



FLORIDA DEPARTMENT OF Environmental Protection

Central District Office
3319 Maguire Blvd., Suite 232
Orlando, Florida 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

December 12, 2023

Mr. Loc K Nguyen
31850 Wekiva Pines Blvd.,
Sorrento, FL 32776
Lkn.Aec@gmail.com

Re: 2020 N Banana River Dr., Merrit Island
ERP Facility ID #402411
Brevard County, 32952

Dear Mr. Nguyen:

Department personnel conducted an inspection of the above-referenced site on October 20, 2023. Based on the information provided during and following the inspection, the site was determined to be in compliance with the Department's rules and regulations. A copy of the inspection report is attached for your records.

The Department appreciates your efforts to maintain this site in compliance with state and federal rules. Should you have any questions or comments, please contact Mara Galvez Gonzalez at 407-897-4330 or via e-mail at Mara.GalvezGonzalez@FloridaDEP.gov.

Sincerely,

A handwritten signature in cursive script that reads "Jenny E. Farrell".

Jenny Farrell, Environmental Manager
Central District
Florida Department of Environmental Protection

Enclosure: Inspection Report

cc: FDEP: Mara Galvez Gonzalez



Florida Department of Environmental Protection

CENTRAL DISTRICT COMPLIANCE ASSURANCE PROGRAM

ERP Inspection Report

Inspection Date: 10/20/2023

Inspection Type: Complaint Compliance Enforcement

Lead DEP Inspector: Mara Galvez Gonzalez

Other: N/A

Complaint No. 602 ERP Site No. 402411 CE Project No. 414247

Owner/Responsible Party: Loc K Nguyen

Contact: Lkn.Aec@gmail.com

Contractor/Agent: N/A

Contact: N/A

Location: 2020 North Banana River Dr., Merritt Island 32952. Parcel ID: 24-37-18-00-757

Waterbody: Indian River Lagoon

Class: I II III IV V

OFW: Yes No

Aquatic Preserve: Yes No

State Lands: Yes No

Shellfish Harvesting: Approved Conditionally Approved
 Conditionally Restricted Prohibited

Aquatic Preserve Name: Banana River

Lease/Easement No.: N/A

SSL Lease Inspection completed: N/A

Site History & Inspection Overview

Site History:

March 1, 2010: the Florida Department of Environmental Protection (FDEP) issued an Environmental Resource Permit (ERP) No. 05-221268-002, along with a conservation easement to construct a single-family residence and a dock to Mr. Patrick Pham.

February 16, 2022: FDEP issued an ERP No. 0402411-003-E1 to construct a single-family residence with an associated driveway, retaining wall, septic system structure, and a 585 square foot dock to Mr. Lock K Nguyen. To offset these impacts, the permittee will maintain a conservation easement, included in the previous ERP No. 05-0221268-002 dated March 1, 2010 and shall not commence any work within this area.

July 20, 2023: Complaint received regarding mangroves being cleared.

Site Inspection Overview:

On July 20, 2023, FDEP received a complaint (Complaint 602) that alleged trimming down mangroves down to water level on the property.

On October 20, 2023, FDEP staff, Hailey Ambrose and Mara Galvez Gonzalez met with Loc Nguyen, property owner, to conduct a site inspection and investigate the potential violation.

Compliance Status: In Compliance Minor Non-Compliance Significant Non-Compliance

Resource Assessment

FLUCCS/FNAI Community Type(s):	6420: Saltwater Marshes, 6000: Wetlands, 6400: Vegetated non-forested wetlands
Wetlands/Other Surface Waters (OSW) Present:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Waters of the United States (WOTUS) Present:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> WOTUS determination not completed
Other Resources Present:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," identify: Mangroves
Resource Impacts:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Area of Authorized Impacts (ft ²):	0.227 acres of direct impacts
Area of Unauthorized Impacts (ft ²):	N/A

