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**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

FLORIDA AUDUBON SOCIETY, INC.

Petitioner,

Vs.

DOAH Case No.: 16-7148

**TEXAS HOLDEM, LLC; SQUEEZE ME INN,
LLC; AND DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

Respondents.

_____ /

**TOWN OF FT. MYERS BEACH,
FLORIDA,**

Petitioner,

Vs.

DOAH Case No.: 16-7149

**TEXAS HOLDEM, LLC; SQUEEZE ME INN,
LLC; AND DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

Respondents.

_____ /

**PETITIONERS' AMENDED RESPONSE IN OPPOSITION TO RESPONDENTS' JOINT
MOTION FOR PROTECTIVE ORDER AND MOTION IN LIMINE**

Petitioners, by and through their undersigned counsel, pursuant to Rule 28-106.204, Florida Administrative Code, Section 120.569, Florida Statutes, in combination with the applicable Florida Rules of Civil Procedure, hereby respond in opposition to the Respondents' Joint Motion to for Protective Order and Motion in Limine, and as grounds thereof state the following:

1. On September 29, 2016, the Florida Department of Environmental Protection (“DEP”) and Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (“BOT”) issued a Consolidated Notice of Intent to Issue Environmental Resource Permit and Letter of Consent Easement to Use Sovereign Submerged Lands along with the Draft Permit No.: Permit No.: 36-0320034-001 and draft Easement File No.:360239365 (41869).

2. On October 13 and 14, 2016 Petitioners filed Petitions for Formal Administrative Hearing challenging the Florida Department of Environmental Protection’s (“DEP”) and Board of Trustees of the Internal Improvement Trust Fund of the State of Florida’s (“BOT”) issuance of a permit, water quality certification and authorization to use sovereign submerged lands (the “Permit”) to Texas Hold’Em, LLC and Squeeze Me Inn, LLC authorizing the construction of a boardwalk over sovereign submerged lands and within the Little Estero Island Critical Wildlife Area (“LEICWA”) for the purpose of facilitating beach access.

3. On October 20, 2016, the Florida Department of Environmental Protection dismissed Florida Audubon Society’s petition with leave to amend without prejudice.

4. On November 4, 2016, Florida Audubon Society filed an Amended Petition for Administrative Hearing. In their petition Florida Audubon Society stated the permit should be denied to due its impacts on Little Estero Island, Estero Island, the Little Estero Island Critical Wildlife Area, the coastal system of the area, the Town of Ft. Myers Beach, and impacts to wildlife including endangered and threatened species.

5. On October 20, 2016, the Florida Department of Environmental Protection dismissed the Town of Ft. Myers Beach’s Petition with leave to amend without prejudice.

6. On November 4, 2016, the Town filed their Amended Petition for Administrative Hearing, stating the permit should be denied due to its impacts on Little Estero Island, Estero

Island, the Little Estero Island Critical Wildlife Area, the coastal system of the area, the Town of Ft. Myers Beach, and impacts to wildlife including endangered and threatened species.

7. On December 5, 2016, the DEP forwarded the Amended Petitions to the Division of Administrative Hearings requesting the assignment of an Administrative Law Judge.

8. On December 7, 2016, Administrative Law Judge (“ALJ”) Early provided the Initial Order for the proceedings.

9. On May 1, 2017, Petitioners filed a Motion to Hold Case in Abeyance requesting the DOAH proceedings be placed in abeyance until a Circuit Court matter was resolved on issues directly impacting Draft Permit No.: Permit No.: 36-0320034-001 and draft Easement File No.:360239365 (41869). Due in large part, that if the Applicant’s do own the property then they do not even need a sovereign submerged land’s lease, and that Petitioners have then been expending significant funds to protect private property as public lands.

10. On May 3, 2017 ALJ Early denied the Motion, stating in his motion as follows:

The proposed agency action includes a sovereign submerged lands consent easement, so the statutory and regulatory standards for approval of the proprietary authorization will be subject to consideration and determination in this proceeding. Furthermore, the disposition of this proceeding will have no effect on any determination of title that may be decided in the circuit court proceeding.

