

Environmental Protection and Growth Management Department ENVIRONMENTAL ENGINEERING AND PERMITTING DIVISION 1 North University Drive, Mailbox 201, Plantation, Florida 33324 • 954-519-1483 • FAX 954-519-1412

Via E-mail to Joseph Gilio of Sea-Tech Construction, Inc.

2406 Bay Drive Revocable Trust 2406 Bay Drive Pompano Beach, FL 33062

Dear Mr. Barnett:

This is to notify you of the Environmental Protection and Growth Management Department's action concerning your application received June 9, 2020, for authorization to install a new seawall cap construct a 6' by 87.5' marginal wooden dock and one finger pier adjacent to your property at 2406 Bay Drive in the City of Pompano Beach, Florida. The application has been reviewed for an Environmental Resource License.

Broward County - Environmental Resource License (ERL) Review – Granted

The Department has reviewed the project for compliance with Aquatic and Wetland Resource Protection Ordinance Sec. 27-331 through 27-341 of the Broward County Code. Based on the information submitted, Environmental Resource License No. **DF20-1181** is hereby issued. The above-named licensee is hereby authorized to perform the work per the approved drawings(s), plans, documents and specifications as submitted by the licensee, and made a part hereof. The above referenced approvals will remain in effect subject to the attached Broward County General Conditions, Broward County Specific Conditions, and stamped exhibits.

The issuance of this license is a **final agency determination**. A person with a substantial interest may file a petition to request review of, or to intervene in a review of, a final administrative determination, subject to the provisions of Section 27-14, Broward County Code of Ordinances (excerpt attached).

Sincerely,

Linda Sunderland

Linda Sunderland, NRS Natural Resources Section Manager

July 21, 2020 Date

ENC:

- 1. Environmental Resource License
- 2. Sec. 27-14 Administrative Review Procedures (4 pages)
- 3. One copy of stamped drawings (4 pages)

CC:

1. USACOE-PBG (via e-mail)



Environmental Protection and Growth Management Department **ENVIRONMENTAL ENGINEERING AND PERMITTING DIVISION** 1 North University Drive, Mailbox 201, Plantation, Florida 33324 • 954-519-1483 • FAX 954-519-1412

ENVIRONMENTAL RESOURCE LICENSE

LICENSEE: 2406 Bay Drive Revocable Trust c/o James Barnett 2406 Bay Drive Pompano Beach, Florida 33062 LICENSE NO: DF20-1181 PROJECT: Single Family Residence – Dock Construction

This license is issued under the provision of Chapter 27 of the Broward County Code of Ordinances also cited as Broward County Natural Resource Protection Code hereinafter called the Code. The above-named applicant, hereinafter called licensee, is hereby authorized to perform the work or operate the facility shown on the approved drawing(s), plans, documents, and specifications as submitted by applicant, and made a part hereof and specifically described as follows:

Description of Work: This project involves: (1) installation of a new 97.5-linear foot by 3' wide seawall cap and batter piles; (2) removal of a 5' by 20' marginal wooden dock and 5' by 38' finger pier; (3) associated construction of a new 87.5' long by 6' wide marginal concrete dock; and (4) installation of a 6' by 38' finger pier may be accessed via the marginal dock. The existing boatlift and boatlift/dolphin piles shall remain. Total width of the proposed dock over water will be 7.9' as measured from the waterward face of the seawall panel to the waterward edge of the proposed 12-inch dock pilings, and the total area of all over water structures shall not exceed 921 square feet. This license does not authorize dredging, nor does it authorize impacts to seagrasses or any other natural resources.

Location of Work: This project is located at 2406 Bay Drive along the southern bank of the Hillsboro Bay, Section 29, Township 48 South, Range 43 East, in the City of Pompano Beach, Florida. Folio Number 484329041420.

Construction shall be in accordance with submitted ERL Application Form received on 07/09/2020, and all additional information submitted; plans stamped by the Department on 07/21/2020 (attached); and with all General and Specific Conditions of this license.

