



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

February 2, 2024

Ryan & Debra Shepard,
315 Newfound Harbor Dr,
Merritt Island, FL 32952
shepardry@gmail.com

Re: Compliance Assistance Offer
315 Newfound Harbor Dr, Merritt Island, FL 32952
ERP Site ID: 228041
Brevard County

Dear Sir/Ma'am:

A(n) inspection was conducted at your property on January 10, 2024. During this inspection, potential non-compliance was noted. The purpose of this letter is to offer compliance assistance as a means of resolving this matter.

Specifically, potential non-compliance with the requirements of Chapter 403, Florida Statutes, and Chapter(s) 62-330, Florida Administrative Code were observed. Please see the attached inspection report for a full account of Department observations and recommendations.

We request you review the item(s) of concern noted and respond in writing within **15 days** of receipt of this Compliance Assistance Offer. Your written response should include one of the following:

1. Describe what has been done to resolve the non-compliance issue or provide a schedule describing how/when the issue will be addressed,
2. Provide the requested information, or information that mitigates the concerns or demonstrates them to be invalid, or
3. Arrange for the case manager to visit your property to discuss the item(s) of concern.

It is the Department's desire that you are able to adequately address the aforementioned issues so that this matter can be closed. Your failure to respond promptly may result in the initiation of formal enforcement proceedings.

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Compliance Assistance Offer
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Please address your written response and any questions to Kim Seidl of the Central District Office via e-mail at Kim.Seidl@floridadep.gov or at 407-897-4315. We look forward to your cooperation with this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jill Farris", written in dark ink.

Jill Farris, Environmental Administrator
Central District
Florida Department of Environmental Protection

Enclosures: Inspection Report (with attachments), 62-340 Data Form & Photo Log

cc: Kimberly Seidl, Jill Farris, FDEP



Florida Department of Environmental Protection

CENTRAL DISTRICT COMPLIANCE ASSURANCE PROGRAM

ERP Program Inspection Report

Inspection Date: 1/10/2024

Lead DEP Inspector: Kimberly Seidl

Inspection Type: ☒ Complaint ☐ Compliance ☐ Enforcement
☐ Other: [Click here to enter text.](#)

Complaint No.
830

ERP/404 Site No.
228041

CE Project No.
415661

Permit No.
n/a

Owner/Responsible Party: Ryan & Debra Shepard, Property Owners

Contact: shepardry@gmail.com

Contractor/Agent:

Contact:

Location: 315 Newfound Harbor Dr, Merritt Island, FL 32952

Parcel ID No. 24-37-31-00-504

Waterbody: Unnamed wetland system adjacent to Sykes Creek

Class: ☐ I ☐ II ☒ III ☐ IV ☐ V

Shellfish Harvesting: ☐ Approved ☐ Conditionally Approved
☐ Conditionally Restricted ☐ Prohibited

OFW: ☒ Yes ☐ No

Aquatic Preserve: ☒ Yes ☐ No

Aquatic Preserve Name: n/a

State Lands: ☐ Yes ☒ No

Lease/Easement No.: n/a

Site History & Inspection Overview

Site History:

Previous property owners had a compliance case for mangrove removal in 2004 – not pertaining to current case or current property owners.

Available historic aerials beginning in 1994 show extensive alteration to the wetland system on this property, prior to the current property owners' activity (Figure four). Aerial images from 1994 through 2023 show fill material present on the peninsula, with continual replacement to maintain the alteration; no relevant aerials were available prior to 1994.

Site Inspection Overview:

On January 10, 2024, Department personnel conducted a site inspection in response to a received complaint. Staff present during the onsite investigation were Kimberly Seidl, C.W.E. and Courtney Puckett, and Hailey Ambrose. Department personnel met Ryan Shepard, Property owner, onsite to investigate the complaint.

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

Resource Assessment

FLUCCS/FNAI Community Type(s):	6300: Wetland Forested Mixed 5200: Lakes Freshwater Emergent Wetland
Wetlands/Other Surface Waters (OSW) Present:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Other Resources Present:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," identify: Click or tap here to enter text.
Resource Impacts:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Area of Authorized Impacts (ft ²):	n/a

Area of Unauthorized Impacts (ft ²):	<i>Approx. 0.06 acre – 195 linear feet</i>
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Impact Description:

The property owner has placed crushed coquina rock and sand fill within the wetlands on the property, totaling approximately 0.18 acre of impact. Approximately 0.12 acre of the wetlands had been previously impacted by the previous owner(s). Minimal wetland impacts (0.06 acre) were identified outside of the historically impacted area. The property owner has also installed a coquina riprap seawall around portions of the shoreline of the peninsula, approximately 195 linear feet.