MANGROVES

Total Length of Shoreline (ft.):	685 feet
Length of Mangrove Fringe (ft.):	~662 feet
Depth of Mangrove Fringe (ft.):	~140 feet/~30 feet*
Mangroves Trimmed:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 0%
Mangroves Altered:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 100 %**
Pre-Impact Height:	<input type="checkbox"/> <6 ft. <input type="checkbox"/> 6-10 ft. <input type="checkbox"/> 10-16 ft. <input type="checkbox"/> 16-24 ft. <input checked="" type="checkbox"/> >24 ft. <input type="checkbox"/> Unknown
Post-Impact Height:	<input checked="" type="checkbox"/> <6 ft. <input type="checkbox"/> 6-10 ft. <input type="checkbox"/> 10-16 ft. <input type="checkbox"/> 16-24 ft. <input type="checkbox"/> >24 ft.
Average Diameter at Breast Height (DBH):	<input type="checkbox"/> <1" <input type="checkbox"/> 1-3" <input checked="" type="checkbox"/> 3-5" <input type="checkbox"/> 5-7" <input type="checkbox"/> >7"
Percent Canopy Cover by Species:	30% RED 50% BLK 20% WHT 0% OTHER: N/A

* Note: Depth of the Mangrove Fringe (RMF) changed pre- and post-impact. Prior to impacts, the RMF was approximately 140 ft, as measured from North to South. Post-impact, the authorized areas to be impacted had a post-impact RMF of approximately 30 ft, while the RMF of the areas not authorized to be impacted remains the same. The only exception is an 8-ft corridor that will be cleared to construct a 4-ft wide access walkway for the dock.

** Note: 100% of the mangroves were altered through the authorized removal within the 0.227 acre area.

Impact Description:

The mangroves were removed following criteria set forth in ERP No. 402411-003-E1.

Investigation Summary

Complaint received on July 20, 2023, about the trimming of mangroves down to the water level, within property located on 2020 N Banana River Dr. Merritt Island, 32952.

Compliance personnel conducted a file review prior to performing an onsite inspection. The site has a FDEP ERP-0402411-003-E1 authorizing 0.227 acres of wetland to be permanently impacted for the construction of a single-

family residence with an associated driveway, retaining wall, septic system structure, and a 585 square foot dock on a 5.15-acre parcel. A conservation easement (dated March 1, 2010) was accepted under a previous permit for this parcel and included within the current authorization. Within the conservation easement area, mangroves may not be removed and/or trimmed, construction or placement of structures is prohibited, dumping or placement of soil or other substances is prohibited, planting of exotic, nonnative, and/or nuisance species is prohibited, and drainage is prohibited.

On October 20, 2023, FDEP Staff meet with Loc Nguyen, property owner, to investigate the potential violation.

Personnel began their investigation by measuring the total length of shoreline (approximately 685 linear ft), the length (approximately 662 linear ft) and depth (approximately 140 linear ft pre-impact and approximately 30 feet linear post impact) of the Riparian Mangrove Fringe (RMF) (Figure 2); diameter at breast height (DBH) of mangroves (approximately 3.3 in.) (photos 11 through 14) also personal recorded actual height of altered mangroves (between 20 and 24 feet high) (photo 15), and photographic evidence of authorized impacts (photos 2 through 10). Utilizing a Global Positioning System (GPS) device and visual references, personnel were able to determine the extent of the impacted area (approximately 0.227 acres); mangroves were removed only within the authorized impact area (Figures 1 through 5 and photos 2 through 10).

“IN-COMPLIANCE” DESCRIPTION:

The mangroves were removed following criteria set forth in ERP Permit No. 402411-003-E1.

* Please note that the secondary impact area on 0.22 acres cannot be cleared, as this will be in violation of the Conservation Easement (Figures 3 to 5).

** Please note that prior to any work, all wetlands, surface waters, and storm drains, outside the specific limits of construction authorized by permit No. 0402411-003-E1, shall be protected from erosion, siltation, sedimentation, and/or scouring, including the placement of staked erosion control devices around the project area. Best Management Practices (BMP) shall include but are not limited to staked hay bales, staked filter cloth, sodding, seeding, staged construction and the installation of turbidity screens around immediate project site.

Statute/Rule Reference(s):

The mangroves were removed following criteria set forth in ERP Permit No. 402411-003-E1.