11. On May 10, 2017, the DEP filed with DOAH the Department of Environmental Protection’s, Squeeze Me Inn, LLC’s, and Texas Hold’Em, LLC’s, Joint Notice of Revisions to Draft Environmental Resource Permit and State Owned Submerged Lands Authorization. In their Joint Notice of Revisions the DEP attached an “amended Notice of Intent” as Exhibit 3 and an “amended Consolidated Environmental Resource Permit and State-owned Submerged Lands Authorization” as Exhibit 4. Please see the Joint Notice of Revisions filed with DOAH on May 10, 2017.

12. On May 18, 2017, the Respondents filed their Joint Motion to Dismiss Amended Petitions, or in the Alternative, Motion to Strike Portions of the Petitions, based solely on the notion that since they have proposed to locate the boardwalk directly adjacent to the LEICWA, versus being partially located in the LEICWA, none of the Petitioners' allegations asserting standing or impacts to wildlife are adequate or even relevant.

13. On the same day Petitioners' filed a Response in Opposition to the Respondents' Joint Motion to Dismiss Amended Petitions, or in the Alternative, Motion to Strike Portions of the Petitions. In their Response in Opposition, the Petitioners' plead boundaries of the LEICWA are in dispute. Petitioners also plead Respondents have not proven the boardwalk, as currently proposed, will be located outside of the LEICWA, not have adverse impacts to the LEICWA, and adverse impacts to the surrounding coastal area.

14. ALJ Early has not yet provided an Order on the Respondents' Joint Motion to Dismiss Amended Petitions, or in the Alternative, Motion to Strike Portions of the Amended Petitions.

RESPONSE IN OPPOSITION

15. Pursuant to Florida Rules of Civil Procedure 1.280 (b) (1) unless limited by order of the court, Parties may obtain discovery as follows:

(b)(1) Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. *Emphasis Added.*

16. Pursuant to the ALJ's Order of Pre-hearing Instructions 7(b) a party should make a good faith effort to resolve a discovery dispute without the court's intervention.

17. ALJ Early has made it clear in his Order Denying the Petitioners' Motion for Continuance that issues of ownership are not subject to his administrative proceeding, and Petitioners have been proceeding with discovery accordingly.

18. What is at issue for the final hearing in this matter are the impacts to Little Estero Island, Estero Island, the Little Estero Island Critical Wildlife Area, the coastal system of the area, the Town of Ft. Myers Beach, and impacts to wildlife including endangered and threatened species.

19. In order to understand the impacts to these areas, the Petitioners need to understand where the boundaries are of the LEICWA and Little Estero Island.

20. The Applicants have asserted in their Application for the permit "water has disrupted egress and ingress to their beachfront properties." Please see attached **Exhibit "A."**

21. If ingress and egress to their beachfront properties is a basis for approval of the permit based on need, then the Petitioners have a right to obtain discovery to determine if that need truly exists. This line of questioning does not equate to determinations of ownership before the court, and if Petitioners go down that path at trial Respondents can object accordingly then.

22. Respondents have based a Motion to Dismiss Petitioners' Amended Petitions based on the location of the LEICWA. Petitioners have a right to conduct discovery to protect them from a Motion to Dismiss, which would include discovery attempting to identify the boundaries of the LEICWA and Little Estero Island.

23. Petitioners are not trying to establish property ownership through the Administrative process, but they do have the right to obtain discovery through requests for

admissions, interrogatories, and depositions regarding boundaries of the LEICWA, Little Estero Island, access issues related to the need for the boardwalk, and impacts to the surrounding dynamic coastal system.

24. In Paragraph 9 of the Respondents Motion for Protective Order and Motion in Limine, Respondents reference Petitioners Interrogatories 6, 12, 13, and 14. Interrogatories 6, 12, and 14 have nothing to do with declarations of title. In the Application for the permit, Applicants provided for one owner of the property obtaining the boardwalk, Texas Hold'Em. Applicants then further state in the Application Allen Bills is the Entity to Receive the Permit and that "there will be 4 homes sharing this walkway." Please see attached **Exhibit "A."** Petitioners have a right pursuant to Florida Rules of Civil Procedure to inquire into the nature of who exactly is attempting to get the permit for the boardwalk, who will be managing the boardwalk, the need for the boardwalk (if any), who will be using this boardwalk, and how the location of this boardwalk relates to the boundaries of different property owners.

25. As for the Respondents' assertions this boardwalk will limit foot traffic, no other boardwalks exist on Estero Island or cross Estero Island onto Little Estero Island. The boardwalk as proposed would significantly increase foot traffic into an area that is being used by endangered and threatened species. Petitioners' Interrogatory Number 13 is aimed at flushing out information that might reveal the Applicants have multiple properties across Florida, in environmentally sensitive areas, and have tried similar tactics before to increase property values, all of which might reasonably lead to the discovery of admissible evidence.