Investigation Summary

On January 10, 2024, Department staff accessed Mr. Shepard's property in order to investigate the validity of a complaint. During the site inspection, Department staff found non-compliance in accordance with Chapter 62-330 Florida Administrative Code (F.A.C.).

Using aerial imagery, department staff identified that the property had approximately 0.12 acres of historic impacts within the wetlands from 1994; prior to the effective date of Chapter 62-330 Florida Administrative Code (F.A.C.). The area of historic alteration to the wetland is estimated as the extent of the historic impacts has been determined based on available aerals.

The current property owners have placed fill material (crushed coquina, sand and gravel) within the previously impacted wetland area, totaling approximately 0.18 acres of impact. The fill material was placed in a similar footprint to the historic impact area (0.12 acre) with approximately 0.06 acre of impact outside of the previously altered area. The footprint of the previously altered wetland will not be considered out of compliance as the activity was done prior to the rules effective date and appears to have been maintained since.

They have also placed coquina boulders along the shoreline of the peninsula, in the form of riprap, totaling approximately 195 linear feet, without proper authorization. Historic aerals and available photos of the property do not indicate that riprap has been installed on this peninsula in the past, thus the coquina riprap would be considered a non-compliance activity.

Department personnel identified wetland vegetation, hydric soils and hydrologic indicators present on an adjacent unimpacted area. Utilizing the 62-340, Florida Administrative Code (FAC) methodology, which records and evaluates vegetation, soils, and hydrologic indicators, personnel were able to reasonably determine the presence of wetlands within the parcel. All wetland impacts have occurred within retained Waters of the United States (WOTUS).

"MINOR" OR "SIGNIFICANT NON-COMPLIANCE" DESCRIPTION:

The activity is in violation of Chapter 62-330 F.A.C., and Chapter 403, F.S.

Statute/Rule Reference(s):

Chapter 62-330.020(2)(a), Florida Administrative Code (F.A.C.)

Chapter 403.121(3)(c), Florida Statutes (F.S.)


Recommendations for Return to Compliance

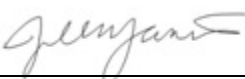
In order to return to compliance, the Department requires the following:

- 1) Within 180 days**, Obtain an Individual Environmental Resource Permit (ERP) for the coquina rock serving as a riprap seawall along the shoreline of the peninsula, or
- 2) If permitting is denied or otherwise not obtained, within 60 days** of denial, the coquina boulders serving as riprap along the peninsula shoreline must be removed from the wetland/surface water.

Supporting Documentation Attached:

- ☒ Figures such as maps, diagrams, and/or aerial imagery
- ☒ Site inspection photographs
- ☒ Chapter 62-340, F.A.C. Data Form(s)

	1/19/2024
Kimberly Seidl, Environmental Consultant	Date

	2/01/2024
Jill Farris, Environmental Administrator	Date

ERP Site Inspection Figures

Inspection Date: 1/10/2024

Lead DEP Inspector: Kimberly Seidl



Figure One. Shown (orange polygon) is the area of fill material that was placed by the current property owners (0.18 acre). Aerial imagery is from January 2023. Area was determined using GPS points taken in the field.



Figure Two. Shown (green polygon) is the area of fill material that was placed by the previous property owner(s) (0.12 acre). Aerial imagery is from February 2020. Wetland alteration has been maintained in similar configuration since 1994 (earliest available aerals). Area was determined using available historic aerial imagery.



Figure Three. Shown (red polygon) is the area of fill material (crushed coquina, sand, gravel) placed by the current property owner that does not overlap with the historic wetland alterations (0.06 acre). The purple lines show where the coquina boulders were placed as riprap, along the East and West shorelines of the peninsula.



Figure Four. Shown is the area of fill material that was placed by the previous property owner(s). Aerial imagery is from February 1994, prior to the effective date of Chapter 62-330 Florida Administrative Code (F.A.C.). Alterations to the peninsula can be seen.