Follow up action:

None

Supporting Documentation Attached:

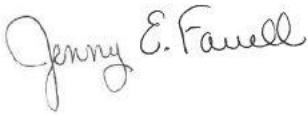
- Figures such as maps, diagrams, and/or aerial imagery
- Site inspection photographs
- Chapter 62-340, F.A.C. Data Form(s)
- WOTUS Determination Documentation
- UMAM Documentation
- SSL Lease Inspection
- Other: *Click here to list additional attachments (e.g., field notes, possibly with impact diagram and/or sketch; permit plans/drawings; impact evaluation documents like TSR or UMAM; etc.)*



Mara Galvez Gonzalez, Environmental Specialist II

12/01/2023

Date



Jenny E. Farrell, Environmental Manager

12/12/2023

Date

Site Inspection Figures

Inspection Date: 10/20/2023

Lead DEP Inspector: Mara Galvez Gonzalez



Map Unit Symbol	Map Unit Name
9	Canaveral-Anclote complex, gently undulating
10	Canaveral-Urban land complex
58	Turnbull and Riomar soils, tidal
100	Waters of the Atlantic Ocean

Figure 1 The above image is an aerial of parcel ID 24-37-18-00-757, obtained from Google Earth website overlaid with mapped soil units obtained from the NRCS. The orange polygon denotes the approximate location of authorized mangrove impacts, approximately 0.22 acres.

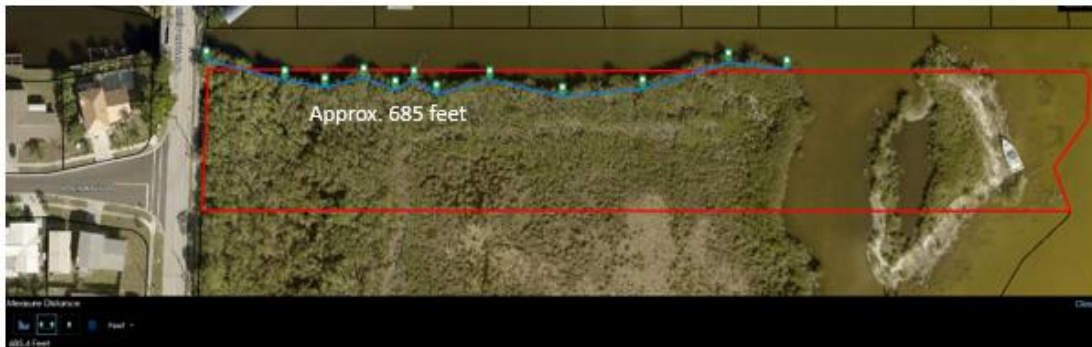
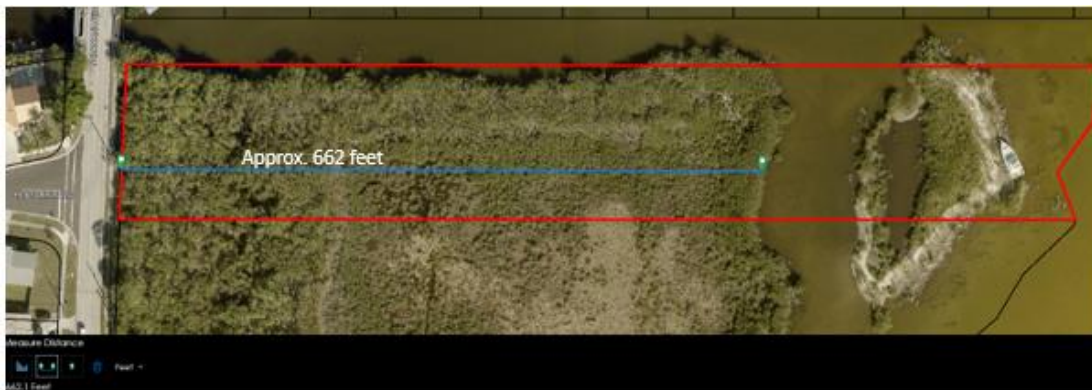


Figure 2: The above image is an aerial of parcel ID 24-37-18-00-757, obtained from Brevard County Property Appraiser website showing the length of shoreline and the depth (pre-impact) and length of the RMF.



Figure 3: The above image depicts the authorized wetland to be impacted (0.227 acres, as denoted by the white hatched lines) and was obtained from ERP-0402411-003 E1.