Broward County Board of County Commissioners

Mark D. Bogen • Lamar P. Fisher • Beam Furr • Steve Geller • Dale V.C. Holness • Nan H. Rich • Tim Ryan • Barbara Sharief • Michael Udine

www.broward.org

GENERAL CONDITIONS:

- The terms, conditions, requirements, limitations and restrictions set forth herein are accepted by the licensee and enforceable by Environmental Protection and Growth Management Department (EPGMD) pursuant to Chapter 27 of the Broward County Code of Ordinances. EPGMD will review this license periodically and may revoke the license, initiate administrative and/or judicial action for any violation of the conditions by the licensee, its agents, employees, servants or representatives or principals.
- 2. This license is valid only for the specific uses set forth in the license application, and any deviation from the approved uses may constitute grounds for revocation and enforcement action by EPGMD.
- 3. In the event the licensee is temporarily unable to comply with any of the conditions of the license, the licensee shall notify EPGMD within twelve (12) hours. Within five (5) working days of the event, the licensee shall submit a written report to EPGMD that describes the incident, its cause, the measures being taken to correct the problem and prevent its reoccurrence, the owner's intention toward repair, replacement, and reconstruction of destroyed facilities, and a schedule of action leading toward operation within the license conditions.
- 4. The issuance of this license does not convey any vested rights or exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, or any violations of federal, state or local laws or regulations.
- 5. This license must be available for inspection on the licensee's premises during the entire life of the license.
- 6. By accepting this license, the licensee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source, that are submitted to EPGMD, may be used by EPGMD as evidence in any enforcement proceeding arising under Chapter 27 of the Broward County Code of Ordinances, except where such use is prohibited by § 403.111, F.S.
- 7. The licensee agrees to comply with Chapter 27 of the Broward County Code of Ordinances, as amended.
- 8. Any new owner of a licensed facility shall apply by letter for a transfer of license within thirty (30) days after sale or legal transfer. The transferor shall remain liable for performance in accordance with the license until the transferee applies for, and is granted the transfer of license. The transferee shall also be liable for performance in accordance with the license.
- 9. The licensee, by acceptance of this license, specifically agrees to allow access to the licensed source at reasonable times by EPGMD personnel for the purposes of inspection and testing to determine compliance with this license and Chapter 27 of the Broward County Code of Ordinances.
- 10. This license does not constitute a waiver or approval of any other license that may be required for other aspects of the total project.
- 11. If the licensee wishes to renew a license or extend its term, the licensee shall make application sixty (60) days prior to its expiration. Expired licenses are not renewable.
- 12. In addition to the general conditions set forth above, each license issued by EPGMD shall contain specific conditions determined by site conditions and requirements pursuant to the regulations as determined by the director of EPGMD. The licensee agrees that specific conditions are enforceable by EPGMD for any violation thereof.
- 13. Enforcement of the terms and provisions of this license shall be at the reasonable discretion of EPGMD, and any forbearance on behalf of EPGMD to exercise its rights hereunder in the event of any breach by the licensee, shall not be deemed or construed to be a waiver of EPGMD's rights hereunder.

SPECIFIC CONDITIONS:

A. STANDARD CONDITIONS

- 1. Notify the Department in writing a minimum of 48 hours prior to project commencement and a maximum of 48 hours after project completion. Commencement notification should include such information as the intended start date, estimated duration of construction, and the name and contact information of the firm contracted to do the work. Failure to comply with this condition may result in enforcement action.
- 2. Any project causing environmental problem(s) shall be reported immediately to the Department's Environmental Response Line at 954-519-1499.
- 3. All project generated solid waste and/or spoil material must be disposed of in a suitable approved manner in accordance with current regulations at an upland location (not including surface waters and wetlands).
- 4. All watercraft associated with the construction and use of the permitted structure shall only operate within waters of sufficient depth so as to preclude bottom scouring or prop dredging. Specifically, there shall be a minimum 12-inch clearance between the deepest draft of the vessel (with the motor in the down position) and the top of any submerged resources or canal bottom at mean low water.
- 5. Turbidity screens, silt fences, or equivalent shall be properly employed and maintained as necessary to effectively contain suspended sediments and/or runoff during construction activities. Dredging, filling, excavation, seawall removal, seawall construction, and other projects which result in similar degrees of disturbance to wet sediments shall <u>in all cases</u> employ turbidity control measures designed to effectively enclose the entire work area.
- 6. Turbidity levels shall be monitored and recorded if a visible turbidity plume is observed leaving the site during construction activities. If monitoring reveals that turbidity levels exceed 29 NTU's above natural background 50 feet downstream of the point of discharge, project activities shall immediately cease, and work shall not resume until turbidity levels drop to within these limits [62-302.530(69) FAC].