Figure Five: Photo available from public website, Zillow. Fill material is present in image from prior property owners and appears to be consistent with historic aerials.



Figure Six: Photo available from public website, Zillow. Fill material is present in image from prior property owners in the same configuration as historic aerials.

ERP Site Inspection Photos

Inspection Date: 1/10/2024

Lead DEP Inspector: Kimberly Seidl



Photo One: Facing North, previously wetland area where current property owners have placed crushed coquina rock and sand fill.



Photo Two: Facing North, previously wetland area where current property owners have placed crushed coquina rock and sand fill. Coquina boulders have been placed along the perimeter of the recent fill, and along the shoreline of the peninsula.



Photo Three: Facing Northeast, previously wetland area where current property owners have placed crushed coquina rock and sand fill. Coquina boulders have been placed along the perimeter of the recent fill, and along the shoreline of the peninsula.



Photo Four: Facing South, previously wetland area where current property owners have placed crushed coquina rock, sand and gravel fill.



Photo Five: Facing East, Facing South, previously wetland area where current property owners have placed crushed coquina rock, sand and gravel fill. The platform is in the same location/configuration as documented in the previous owners photos.



Photo Six: Facing West, previously wetland area where current property owners have placed crushed coquina rock, sand and gravel fill. Coquina boulders have been placed along the perimeter of the recent fill, and along the shoreline of the peninsula.



Photo Seven: Facing East, previously wetland area where current property owners have placed crushed coquina rock, sand and gravel fill. Coquina boulders have been placed along the perimeter of the recent fill.



Photo Eight: Facing South, coquina boulders have been placed along the perimeter of the recent fill, and along the shoreline of the peninsula.



Photo Nine: Facing South, previously wetland area where current property owners have placed crushed coquina rock, sand and gravel fill. Coquina boulders have been placed along the perimeter of the recent fill, and along the shoreline of the peninsula.



Photo Ten: Facing North, coquina boulders have been placed along the perimeter of the recent fill, and along the shoreline of the peninsula.



Photo Eleven: Facing North, unaltered wetland area adjacent to current impacts.

Chapter 62-340, F.A.C. Data Form

1. Date: Jan 10, 2024 2. Staff Present: Kim Seidl, Courtney Puckett, Hailey Ambrose 3. Form recorder(s): CP

4. County: Brevard (5) 5. Site Name: Shepard Wetland Fill Tracking #: 228041

6. Point ID: WRP1 GPS Coordinates: 28°21'8.60"N, 80°40'7.28"W

7. Distances and bearings from fixed objects (if no GPS):

8. Current condition of described point: ☒ Authorized or legal condition ☐ Unauthorized or illegal condition

9. Work type: ☒ Identification ☐ Delineation

Point status: ☒ Wetland ☐ Non-Wetland Surface Water ☐ Upland

10. Vegetative Stratum §62-340.400: Using §62-340.400, F.A.C. with reasonable scientific judgment, select the appropriate vegetative stratum. (Do not include FAC species when determining 10% minimum areal extent.)

☐ Canopy (Min. 10% areal extent) ☐ Subcanopy (Min. 10% areal extent) ☒ Groundcover (No min. areal extent)

☐ Vegetation Absent (*skip to #14*) ☐ Evaluation Impossible (*skip to #14*) **Why?** Normal expression.

11. Plant List §62-340.200(2),(6),(16), §62-340.400, §62-340.450, F.A.C.:

As is under current conditions, without considering RSJ¹ or the legality of any alterations:

Select and identify plants in an area just large enough to represent and classify the plant community at the described point. Do not extend into different communities or hydrologic conditions.

Areal extent estimator: KS

1. Record the scientific name (binomial) and status of each plant species necessary to identify/delineate and classify the plant community in the selected area.

2. Record the percent areal extent in the canopy, subcanopy, and groundcover columns for each species.

3. For each species present in the **stratum selected in #10**, transfer the numbers from only that stratum's column into the appropriate status columns.