26. Petitioners did originally notice DEP employee Richard Malloy for a deposition pursuant to Florida Rules of Civil Procedure 1.310(b)(6); however, Petitioners then cancelled this deposition and rescheduled Richard Malloy's deposition as he was identified as an expert

witness for the DEP to provide testimony on his work for the Division of State Lands, as a registered Florida Professional Surveyor and Mapper, and providing expert testimony in these areas as they relate to his involvement in the case.

27. Questions asked of Mr. Malloy at his deposition related to trying to establish the location of the LEICWA since no one seems to know exactly where the LEICWA is located or even where Little Estero Island is. The DEP has already admitted the state owns the LEICWA in their responses to Requests for Admissions. It is important to understand the location of Little Estero Island and the LEICWA as a boardwalk is being proposed in this coastal area that will have a dramatic impact to the coastal system. A Motion to Dismiss has also been filed against the Petitioners based upon the location of the boardwalk in relation to the LEICWA. Mr. Malloy made it clear at his deposition that the LEICWA boundaries in the DEP survey represent the boundaries on that date in that surveyor's opinion, but that the area is dynamic and constantly changing.

28. Respondents plead Petitioners have requested the depositions of Mr. Kurt Kroemer, and Mr. Eddie Rood in their Motion for Protective Order/ In Limine. At the time Respondents filed their Motion, Counsel for the Applicants knew Petitioners had rescinded this request to take their depositions. Petitioners do not need the Applicants' testimony to prove the Applicants have not provided any reasonable assurances to the DEP that their proposed project will not be in the public interest. Again, Petitioners have no intention of trying to create any type of quasi third-party DOAH hearing quieting title action.

29. Petitioners did take the deposition of Patricia Clune, the DEP employee responsible for administering the permit. The Petitioners attempted for weeks to schedule her deposition and were never confirmed a date by DEP counsel. Petitioners had to file a Notice of

Deposition Duces Tecum to secure the date that appeared to be the most affirmed without running out of time. In their Notice Duces Tecum the Petitioners requested the deponent, Patricia Clune, bring documents to her deposition five (5) days before her deposition. Not until the deposition itself did the DEP attorney notify counsel for the Petitioners taking the deposition that she had advised her client not to bring any documents to the deposition. The attorney for the DEP advised her client not to bring any documents to the deposition based upon the Petitioners not providing a 30-day notice for production of documents pursuant to Florida Rules of Civil Procedure 1.350 in their Notice Duces Tecum.

30. Counsel for DEP never made any objections to the documents requested, she just advised her client not to bring *any* documents to the deposition. Petitioners requested documents pertaining to the administration of the application, nothing pertaining to ownership. Please see the filed Notice of Taking Deposition Duces Tecum for Patricia Clune, filed with the Court on May 19, 2017.

31. Currently Respondents have all provided Notices Duces Tecum for Telephonic Depositions to Petitioners within a week of the requests for depositions; all requesting documents be produced. Petitioners intend to provide documents out of professional courtesy and in accordance with the Pre-hearing stipulation.

32. The Applicants have asserted in their Motion for Protective Order and in other pleadings that the proposed boardwalk is simply to be used by the Applicants to cross over “ponds,” which the DEP finds to be “non-navigable,” yet plead in their Motion for Protective Order issues relating to erosion and accretion have no relevancy. Discovery relating to accretion, evulsion, and erosion all document the dynamic nature of this area. Petitioners contend this is an area very dynamic in nature, prone to severe fluctuations of material and waters, which will

create a public hazard should a permanent structure such as a boardwalk be placed here. Discovery aimed at uncovering the Respondents' knowledge of the dynamics of this area and the hazards of placing a permanent structure in a dynamic area are a very important part of Petitioners' discovery process.

33. Now with trial scheduled two weeks away, and with discovery responses pending for the Respondents, including interrogatories and requests for production of documents, Respondents are already indicating they have no intention of providing responses to Petitioners' discovery.

34. As alleged in both Amended Petitions, Petitioners assert the proposed project should be denied due to its impacts on Little Estero Island, Estero Island, the Little Estero Island Critical Wildlife Area, the coastal system of the area, the Town of Ft. Myers Beach, and impacts to wildlife, including endangered and threatened species.

