

CL AREA

CRAF006A

Logged Total

Collection Point Log Remittance

Remittance ID Type * Received Date * Status
 System Receipt PNR Check # * Amount *

Name *
 First Middle Title Suffix
 Address1
 Address2
 City ST Zip
 Country Short Comments

PAYMENT (S)

Payment ID	Distribution CL Area	Rev Code ODN	Revenue Object	Description	Payment Amount	Reference#	Appl	Fund *	Grant	Project	BPIN	Status
2041768	NED	018003	018003	LCT-REIMB.LEGAL	1,000.00	230774		WQATF				COMPLETE
2041769	NED	012008	012008	LCT-PENALTIES	10,500.00	230774		WQATF				COMPLETE
2041770	NED	012009	012009	LCT-PERMIT FEE	420.00	230774		PFTF				COMPLETE

COMMIT FREQUENTLY Payment Total

HOLD TO LIGHT TO VIEW TRUE WATERMARK IN PAPER HEAT SENSITIVE RED LOCK DISAPPEARS WHEN HEATED

MP

15428

DUANE C. ROMANELLO, P.A.
IOLTA TRUST ACCOUNT
1919 BLANDING BLVD. SUITE 8
JACKSONVILLE, FLORIDA 32210
904-384-1441

227191

SYNOVUS JACKSONVILLE
FLORIDA

64-60/611

NO.

PAY:

Eleven Thousand Nine Hundred Twenty and 00/100

DATE

AMOUNT

10/13/2023

*****11,920.00

TO THE
ORDER
OF

State of Florida Department of Environmental Protection
1919 Blanding Boulevard
Jacksonville FL 32210



Amanda P.
AUTHORIZED SIGNATURE

Memo Line: 2855 S Periwinkle Avenue, Middleburg, FL 32068 22-0961 - Mahon III



Security Features Included details on back

Receipt # 227191 Check # 15428 \$11920 10/13/2023



FLORIDA DEPARTMENT OF Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

October 10, 2023

Sent electronically to: jeffrabacchi@gmail.com, wmahon@comcast.net

Jeffory Rabacchi, President
PBP Homes, Inc.
13245 Atlantic Blvd.
Jacksonville, Florida 32225

William T. Mahon
Property Owner
2855 South Periwinkle Avenue
Middleburg, Florida 32068

SUBJECT: Department of Environmental Protection v. 23-0774
OGC File No. 23-0774
Facility ID No. ERP_424961
Clay County

Dear Messers Rabacchi and Mahon:

Enclosed is a copy of the executed Consent Order to resolve Case Number 23-0774. The effective date of this Order is October 10, 2023, and all timeframes will be referenced from this date.

As a reminder, a Consent Order is a binding legal document and was voluntarily entered into by both parties.

Should you have any questions concerning the Consent Order, please contact the case manager, Neil Hornick, P.G., at (904) 256-1574, or at Neil.Hornick@FloridaDEP.gov. Your continued cooperation in the matter is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Joni Petry".

Joni Petry
Environmental Administrator

Enclosure: Executed Consent Order #23-0774

cc: FDEP-OGC: Lea Crandall
FDEP-NED: Neil Hornick, P.G., Matthew Kershner, Thomas Kallemeyn, Joni Petry,
DEP_NED



FLORIDA DEPARTMENT OF Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
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October 10, 2023

Sent electronically to: jeffrabacchi@gmail.com, wmahon@comcast.net

Jeffery Rabacchi, President
PBP Homes, Inc.
13245 Atlantic Blvd.
Jacksonville, Florida 32225

William T. Mahon
Property Owner
2855 South Periwinkle Avenue
Middleburg, Florida 32068

SUBJECT: Department of Environmental Protection v. 23-0774
OGC File No. 23-0774
Facility ID No. ERP_424961
Clay County

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Sincerely,

A handwritten signature in blue ink that reads "Joni Petry".

Joni Petry
Environmental Administrator

Enclosure: Executed Consent Order #23-0774

ec: FDEP-OGC: Lea Crandall
FDEP-NED: Neil Hornick, P.G., Matthew Kershner, Thomas Kallemeyn, Joni Petry,
DEP_NED

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION)	IN THE OFFICE OF THE NORTHEAST DISTRICT
)	
Complainant,)	
)	
vs.)	OGC FILE NO. 23-0774
)	
PBP HOMES, INC. and WILLIAM T. MAHON,)	
)	
Respondents.)	
_____))	

CONSENT ORDER

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and PBP Homes, Inc. ("Respondent PBP Homes") and William T. Mahon ("Respondent Mahon"), pursuant to Section 120.57(4), Florida Statutes ("Fla. Stat."), to settle certain matters at issue between the Department and Respondents.

The Department finds and Respondents admit the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce Chapter 373, Part IV and Chapter 403, Fla. Stat. and the rules promulgated and authorized thereunder in Title 62, Florida Administrative Code ("Fla. Admin. Code"). The Department has jurisdiction over the matters addressed in this Order.