#	Binomial of Observed Species	Status	Canopy	Subcanopy	Groundcover	Upland	Facultative	Fac. Wet	Obligate
1.	Spartina patens	FW			100			100	
2.	Batis maritima	O			1				1
3.	Borrichia spp.	O			5				5
4.									
5.									
6.									
7.									
8.									
9.									
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									
18.									
19.									
20.									
Percent areal extent totals for the stratum selected in question 10						0	0	100	6

12. In the stratum selected in #10: What is the % areal extent of Obligate plants? 6

What is the % areal extent of Upland plants? 0

Is the areal extent of Obligate plants greater than that of Upland plants? ☒ Yes ☐ No

13. In the stratum selected in #10: What is the total % areal extent of Obligate & Facultative Wet plants combined? 106

What is the total % areal extent of Obligate, Facultative Wet, & Upland plants combined? 106

What is the percentage of OBL + FACW in relation to all plants, excluding FAC? ($\frac{OBL+FACW}{OBL+FACW+UPL}$) 100.0%

Point ID/Location: 28°21'8.60"N, 80°40'7.28"W					Soil describer: KS		
14. LRR/MLRA U			Textures: Peat, Mucky Peat, Muck, Mucky Mineral (S or F), Sand, Fine, Marl				
15. Is a soil profile evaluation possible? <input checked="" type="radio"/> Yes <input type="radio"/> No If no, why? (If No, skip to #18)							
16. Soil Description: <i>As is under current conditions, without considering RSJ¹ or the legality of any alterations</i> Soil surface, or 0 inch depth for purposes of Chapter 62-340, F.A.C. is the muck or mineral surface (whether natural or fill)							
Horizon	beginning to ending Depth (inches)	Matrix Texture	moist condition Matrix Hue Value/ Chroma	for sandy matrix horizons w/ value ≤ 3: % Organic Coating	- Describe soil features: DA (areas darker than matrix), LA (areas lighter than matrix), RC (redox concentrations): Record in moist condition hue value/chroma ; % volume in horizon ; boundaries (sharp/clear/diffuse); shape (rounded/linear/angular). - OB (organic bodies): Record texture (muck or mucky mineral), % volume in horizon . - H₂S (hydrogen sulfide odor): Indicate shallowest depth where detected - Note if horizon is Physically Mixed (PM) , Nonsoil (any material not listed in "Textures" above), or Fill and describe.		
1	0-12	SMM	10YR 2/1	98%			
2							
3							
4							
5							
6							

17. Hydric Soil Field Indicators: If present, check all Hydric Soil Field Indicators satisfied and specify their beginning and ending depths						
<input checked="" type="checkbox"/> All Texture	<input checked="" type="checkbox"/> Sandy Texture	<input checked="" type="checkbox"/> Fine Texture	Indicator Present	Begin Depth	End Depth	
<input type="checkbox"/> (A1) Histosol*	<input type="checkbox"/> (S4) Sandy Gleyed Matrix*	<input type="checkbox"/> (F2) Loamy Gleyed Matrix*	1. A7	0	12	
<input type="checkbox"/> (A2) Histic Epipedon*	<input type="checkbox"/> (S5) Sandy Redox	<input type="checkbox"/> (F3) Depleted Matrix	2. S7	0	12	
<input type="checkbox"/> (A3) Black Histic*	<input type="checkbox"/> (S6) Stripped Matrix	<input type="checkbox"/> (F6) Redox Dark Surface	3.			
<input type="checkbox"/> (A4) Hydrogen Sulfide*	<input checked="" type="checkbox"/> (S7) Dark Surface	<input type="checkbox"/> (F7) Depleted Dark Surface	4.			
<input type="checkbox"/> (A5) Stratified Layers*	<input type="checkbox"/> (S8) Polyvalue Below Surface	<input type="checkbox"/> (F8) Redox Depression	5.			
<input type="checkbox"/> (A6) Organic Bodies	<input type="checkbox"/> (S9) Thin Dark Surface	<input type="checkbox"/> (F10) Marl	6.			
<input checked="" type="checkbox"/> (A7) 5cm Mucky Mineral*	<input type="checkbox"/> (S12) Barrier Islands 1cm Muck	<input type="checkbox"/> (F12) Iron-Manganese Masses				
<input type="checkbox"/> (A8) Muck Presence*		<input type="checkbox"/> (F13) Umbric Surface				
<input type="checkbox"/> (A9) 1cm Muck*		<input type="checkbox"/> (F22) Very Shallow Dark Surface				
<input type="checkbox"/> (A11) Depleted Below Dark Surface	* = Stand-alone D Test - both hydric soil and hydrologic indicator		To combine layers/indicators to meet thickness requirements, see NRCS Hydric Soils Technical Note 4.			
<input type="checkbox"/> (A12) Thick Dark Surface						