35. The area where the proposed boardwalk will be located is highly dynamic in nature and moves constantly.

36. Little Estero Island, where the Little Estero Island Critical Wildlife Area is located, is an ephemeral island that moves, submerges, emerges, and changes constantly. As of now, the Respondents are claiming the boardwalk as proposed is located outside of the LEICWA, yet have not proved that is the case, and are basing a Motion to Dismiss the Petitioners' Amended Petitions on this assertion.

37. The dynamics of this area are what make the area a destructive and dangerous place for a boardwalk, as at anytime the boardwalk could be moved, dragged across the LEICWA, or blown into someone else's property entirely through natural changes to the surrounding coastal area.

38. Petitioners have a right to obtain discovery that might reasonably lead to admissible evidence at trial, and expect Respondents in good faith, to respond to their outstanding discovery requests which contain requests for documents that should have been provided at DEP witness, Patricia Clune's deposition, and were not.

39. Respondents are masking objections to valid discovery requests by filing a Motion for Protective Order and Motion in Limine. If Respondents have or had issue with the discovery being sought from Petitioners' they can file objections accordingly. And if Petitioners try to introduce irrelevant issues at trial, Respondents can also accordingly object and ALJ Early can make a ruling at trial. Respondents also have the ability to narrow the issues through the Attorney's Conference and submittal of Pre-Hearing Stipulation in accordance with ALJ Early's Order of Pre-hearing Instructions dated December 16, 2016.

40. Instead, the Respondents have chosen to unilaterally file this Motion for Protective Order and Motion in Limine, which is nothing more than an attempt to obstruct discovery.

WHEREFORE, Petitioners respectfully request that the Administrative Law Judge enter an order denying the Respondents' Motion for Protective Order and Motion in Limine and any other relief deemed proper.

Respectfully submitted this 30th day of May, 2017.

/s/ Martha Collins

Martha Collins, Esq.

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wwlg.william@gmail.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Petitioner, Florida Audubon Society's, Verified Answers to Respondents, TEXAS HOLD'EM, LLC AND SQUEEZE ME INN, LLC Amended First Set of Interrogatories, along with this Certificate of Service have been furnished via ELECTRONIC MAIL to the following persons:

Marianna Sarkisyan, Esq.
Florida Department of Environmental Protection
3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000
Marianna.Sarkisyan@dep.state.fl.us

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3853 East River Drive
Ft. Myers, FL 33916
Abmarine24@comcast.net

Peterson Law Group
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Town of Ft. Myers Beach
2525 Estero Blvd.
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DATED this 30th day of May 2017.

/s/ Martha Collins
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Attorneys for Petitioner

SECTION A

36-0320034-001

FOR AGENCY USE ONLY

ACOE Application #
Date Application Received
Proposed Project Lat.
Proposed Project Long.

DEP/WMD Application #
Date Application Received
Fee Received \$
Fee Receipt #

PART 1:

Are any of the activities described in this application proposed to occur in, on, or over wetlands or other surface waters? ☐ yes ☒ no
Is this application being filed by or on behalf of a government entity or drainage district? ☐ yes ☒ no

PART 2:

- A. Type of Environmental Resource Permit Requested (check at least one). See Attachment 2 for thresholds and descriptions.
- ☐ Noticed General - include information requested in Section B.
 - ☒ Standard General (Single Family Dwelling) - include information requested in Sections C and D.
 - ☐ Standard General (all other Standard General projects) - include information requested in Sections C and E.
 - ☐ Individual (Single Family Dwelling) - include information requested in Sections C and D.
 - ☐ Individual (all other Individual projects) - include information requested in Sections C and E.
 - ☐ Conceptual - include information requested in Sections C and E.
 - ☐ Mitigation Bank Permit (construction) - include information requested in Sections C and F. (If the proposed mitigation bank involves the construction of a surface water management system requiring another permit defined above, check the appropriate box and submit the information requested by the applicable section.)
 - ☐ Mitigation Bank (conceptual) - include information requested in Sections C and F.
- B. Type of activity for which you are applying (check at least one)
- ☒ Construction or operation of a new system, other than a solid waste facility, including dredging or filling in, on or over wetlands and other surface waters.
 - ☐ Construction, expansion or modification of a solid waste facility.
 - ☐ Alteration or operation of an existing system which was not previously permitted by a WMD or DEP.
 - ☐ Modification of a system previously permitted by a WMD or DEP.
Provide previous permit numbers: ☐ Alteration of a system ☐ Extension of permit duration
☐ Abandonment of a system ☐ Construction of additional phases of a system
☐ Removal of a system
- C. Are you requesting authorization to use Sovereign Submerged Lands?
☒ yes ☐ no
(See Section G and Attachment 5 for more information before answering this question.)
- D. For activities in, on, or over wetlands or other surface waters, check type of federal dredge and fill permit requested:
- ☒ Individual ☐ Programmatic General ☐ General
 - ☐ Nationwide ☐ Not Applicable
- E. Are you claiming to qualify for an exemption? ☒ yes ☐ no
If yes, provide rule number if known. 40E-4-4.051(3)(B)

