**ERP NON 404 Consent Order**

Technical Staff Report

**Name of Project**

**ERPce #**

**Case Manager**

**Conditions for Approval of Enforcement Corrective Actions –**

I . Does the Respondent have positive control over the property in, on, or over which the activity occurred or is to occur?

II. If Respondent does not have positive control, how was permission to use granted? Ie… Letter of Consent, deed transfer, easement

III. Respondent must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter. Answer yes or no to each question below. Provide any detail that was remedied and how it was remedied by corrective action :

1. Did the activity/or will the corrective actions cause adverse water quantity impacts to receiving waters and adjacent lands?
2. Did the activity/or will the corrective actions cause adverse flooding to on-site or off-site property?
3. Did the activity/or will the corrective actions cause adverse impacts to existing surface water storage and conveyance capabilities?
4. Did the activity/or will the corrective actions impact the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S.?
5. Did the activity/or will the corrective actions cause adverse impacts to a Work of the District established pursuant to Section 373.086, F.S.?
6. With approved Stormwater engineering or if the stormwater engineering was waived, will the wetland be capable, based on generally accepted engineering and scientific principles, of performing and functioning as proposed?

**Conditions for Settlement**:

IV. What was/will be required in corrective actions to be done to minimize and avoid impacts to wetlands?

V. Are there any listed species impacted by the project? If so, what was done/will be required to be done to mitigate for impact?

VI. Will the activity change hydroperiod of a wetland or other surface water? If so, what was/will be required to be done to mitigate for the impact?

VII. **Public Interest**:

Do any of the following apply? Please answer yes or no and provide explanation for any yes answers.

Will the activity/ or corrective actions adversely affect public health, safety, or welfare or the property of others?

Will the activity/ or corrective actions adversely affect the conservation of fish and wildlife and their habitats?

Will the activity/ or corrective actions adversely affect Navigation or the flow of water or cause harmful erosion or Shoaling?

Will the activity/ or corrective actions adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity?

Will the activity/ or corrective actions adversely affect or will enhance significant historical and archeological resources?

Will the activity/ or corrective actions degrade surrounding properties?

VIII. **Water Quality** –

How was reasonable assurance provided that the activity will not cause or contribute to violations of water quality standards?

Upon discovery, \*\*Describe any BMPS put in place\*\*

While underway with corrective actions, in accordance with conditions of the Consent Order, the project will implement Best Management Practices such as siltation curtains, hay bales and floating turbidity screens as necessary to prevent sediment erosion. All newly exposed surfaces will be stabilized as soon as practicable. This shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which is incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C.

IX. **Class II Waters; Waters Approved for Shellfish Harvesting** –

Is/was the work being conducted in Class II waters?

Does the dock conform with this criteria? (comes from Applicants Handbook 10.2.5) – \*\*Docks can be approved in Class II waters as long as they meet these criteria\*\*

1. No more than 2 vessels for single family or 10 for multifamily or commercial?
2. No NWD activity on the dock?
3. No enclosed structures, screens, etc…?
4. Does the decking allow for adequate light penetration?
5. Is there at least a 1 ft clearance between the draft of the boat and resource (Corals, oyster beds, sea grasses)?

X. **Vertical Seawalls**

Is the vertical seawall located in an estuary or lagoon? If yes, which condition below does it meet? (comes from Applicants Handbook 10.2.6)

1. The proposed construction is located within a port, as defined in Section 315.02 or 403.021, F.S.;

2. The proposed construction is necessary for the creation of a marina, the vertical seawalls are necessary to provide access to watercraft, or the proposed construction is necessary for public facilities;

3. The proposed construction is to be located within an existing manmade canal and the shoreline of such canal is currently occupied in whole or in part by vertical seawalls; or

4. The proposed construction is to be conducted by a public utility when such utility is acting in the performance of its obligation to provide service to the public.

XI. **Secondary Impacts** – There will be some impact to vegetation for \*\* describe the project\*\*. However, any adverse impacts to the habitat are being offset with *list mitigation being used*

XII. **Cumulative Impacts**– Per Section 10.2 and 10.3 of the Applicants Handbook Volume I as incorporated by 62-330.010(4)(a), F.A.C., the Agency will accept mitigation that fully offsets these impacts. With the acceptance of the mitigation, through either enhancement, restoration or mitigation bank credits, the Department will consider the regulated activity to have no unacceptable secondary impacts upon wetlands and other surface waters.

XIII. **Mitigation** –

1. What mitigation was provided?
2. Did the UMAM relative functional gain equal or exceed the relative functional loss?

XIV. **Sovereign Submerged Lands** -

1. Is the activity located on SSL?
2. What type of SSL authorization does the structure or activity qualify for?
3. APPARENT Riparian Rights Lines –
   1. Are they affected?
   2. If so, has the Respondent provided or has promised to provide a letter of concurrence from the affected neighbors?
   3. Does the Respondent understand that they may need to move a portion of their structure if they are unable to meet the RRL setback or attain a waiver?