18. Excluding organic horizons, is any nonsoil horizon present at or within the uppermost 12 inches of the ground surface? <input type="radio"/> Yes (e.g. bedrock, rock outcrop, limestone fill, gravel, etc) <input checked="" type="radio"/> No <input type="radio"/> Soil profile or site inaccessible		
19. Is one or more hydric soil field indicators present? <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Inconclusive (e.g., evaluation to 12+ inches impeded by disturbance, water, nonsoil, no site access, etc.) If no or inconclusive, is the soil hydric as determined by other NRCS methods? <input type="radio"/> Yes ← Which method(s)? <input type="radio"/> No <input type="radio"/> Inconclusive ← Why? (e.g., hydric soil definition, HSTS ² , indicator present at drier elevation, indicator would be present but for disturbance)		
20. Is the depth of the soil profile 20 inches or greater from the soil surface? <input type="radio"/> Yes <input checked="" type="radio"/> No If no, depth of soil profile is: 12 inches Why? (e.g., root refusal, nonsoil, water table, loose sand, heavy texture, compaction, weather conditions, inspection interrupted)		
21. Observed height or depth of standing water from soil surface: _____ inches <input type="radio"/> Above <input type="radio"/> Below <input checked="" type="radio"/> Not Observed		

22. Hydrologic Indicators: *As is under current conditions, without considering RSJ¹ or the legality of any alterations*

Hydrologic Indicators per §62-340.500, F.A.C. (and as applied to §62-340.600, F.A.C.)	Present at or near point	Predicted during normal high water or wet season♦	Within 100 ft waterward of point (not for upland points)	1. Describe the type of all checked indicators. 2. Approximate the distance and compass direction of indicators within 100 ft of the point. 3. For water level indicators (potential indicators denoted by *) note the height from ground surface at the point as well as waterward (with distance from point). ♦ Only for indicators not present due to dry season/drought
(1) Algal mats*				
(2) Aquatic mosses or liverworts*				
(3) Aquatic plants*				
(4) Aufwuchs				
(5) Drift lines and rafted debris*				
(6) Elevated lichen lines*				
(7) Evidence of aquatic fauna				
(8) Hydrologic data*	✓			A7, S7 present. Surface water present 5 ft East.
(9) Morphological plant adaptations*				
(10) Secondary flow channels				
(11) Sediment deposition*				
(12) Tussocks or hummocks*				
(13) Water marks*				

Highest water level indicator height at point: 0 inches ☐ Above Ground Surface ☐ No Water Level Indicators
☒ Above Soil Surface ☐ N/A (described point is Upland)

23. Is one or more hydrologic indicator(s) listed in §62-340.500, F.A.C. present or predicted with normal high water or wet season conditions at the described point? ☒ Yes ☐ No ☐ Evaluation Impossible ← Why? _____

24. Delineation by Wetland Definition §62-340.300(1), F.A.C.

As is under current conditions, without considering RSJ¹ or the legality of any alterations:

a) Has a wetland boundary been delineated at the described point? ☐ Yes ☒ No (*If No, skip to #25*)

b) If yes to 24a, can the boundary be easily delineated using the definition of wetlands? ☐ Yes ☐ No

25. A & B Test Wetland Criteria §62-340.300(2)(a),(b), F.A.C.

As is under current conditions, without considering RSJ¹ or the legality of any alterations:

a) Is the areal extent of Obligate plants in the stratum selected in #10 greater than the areal extent of all Upland plants in that stratum? (See #12) ☒ Yes ☐ No ☐ Vegetation Absent (*skip to #25f*) ☐ Evaluation Impossible (*skip to #26a*)

b) Is the areal extent of Obligate and/or Facultative Wet plants in the stratum selected in #10 equal to or greater than 80% of all the plants in that stratum, excluding Facultative plants? (See #13) ☒ Yes ☐ No

c) Is the soil hydric as identified using standard NRCS definitions and practices? (see #19)