Exhibit
"A"

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D.E.P. South District

Date 7/31/15 Susps Date 8-5-15
Fee Recd N/A Check# N/A

E

PART 3:	
A. OWNER(S) OF LAND	B. ENTITY TO RECEIVE PERMIT (IF OTHER THAN OWNER)
Name Texas Holdem LLC "Edward J. Rood"	Name Allen Bills
Title and Company owner	Title and Company Owner Allen Bills Marine Inc.
Address 8150 Estero Blvd.	Address 3853 E. River Drive
City, State, Zip Fort Myers Beach, FL 33931	City, State, Zip Fort Myers, FL 33916
Telephone and Fax 817-320-5851	Telephone and Fax 817-320-5851 PH: 239-560-6821 E. Mail - abmarine24@comcast.net
C. AGENT AUTHORIZED TO SECURE PERMIT	D. CONSULTANT (IF DIFFERENT FROM AGENT)
Name Allen Bills	Name
Title and Company Owner - Allen Bills Marine Inc.	Title and Company
Address 3853 E. River Dr.	Address
City, State, Zip Fort Myers, FL 33916	City, State, Zip
Telephone and Fax PH: 239-694-6730 E. Mail - abmarine24@comcast.net	Telephone and Fax

PART 4: (Please provide metric equivalent for federally funded projects):

- A. Name of Project, including phase if applicable: _____
- B. Is this application for part of a multi-phase project?
☐ yes ☒ no
- C. Total applicant-owned area contiguous to the project?
 _____ ac.; _____ ha.
- D. Total area served by the system: _____ ac.; _____ ha.
- E. Impervious area for which a permit is sought: _____ ac.; _____ ha.
- F. Volume of water that the system is capable of impounding:
 _____ ac. ft.; _____ m
- G. What is the total area of work in, on, or over wetlands or other surface waters?
 _____ ac.; _____ ha. 1,650 sq. ft.; _____ sq. m.
- H. Total volume of material to be dredged: _____ yd; _____ m
- I. Number of new boat slips proposed: 0 wet slips; 0 dry slips

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PART 5:

Project location (use additional sheets if needed):

County(ies) Lee

Section(s) 03

Section(s)

Section(s)

Township 47

Township

Township

Range 24

Range

Range

Land Grant name, if applicable:

Tax Parcel Identification Number: 03-47-24-W3-00300.0190

Street Address Road or other location: 8150 Estero Blvd.

City, Zip Code, if applicable: Fort Myers Beach, FL 33931

PART 6: Describe in general terms the proposed project, system, or activity.

This is a request for permission to construct a walkway on the property line of Mr. Edward Rood and Mr. Kurt Kromer. This walkway is needed to access their Beach front property. There are 2 ponds not connected to the Gulf of Mexico that are obstructing their access. There will be 4 Homes sharing this walkway to lower impact in place of each having their own. They like the privacy and nature and are really try to keep it natural to nature.

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D.E.P. South District

PART 7:

A. If there have been any pre-application meetings, including on-site meetings, with regulatory staff, please list the date(s), location(s), and names of key staff and project representatives.

N/A

B. Please identify by number any MSSW/Wetland Resource/ERP/ACOE Permits pending, issued or denied for projects at the location, and any related enforcement actions.

Agency	Date	No. \ Type of Application	Action Taken
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

C. Note: The following information is required for projects proposed to occur in, on or over wetlands that need a federal dredge and fill permit or an authorization to use state owned submerged lands. Please provide the names, addresses and zip codes of property owners whose property directly adjoins the project (excluding application) and/or (for proprietary authorizations) is located within a 500 ft. radius of the applicant's land. Please attach a plan view showing the owner's names and adjoining property lines. Attach additional sheets if necessary.