B. CONSTRUCTION CONDITIONS

- 1. The replacement dock shall have a maximum over-water width of 7.9 feet, and all structures shall have a total over-water area of 921 square feet, as measured from the wet face of the existing seawall panel to the waterward edge of the proposed decking, and shall otherwise be constructed as shown on the attached drawings.
- 2. No dredging is authorized by this license.
- 3. If the approved license drawings and/or license attachments/plans conflict with the specific conditions, then the specific conditions shall prevail.
- 4. Demolition and construction related debris must be disposed of at an approved upland location and may not be left in the waterway.
- 5. This license does not eliminate the necessity to obtain any required federal, state, local or special district authorizations prior to the start of any activity approved by this license.
- 6. A variance from the City of Pompano Beach is required for the proposed finger pier. Please provide the final variance to <u>AWRLicense@broward.org</u> or via ePermits prior to the start of work.

C. TURBIDITY CONDITIONS

1. All watercraft associated with the proposed work and/or use of the permitted structure shall only operate within waters of sufficient depth to preclude bottom scouring or prop dredging.

- 2. The contractor shall be responsible to have functional turbidity monitoring equipment on site during all construction activities and shall be responsible for training construction personnel in its calibration, operation, and related license requirements.
- 3. If a visible turbidity plume is observed leaving the site at any time, the licensee shall:
 - (a) Immediately cease all work contributing to the water quality violation. Operations may not resume until the Department gives authorization to do so.
 - (b) Notify the Department's call in number immediately at (954) 519-1499, referencing the license number and project name.
 - (c) Stabilize all exposed material contributing to the water quality violation. Identify and remedy the work procedures that were responsible for the violation (i.e. dredging too rapidly, excessive tidal flow, etc.), and install more turbidity containment devices and/or repair any non-functioning turbidity containment devices.
- 4. Single turbidity screens, booms, curtains, or equivalent shall be affixed, anchored, or weighted to the existing seawall (not attached to the barge) shall span from water's surface to the substrate and shall be maintained as necessary during construction activities to minimize migration of turbidity into the adjacent waterway.
- 5. Connected turbidity curtain segments shall be overlapped and tied at the top and bottom to prevent turbidity from escaping through gaps between segments. Turbidity curtains shall be deployed to effectively encapsulate the work area without impeding navigation in public waterways.

D. STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

- 1. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The licensee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- 2. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- 3. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- 4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shut down if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at <u>ImperiledSpecies@myFWC.com</u>.
- 6. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the licensee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut-down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at <u>MyFWC.com/manatee</u>. Questions concerning these signs can be sent to the email address listed above.

E. STANDARD SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

- 1. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.
- 2. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.
- 3. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.
- 4. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.
- 5. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
- 6. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824- 5312) and the local authorized sea turtle stranding/rescue organization.
- 7. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.
- F. A COPY OF THIS LICENSE SHALL BE KEPT ON SITE DURING ALL PHASES OF LICENSED CONSTRUCTION.

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Recommended for approval by:

Michelle Decker License Processor

Issued this 21st day of July 2020

Expiration Date: July 21st, 2022

BROWARD COUNTY ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT

Qinda Sunderland

LINDA SUNDERLAND, NRS NATURAL RESOURCES SECTION MANAGER ENVIRONMENTAL ENGINEERING AND PERMITTING DIVISION Sec. 27-14. Administrative review of EPGMD determinations.