☒ Yes ☐ No ☐ Indeterminable with current conditions ← Why? _____

d) Is the substrate composed of riverwash, nonsoil (see #18), rock outcrop-soil complex, or is the substrate located within an artificially created wetland area? ☐ Yes ☒ No If yes, which condition is present? _____

e) Is one or more of the hydrologic indicators in §62-340.500, F.A.C. present at the described point? (See #23) ☒ Yes ☐ No

f) Are the A Test criteria met per §62-340.300(2)(a), F.A.C. at the described point? ☒ Yes ☐ No
(Note: If yes to 25a and yes to either 25c, 25d, or 25e, A Test criteria are met)

g) Are the B Test criteria met per §62-340.300(2)(b), F.A.C. at the described point? ☒ Yes ☐ No
(Note: If yes to 25b and yes to either 25c, 25d, or 25e, B Test criteria are met)

h) Are there any **alterations or conditions** affecting reliable application of the A or B Test such that the Altered Sites Test is more appropriate? ☐ Yes ☒ No

26. C Test Wetland Criteria §62-340.300(2)(c), F.A.C.**As is under current conditions, without considering RSJ¹ or the legality of any alterations:**

- a) Per §62-340.300(2)(c), F.A.C. is the described point Pine Flatwoods or Improved Pasture, or does it have drained soils? ☐ Yes ☒ No **If yes, select which of the following are met, then skip to #26d**
☐ Pine Flatwoods ☐ Improved Pasture ☐ Drained Soils
- Pine Flatwoods** must have flat terrain, a monotypic or mixed canopy of long leaf pine or slash pine, and a ground cover dominated by saw palmetto with other species that are NOT obligate or facultative wet. **Improved Pasture** means areas where the dominant native plant community has been replaced with planted or natural recruitment of herbaceous species which are NOT obligate or facultative wet species and which have been actively maintained for livestock through mechanical means or grazing. **Drained Soils** are those in which permanent alterations, excluding mechanical pumping, preclude the formation of hydric soils.*
- b) Are the soils at the described point saline sands (salt flats-tidal flats), **or** have they been **field verified** by NRCS's Keys to Soil Taxonomy (4th ed. 1990) as Umbraqualfs, Sulfaquents, Hydraquents, Humaquepts, Histosols (except Folists), Argiaquolls, or Umbraquults? ☐ Yes ☒ No
- c) Do the soils at the described point have a NRCS hydric soil field indicator (see #17), **and** is the point located within a map unit named or designated by the NRCS as frequently flooded, depressional, or water?
 Map Unit: Turnbull and Riomar soils, Tidal ☐ Yes ☒ No ☐ Inconclusive ← Why? _____ (skip to #27a)
- d) Are the C Test criteria met per §62-340.300(2)(c), F.A.C. at the described point? ☐ Yes ☒ No
 (Note: If no to 26a and yes to either 26b or 26c, C Test criteria are met)
- e) Are there any **alterations or conditions** affecting reliable application of the C Test such that the Altered Sites Test is more appropriate? ☐ Yes ☒ No

27. D Test Wetland Criteria §62-340.300(2)(d), F.A.C.**As is under current conditions, without considering RSJ¹ or the legality of any alterations:**

- a) Is the soil hydric as verified by a NRCS hydric soil field indicator? (See #17)
☒ Yes ☐ No (skip to #27d) ☐ Inconclusive ← Why? _____ (skip to #28)
- b) Does any NRCS hydric soil field indicator begin **at the soil surface or** are any of the following indicators present: A1, A2, A3, A4, A5, A7, A8, A9, S4, F2? ☒ Yes ☐ No (If yes, then hydrologic indicator §62-340.500(8) or (11) is met)
- c) Is one or more of the hydrologic indicators in §62-340.500, F.A.C. present at the described point? (See #23) ☒ Yes ☐ No
- d) Are the D Test criteria met per §62-340.300(2)(d), F.A.C. at the described point? ☒ Yes ☐ No
 (Note: If yes to 27a and yes to either 27b or 27c, D Test criteria may be met)
- e) Are there any **alterations or conditions** affecting reliable application of the D Test such that the Altered Sites Test is more appropriate? ☐ Yes ☒ No

28. Altered Sites Tests §62-340.300(3), F.A.C. (Legal/Authorized or Illegal/Unauthorized)

For purposes of Chapter 62-340, F.A.C. **altered** refers to any natural or man-induced condition(s) which **masks or eliminates reliable expression** of wetland indicators (i.e. hydrophytic vegetation, hydric soils, and hydrologic indicators). **Unaltered or normal does not require a natural condition**, only an expression of wetland indicators that is sufficient to **reliably** identify or delineate the wetland using the criteria in §62-340.300, F.A.C.