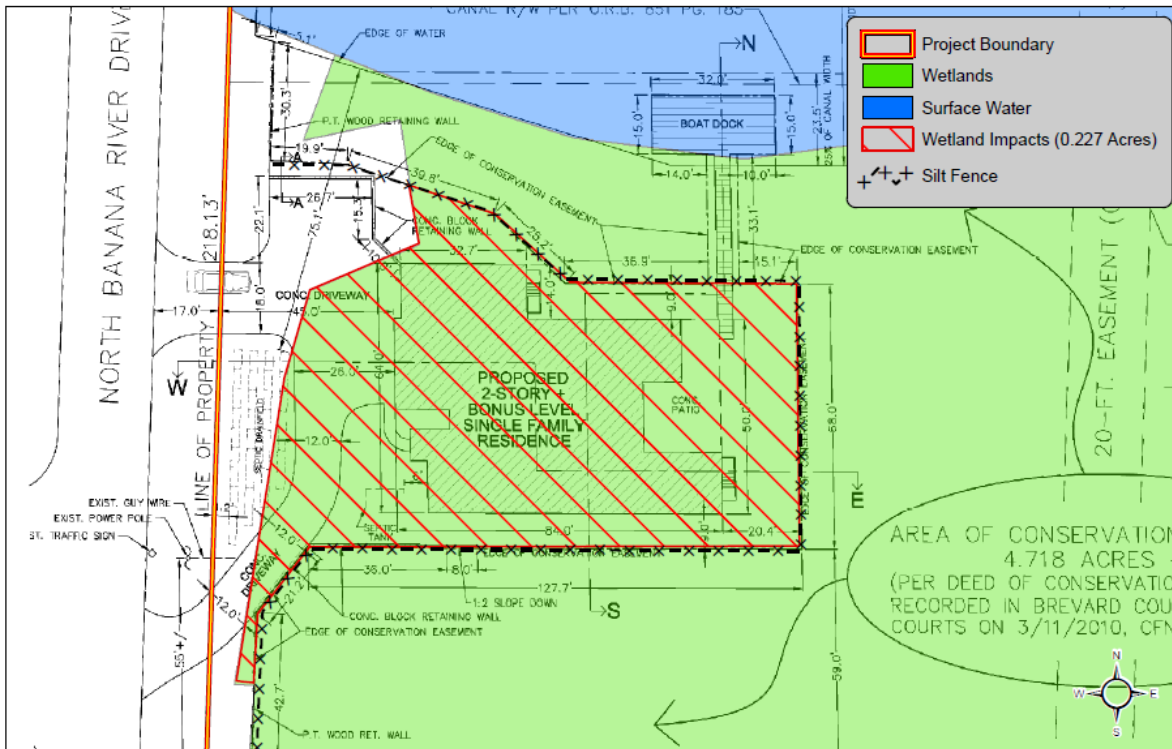


Figure 4: The above image depicts the 0.227 acres of authorized wetland impacts (denoted by the red hatched lines) and the surrounding conservation easement that is not to be touched and was obtained from ERP-0402411-003 E1.



Figure 5: The above image depicts the Conservation Easement area (4.719 acres, denoted by the white hatched marks) and was obtained from ERP-0402411-003 E1.

Site Inspection Photos

Inspection Date: 10/20/2023

Lead DEP Inspector: Mara Galvez Gonzalez



Photo 1: Shown, standing along the bridge located northeast of the property facing southwest, untrimmed mangroves.



Photo 2: Shown, standing along the northwest corner facing south, authorized impacts.



Photo 3: Shown, standing along the northwest corner facing east, authorized impacts.



Photo 4: Shown, standing along the west boundary facing south, authorized impacts.



Photo 5: Shown, standing along the west boundary facing north, authorized impacts.



Photo 6: Shown, standing along the southeast corner facing west, authorized impacts.



Photo 7: Shown, standing along the southeast corner facing north, authorized impacts; mangrove fringe remains along the canal.



Photo 8: Shown, standing along the northeast corner facing south, authorized impacts.



Photo 9: Shown, standing along the eastern boundary facing west, roots of black mangroves.



Photo 10: Shown, standing along the authorized impact area looking east, roots of black and red mangroves.



Photo 11: Shown DBH of mangrove (2.2 in.).



Photo 12: Shown DBH of mangrove (4 in.).



Photo 13: Shown DBH of mangrove (3 in.).



Photo 14: Shown DBH of mangrove (4.2 in.).



Photo 14: Shown, along the western boundary of the property, approximate height of mangroves (>24 feet).