- (a) A person with a substantial interest may file a petition to request review of or to intervene in a review of a final administrative determination made pursuant to this chapter concerning:
 - (1) The requirement that a facility or activity obtain a license or environmental review approval.
 - (2) Interpretations of license or environmental review approval conditions.
 - (3) Interpretations of variance conditions.
 - (4) The decision to suspend or revoke a license or environmental review approval.
 - (5) The requirement of certain license conditions.
 - (6) The issuance of a license or environmental review approval.
 - (7) The denial of a license or environmental review approval.
 - (8) The scope of a license or environmental review approval, geographic or otherwise.
 - (9) The scope of a variance, geographic or otherwise.
 - (10) The issuance of a stop work order.
 - (11) Similar final administrative determinations.

This administrative review procedure shall be the only means of review available for the above final administrative determinations by either the petitioner or the intervenor (the parties).

- (b) person may not obtain review by this procedure of:
 - (1) The issuance or adjudication of or other matters involving a notice of violation or a citation.
 - (2) Internal policy decisions
- (c) A person desiring a review of a staff determination made pursuant to this Chapter shall first bring the determination to the attention of the appropriate section supervisor to attempt to resolve the matter. If a resolution cannot be reached, then the decision shall be reviewed by successive supervisory levels until the issue is resolved or reaches the level of the director or his or her designee for the final determination.
- (d) A person desiring administrative review of a final determination made by the director or the designee shall file a petition with the director for review by the hearing examiner. The petition shall be filed within ten (10) days from the rendition of the action taken or of the decision made by the director. An entity whose license or approval is being challenged shall be a party to the action.
- (e) The review shall not be heard until the provisions of subsection (f) are met. Upon motion to the hearing examiner, an insufficient petition shall be dismissed with or without leave to refile. If a petition is determined to be insufficient by the hearing examiner and the petitioner has been given leave to refile by the hearing examiner, unless otherwise ordered by the hearing examiner, the petitioner must refile within ten (10) days of the rendition of the order of dismissal or the petition will be dismissed with prejudice.

- (f) A sufficient petition for review or petition for intervention in the review shall, at a minimum, contain the following information:
 - (1) The nature of the determination sought to be reviewed.
 - (2) A short, plain statement of the facts which form the subject matter upon which the determination was made as asserted by all parties of record at the time that the petition is filed; a statement of the material facts in dispute, if any. If any party is unable to state the matters in sufficient detail at the time initial petition is filed, the petition may be limited to a statement of the issues involved; and thereafter, upon timely written motion, a more definite and detailed statement shall be furnished not less than seven (7) days prior to the date set for the hearing.
 - (3) The specific determination for which the review is sought.
 - (4) The specific legal grounds upon which the parties seek review of the determination.
 - (5) A short statement of the petitioner's or the intervenor's substantial interest in the matter to be reviewed.
 - (6) The specific section of this chapter on which the decision is based, if known, and the specific section that the parties allege should control the decision, if known.
 - (7) A copy of the director's or the designee's written final determination.
 - (8) A statement of the relief requested stating precisely the action that the petitioner wants EPGMD to take with respect to the final determination.
- (g) All pleadings or other documents filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, the party's attorney or a party's qualified representative constitutes a certificate that he or she has read the pleading or other document and that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not brought for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading or other document is signed in violation of these requirements, the hearing examiner, upon motion or his or her own initiative, shall dismiss the matter.
- (h) A petitioner or intervenor may request an emergency hearing to stay all activities or work conducted pursuant to the challenged license or approval. Such petitioner or intervenor has the burden of proof to show by a preponderance of the evidence that the continued activities would cause substantial pollution or degradation to the environment. An emergency hearing shall be scheduled by EPGMD and be held within five (5) days of said request or as soon thereafter as possible subject to the availability of the hearing examiner. The petitioner or intervenor shall comply with the notice provisions of section

27-14(j)(2)a. and c. and section 27-14(j)(3) and (4) of this chapter.