Are alterations affecting normal wetland condition? ☐ Yes ☒ No (skip to #32) ☐ Evaluation Impossible (skip to #32)**29. Authorized or Legally Altered Vegetation and Soils Test Criteria §62-340.300(3)(a), F.A.C.**

- a) Are there **authorized** or **legal** alterations affecting reliable expression of vegetation at the described point?
☐ Yes ☐ No If yes, how? _____
- b) Are there **authorized** or **legal** alterations affecting reliable soil evaluation at the described point? ☐ Yes ☐ No
 If yes, how? _____ (If no to both 29a and 29b, skip to #30)
- c) If yes to 29a or 29b, which criteria tests are affected by the legal alterations?
☐ A Test ☐ B Test ☐ C Test ☐ D Test
- d) Using the most reliable available information and reasonable scientific judgment, would the types of evidence and characteristics contemplated in §62-340.300, F.A.C. identify or delineate the described point as a wetland with cessation of the legal altering activities? ☐ Yes ☐ No If no, why? _____ (If no, skip to #30)
- e) If yes to 29d, what §62-340.300, F.A.C. evidence is present now and/or will be present in the future with cessation of legal altering activities? ☐ Plants ☐ Soils ☐ Hydrologic indicators
- f) If yes to 29d, which tests would be passed with cessation of legal altering activities?
☐ Wetland Definition ☐ A Test ☐ B Test ☐ C Test ☐ D Test
- Why?** _____

Point ID/Location: 28°21'8.60"N, 80°40'7.28"W

30. Authorized or Legally Altered Hydrology Test Criteria §62-340.300(3)(b), F.A.C.

- a) Has wetland hydrology of the area been **legally** drained or lowered? ☐ Yes ☐ No (If no, skip to #31)
If yes, how? _____
- b) Has wetland hydrology been **legally** eliminated at the described point? ☐ Yes ☐ No (If no, skip to #31)
- c) If yes to 30b, using reasonable scientific judgment or §62-340.550, F.A.C., have dredging or filling activities authorized by **Part IV** of Chapter 373, F.S. **permanently eliminated** wetland hydrology at the described point such that the wetland definition cannot be met? ☐ Yes (point is upland) ☐ No (If yes, skip to #31)
*Chapter 373, F.S. Part II activities (e.g., water use permits) or other temporary hydrologic alterations (e.g., surface water pumps, drought) do **not** apply to this or any other Ch. 62-340, F.A.C. determinations.*
- d) If no to 30c, what §62-340.300, F.A.C. evidence is present now and/or will be present in the future with cessation of temporary hydrologic drainage? ☐ Plants ☐ Soils ☐ Hydrologic indicators
- e) If no to 30c, Which tests would be passed with cessation of temporary hydrologic alterations?
☐ Wetland Definition ☐ A Test ☐ B Test ☐ C Test ☐ D Test
Why? _____

31. Unauthorized or Illegally Altered Sites Test Criteria §62-340.300(3)(c), F.A.C.

If the altering activity is a violation of regulatory requirements, then application of §62-340.300(3)(c), F.A.C. and all provisions of Chapter 62-340, F.A.C. are utilized to identify or delineate the wetland in a forensic manner.

This identification or delineation reflects the condition immediately prior to the unauthorized alteration.

- a) Have any **unauthorized** alterations affected the normal wetland condition at the described point? ☐ Yes ☐ No
If yes, how? _____ (If no, skip to #32)
- b) If yes to 31a, which criteria tests are affected by the unauthorized alterations?
☐ A Test ☐ B Test ☐ C Test ☐ D Test
- c) With reasonable scientific judgment is the described point a wetland, or would it have been a wetland immediately prior to the unauthorized alteration? ☐ Yes ☐ No If no, why? _____ (If no, skip to #32)
- d) If yes to 31c, what §62-340.300, F.A.C. evidence is present now and/or was present immediately prior to the unauthorized alteration? ☐ Plants ☐ Soils ☐ Hydrologic indicators
- e) If yes to 31c, which tests would be passed immediately prior to the unauthorized alteration?
☐ Wetland Definition ☐ A Test ☐ B Test ☐ C Test ☐ D Test
Why? _____