- | | |
|----|----|
| 1. | 2. |
| 3. | 4. |
| 5. | 6. |
| 7. | 8. |

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D.E.P. South District

PART 8:

A. By signing this application form, I am applying, or I am applying on behalf of the applicant, for the permit and any proprietary authorizations identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application and represent that such information is true, complete and accurate. I understand this is an application and not a permit, and that work prior to approval is a violation. I understand that this application and any permit issued or proprietary authorization issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, water management district or local permit prior to commencement of construction. I agree, or I agree on behalf of the applicant, to operate and maintain the permitted system unless the permitting agency authorizes transfer of the permit to a responsible operation entity. I understand that knowingly making any false statement or representation in this application is a violation of Section 373.430, F.S. and 18 U.S.C. Section 1001.

Allen Bills /Allen Bills Marine Inc.

Typed/Printed Name of Applicant (If no Agent is used) or Agent (If one is so authorized below)

Allen D. Bills
Signature of Applicant/Agent

07 / 30 / 15

Date

Pres. / Owner

(Corporate Title if applicable)

AN AGENT MAY SIGN ABOVE ONLY IF THE APPLICANT COMPLETES THE FOLLOWING:

B. I hereby designate and authorize the agent listed above to act on my behalf, or on behalf of my corporation, as the agent in the processing of this application for the permit and/or proprietary authorization indicated above; and to furnish, on request, supplemental information in support of the application. In addition, I authorize the above-listed agent to bind me, or my corporation, to perform any requirements which may be necessary to procure the permit or authorization indicated above. I understand that knowingly making any false statement or representation in this application is a violation of Section 373.430, F.S. and 18 U.S.C. Section 1001.

Edward D. Rood

Typed/Printed Name of Applicant

Signature of Applicant

07 / 30 / 15

Date

(Corporate Title if applicable)

Please note: The applicant's original signature (not a copy) is required above.

PERSON AUTHORIZING ACCESS TO THE PROPERTY MUST COMPLETE THE FOLLOWING:

C. I either own the property described in this application or I have legal authority to allow access to the property, and I consent, after receiving prior notification, to any site visit on the property by agents or personnel from the Department of Environmental Protection, the Water Management District and the U.S. Army Corps of Engineers necessary for the review and inspection of the proposed project specified in this application. I authorize these agents or personnel to enter the property as many times as may be necessary to make such review and inspection. Further, I agree to provide entry to the project site for such agents or personnel to monitor permitted work if a permit is granted.

Edward D. Rood

Typed/Printed Name of Applicant

Signature of Applicant

07 / 30 / 15

Date

(Corporate Title if applicable)

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D.E.P. South District

ALLEN BILLS MARINE INC.

July 30, 2015

To Whom It May Concern:

This is a request for a Joint Boardwalk between MR. Eddie Rood at 8150 Estero Blvd. and MR. Kurt Kroemer at 8170 Estero Blvd. Fort Myers Beach, FL 33931

They would like permission to have a boardwalk installed to access their gulf front property. At this point, do to natural land changes over time. Water has disrupted egress and ingress to their beachfront properties.

The proposed Boardwalk will be approximately 330' long and will span in part over two non-tidal pools of water as per the survey and the aerial map of the property area. This will allow sufficient access to the properties frontage on the Gulf of Mexico when the boardwalk is complete. The survey's provided; show the property area as well as riparian rights.

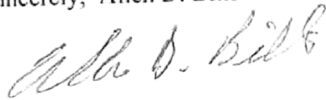
All reasonable and normal measures will be taken to help keep water quality and unneeded disruption of any natural vegetation. Turbidity screen will be used at all times if recommended in the working area. These neighbors have talked at length and agreed on a shared Boardwalk as to keep any impact of nature to a minimum. This will eliminate the need of two Boardwalk accesses to their beach frontage. The neighbor at lot 18 and the neighbor at lot 21 will also be using this walkway agreement.

If you have any questions, my cell number is below.

Cell # (239) 560-6821

Thank You.

Sincerely, Allen D. Bills



Allen Bills Marine Inc.
3853 E. River DR.
Fort Myers, FL 33916

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