(i) The petition for review will not stay environmental protection activities required for the remediation or mitigation of a site or facility, the protection of the environment or the health, safety and welfare of the citizens of Broward County, or the prevention of further environmental degradation. The person responsible for these activities must take all necessary steps to prevent environmental degradation and must conduct the remediation or mitigation activities required by this chapter. The director may allow these activities to be delayed until after the hearing examiner's decision by certifying to

the hearing examiner that, by reason of facts stated in the certificate, a delay in the initiation or completion of these activities would not cause substantial environmental degradation or peril to life or property. The delay for conducting these activities may be subject to appropriate terms to ensure protection of the environment. The person responsible for these activities shall be responsible for any environmental damage or any violation of this chapter caused by the delay.

- (j) Notice and Scheduling Requirements:
 - (1) The hearing on the review shall be scheduled within a reasonable time. It shall be the responsibility of the petitioner to request through EPGMD that the hearing date be scheduled. It shall also be the responsibility of the petitioner to give notice in accordance with this section at least ten (10) days prior to the hearing.
 - (2) The petitioner shall give notice of the hearing by:
 - a. Giving personal notice to all proper parties; and
 - b. Publishing notice on two (2) days in a newspaper of general circulation in the county; and
 - c. Posting notice at a location determined by the Broward County Administrator's Office.
 - (3) The petitioner shall bear the cost of giving notice.
 - (4) The notice shall contain, at a minimum:
 - a. A description and location of the facility or the activity to be conducted by the petitioner; and
 - b. The time and place of the hearing.
- (k) The petitioner shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to all parties.
- (I) The hearing shall be a quasi-judicial hearing.
 - (1) The applicant/petitioner requesting the administrative review, any intervenor/petitioner and EPGMD shall have an opportunity to respond to and to present witnesses, other evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, and to be represented by counsel. Members of the general public who are not intervenors as set forth in Section 27-14 of this chapter are not parties to the proceeding.
 - (2) When appropriate, the general public may be given an opportunity to present oral or written communications. If the hearing examiner proposes to consider such material, then all parties shall be given an opportunity to cross-examine, challenge or rebut it.
- (m) Denial, protest of, revocation, or suspension of a license, environmental review approval, or any other approval:
 - (1) In regard to denial or protest of approval of a license and any other review of an administrative decision, notwithstanding (2) below, the petitioner shall have the burden of showing, by a preponderance of the evidence, that the determination of the director was an arbitrary and/or capricious abuse of discretion, not supported by competent, substantial evidence or not in conformance with the

essential requirements of this chapter. The hearing examiner shall not substitute his or her judgment for that of EPGMD on an issue of discretion even though the hearing examiner may have reached a different conclusion based on the same facts.

- (2) In an action to revoke or suspend a valid license or approval, the burden shall be upon EPGMD to prove, by a preponderance of the evidence in an administrative hearing, the grounds for revocation or suspension. The license holder or approval recipient shall be provided notice of the hearing and a copy of the petition stating the grounds for revocation or suspension as provided in section 27-63 of this chapter. The petition shall state with specificity the acts complained of in order to allow the license holder or approval recipient an opportunity to prepare a defense. The hearing shall be conducted in accordance with the
- provisions of Section 27-37 of this chapter.(n) Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.
- (o) If the hearing examiner finds that the director or his or her designee has erroneously interpreted a provision and that a correct interpretation compels a particular action, he or she shall remand the case to the director or his or her designee for further action under a correct interpretation of the provision.
- (p) The hearing examiner shall complete and submit to the director and all parties a final order consisting of his or her findings of fact and conclusions of law.
- (q) A party to the hearing may obtain appellate review of the final order as provided by section 27-42 of this chapter.
- (r) A petitioner or intervenor shall pay a filing fee at the time the application for review is filed. The amount of the filing fee shall be set by resolution of the Board.

(Ord. No. 2003-34, § 1, 9-23-03; Ord. No. 2005-08, § 2.03, 4-26-05) Secs. 27-15--27-19. Reserved.