32. Wetland and Other Surface Water Summary §62-340.600(2)(a-e), F.A.C.:

Given **normal** expression, **cessation** of **authorized** alterations, or **immediately prior** to any **unauthorized** alterations:

- a) With **reasonable scientific judgment** is the described point a wetland as defined in §62-340.200(19), F.A.C. and located by Ch. 62-340, F.A.C.? ☒ Yes ☐ No If yes, which criteria identified or delineated the wetland?
☒ Wetland Definition ☒ A Test ☒ B Test ☐ C Test ☒ D Test
If summary answers differ from answers in 25f, 25g, 26d, or 27d, why? _____
- b) Is the described point located at or within the Mean High Water Line of a tidal water body?
☐ Yes ☐ No ☒ MHWL Unknown
- c) Is the described point located at or within the Ordinary High Water Line of a non-tidal natural water body or natural watercourse? ☐ Yes ☒ No
- d) Is the described point located at or within the top of the bank of an artificial lake, borrow pit, canal, ditch, or other type of artificial water body or watercourse with side slopes of 1 foot vertical to 4 feet horizontal or steeper, excluding spoil banks when the canals and ditches have resulted from excavation into the ground? ☐ Yes ☒ No
- e) Is the described point located at or within the Seasonal High Water Line of an artificial lake, borrow pit, canal, ditch, or other type of artificial water body or watercourse with side slopes flatter than 1 foot vertical to 4 feet horizontal or an artificial water body created by diking or impoundment above the ground? ☐ Yes ☒ No

33. Connection or Isolation of Wetland per Applicant's Handbook Vol.1 Section 2.0

If the described point is a wetland, does it have a connection via wetlands or other surface waters, or is it wholly surrounded by uplands and therefore isolated? ☒ Connected ☐ Isolated ☐ N/A (Point is not wetland)

Point ID/Location: 28°21'8.60"N, 80°40'7.28"W

34. Photographs and/or videos: Soil profile with Data Form, Soil profile close-up, Cross section(s) at 6" depth for sandy textures and/or critical depths for fine textures, Hydric soil indicators, Water table or inundation depth, Four cardinal directions of plant strata present, Hydrologic indicators (with scale as necessary), Critical plant ID (optional)

#	Memory Card # / Metadata	Description, compass direction (if applicable)	Taken By
1.			
2.			
3.			
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Notes:

Helpful Definitions for Applying Ch 62-340, F.A.C.

¹**RSJ** stands for Reasonable Scientific Judgment where used throughout this Data Form (See *The Florida Wetlands Delineation Manual* pg. 2 & 12)

²**HSTS** stands for Hydric Soils Technical Standard (See NRCS Hydric Soils Technical Note 11)

Definition from §62.340.200(19) Florida Administrative Code

"Wetlands," as defined in subsection 373.019(17), F.S., means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

Definition from §373.019(19) Florida Statutes

"Surface water" means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface.

Definition from §373.019(14) Florida Statutes

"Other watercourse" means any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

Definition from §62.340.200(15) Florida Administrative Code

"Seasonal High Water" means the elevation to which the ground and surface water can be expected to rise due to a normal wet season.

From The Florida Wetlands Delineation Manual pg. 37

Ordinary high water is that point on the slope or bank where the surface water from the water body ceases to exert a dominant influence on the character of the surrounding vegetation and soils. The OHWL frequently encompasses areas dominated by non-listed vegetation and non-hydric soils. When the OHWL is not at a wetland edge, the general view of the area may present an "upland" appearance.

Definition from §403.803(14) Florida Statutes

"Swale" means a manmade trench which:

- (a) Has a top width-to-depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1 foot vertical;
- (b) Contains contiguous areas of standing or flowing water only following a rainfall event;
- (c) Is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and
- (d) Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

Site Inspection Photos



Site ID No. [228041]

Project Name: [Shepard Wetland Fill]

[315 Newfound Harbor Dr, Merritt Island, Fl 32952]

Staff: [Kim Seidl, Courtney Puckett, Hailey Ambrose]

Soil Profile ID: [WRP1]

Date: 1/10/2024

All photos in this album have not been altered and are in original format.

Photo #1. Soil profile at WRP1



Photo #2. Cut at 6" on WRP1



Photo #3. Surface water present 5' East of WRP1



Photo #4. View North from WRP1



Photo #5. View East from WRP1



Photo #6. View South from WRP1



Photo #7. View West from WRP1

