those issues included assertions such as: (a) the North River Shores members did not receive proper notice that the existing dock would be replaced; (b) the application misidentified the area where the existing dock is located; and (c) North River

Shores did not follow the required procedures for having its membership approve of the replacement dock.[5]

13. Even if the Winns did have standing to challenge the application at issue, North River Shores demonstrated that the project qualifies for an exemption from environmental resource permitting.

14. The instant case is governed by a unique, shifting burden of proof set forth in section 120.569(2)(p). That statute provides that

> [f]or any proceeding arising under chapter 373, chapter 378, or chapter 403, if a nonapplicant petitions as a third party to challenge an agency's issuance of a license, permit, or conceptual approval, the order of presentation in the proceeding is for the permit applicant to present a prima facie case demonstrating entitlement to the license, permit, or conceptual approval, followed by the agency. This demonstration may be made by entering into evidence the application and relevant material submitted to the agency in support of the application, and the agency's staff report or notice of intent to approve the permit, license, or conceptual approval. Subsequent to the presentation of the applicant's prima facie case and any direct evidence submitted by the agency, the petitioner initiating the action challenging the issuance of the license, permit, or conceptual approval has the burden of ultimate persuasion and has the burden of going forward to prove the case in opposition to the license, permit, or conceptual approval through the presentation of competent and substantial evidence. The permit applicant and agency may on rebuttal present any evidence relevant to demonstrating that the application meets the conditions for issuance.

[5] To the extent that the Winns are raising an issue involving the governance of North River Shores, that must be pursued via the dispute resolution process set forth in chapter 720, Florida Statutes. To the extent that the Winns are raising any disputes over real property, those issues must be addressed through circuit court.

Section 120.569(2)(p) applies to projects that are exempt from permitting, but for which verification of exemption is requested. *Marinemax, Inc. v. Larry Lynn & Dep't of Envtl. Prot.*, Case No. 18-2664 (Fla. DOAH Mar. 28, 2019; Fla. DEP May 21, 2019).

15. With regard to activities that are exempt from permitting, section 403.813(1) provides, in pertinent part, that:

> (1) A permit is not required under this chapter, [or] chapter 373 . . . for activities associated with the following types of projects;
>
> . . .
>
> (d) The replacement or repair of existing docks and piers, except that fill material may not be used and the replacement or repaired dock or pier must be within 5 feet of the same location and no larger in size than the existing dock or pier, and no additional aquatic resources may be adversely and permanently impacted by such replacement or repair. This does not preclude the use of different construction materials or minor deviations to allow upgrades to current structural and design standards.

16. In addition, rule 62-330.051 pertains to exempt activities, and subsection (5)(d) provides that the replacement of an existing dock is an exempt activity if certain conditions are met:

> Replacement or repair of existing docks and piers, including mooring piles, in accordance with Section 403.813(1)(d), F.S., provided the existing structure is still functional or has been rendered non-functional within the last year by a discrete event, such as a storm, flood, accident, or fire.

17. As noted above in the Findings of Fact, North River Shores established, by a preponderance of the evidence, that: (a) the replacement dock will not use fill material; (b) the replacement dock will be within 5 feet

of the existing dock's location; (c) the replacement dock will be no larger than the existing dock; and (d) construction of the replacement dock will not adversely and permanently impact any aquatic resources such as mangroves or manatees.

18. Also, while the replacement dock will be larger than the existing dock, the Department correctly noted that the portion of the replacement dock's access walkway that is longer than the existing walkway at issue is entirely on uplands, and the Department has no jurisdiction over uplands. *See Mattia v. Dep't of Envtl. Prot.*, Case No. 25-1379 (Fla. DOAH Dec. 12, 2025; Fla. DEP Jan. 20, 2026).

19. The Winns presented no persuasive evidence to rebut North Rivers Shores' prima facie case.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Environmental Protection grant North River Shores Property Owners' Association, Inc.'s Verification of Exemption No. 43-01744298-009-EE, NRS Snow Park Dock Replacement, October 1, 2025.

DONE AND ENTERED this 14th day of April, 2026, in Tallahassee, Leon County, Florida.

Case No. 25-6468

Garnett Chisenhall

G. W. CHISENHALL
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 14th day of April, 2026.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.