2. Respondents PBP Homes and Mahon are persons within the meaning of Section 373.019(15) and 403.703(23), Fla. Stat. Respondent PBP Homes was the owner of the real property located at 2855 South Periwinkle Avenue, Middleburg, Florida 32068, Clay County Property Appraiser Parcel ID Number 35-05-24-006699-858-00, Clay County, Florida and assigned

Department Site ID No. ERP_424961 ("Property") from December 3, 2021 until June 6, 2022, during which Respondent PBP Homes conducted dredging - by virtue of mechanized land clearing and grubbing - and filling - by placement of soil fill and construction of a single family residence and septic system, prior to selling the property to the current property owner, Respondent Mahon, on June 6, 2022. Respondent Mahon is listed primarily for site access purposes.

3. On May 23, 2022, Department staff conducted an inspection of the Property and determined that Respondent PBP Homes dredged and filled 0.2 acres of jurisdictional wetlands without valid authorization from the Department, in violation of Chapters 373 and 403, Fla. Stat., and Chapters 62-330 and 62-331, Fla. Admin. Code, as depicted on Exhibit A, attached hereto and incorporated herein.

4. Respondents desire to enter into this Order to resolve the violations set out hereunder.

Having reached a resolution of the matter, Respondents and the Department mutually agree and it is,

ORDERED:

5. Respondents shall redress all outstanding violations and complete all the corrective actions outlined below, within the timeframes established therein:

(a) **Commencing immediately and henceforth**, Respondents shall forthwith comply with all applicable Department statutes and rules applicable to wetland protection and environmental resource permitting, including Chapters 373 and 403, Part IV, Fla. Stat., and the rules promulgated thereunder in Title 62, Fla. Admin. Code.

(b) **Within 90 days of the effective date of this Order**, the Respondent PBP Homes shall obtain **0.09 Federal Mitigation Bank Credits (WRAP)** as well as **0.09 State Mitigation Bank Credits (UMAM)** to mitigate for the wetland fill impacts allowed to remain as identified on Exhibit A herein. Upon obtaining the Mitigation Bank Credits, Respondent PBP Homes shall submit a copy of the credit allocation letters to the Department, confirming receipt of the required credits.

(c) **Within 90 days of the effective date of this Order**, Respondents must submit an "Application for Individual and Conceptual Approval Environmental Resource Permit, State 404 Program Permit, and Authorization to Use State-Owned Submerged Lands" Form 62-330.060(1), for a post-enforcement permit to allow the fill identified on Exhibit A to remain on the Property. If the Department requires additional information or clarification to the application, Respondent PBP Homes shall submit all requested additional information, clarification, and modifications within 15 days of receipt of written notice. If the post-enforcement permit is denied, Respondent PBP Homes shall remove all fill from the wetlands as depicted in Exhibit A within 60 days of Final Notice of Denial.

(d) **Within 30 days of the effective date of this Order**, Respondent PBP Homes shall pay the Department \$11,920.00 in settlement of the matters addressed in this Order. The civil penalties are apportioned as follows: \$1,500.00 for violation of Rule 62-330.020(2)(a) Fla. Admin. Code., \$1,500.00 for violation of Rule 62-331.020(2) Fla. Admin. Code.-and \$7,500.00 for violation of 403.121(3)(c), Fla. Stat. This amount also includes a \$420 permit recovery fee and \$1,000.00 for costs and expenses

incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

6. Apart from the activities described in this Order, **effective immediately and henceforth**, Respondents shall not conduct any dredging, filling, or construction activities on or within wetlands or the landward extent of waters of the state without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt as proposed from Department permitting requirements.

7. All payments required under this Order shall be made by cashier's check or money order, or online electronic payment. Cashier's check or money order payment shall be made payable to the "*State of Florida Department of Environmental Protection*," and shall include the notations: "OGC No. 23-0774" and "Water Quality Assurance Trust Fund." Cashier's check or money order payment shall be sent to the Florida Department of Environmental Protection, Northeast District Office, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256. Online payments may be made by e-check at the DEP Business Portal: <http://www.fldepportal.com/go/pay/>. Please note it will take a number of days after this Order becomes final and effective filed with the Clerk of the Department before the ability to make online payment is available.

8. All submittals required under this Order shall be sent to: Florida Department of Environmental Protection, Northeast District Office, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256, and shall include the notations: "OGC No. 23-0774" and "ERP_424961", or by email to DEP_NED@FloridaDEP.gov, copy to Neil.Hornick@FloridaDEP.gov.

9. Respondent PBP Homes agrees to pay the Department stipulated penalties in the

amount of \$50.00 per day, per violation, for each and every day Respondent PBP Homes fails to timely comply with any of the requirements set out in Paragraph 6 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order. Any stipulated penalties assessed under this Paragraph shall be in addition to the penalties, fees and/or costs agreed to in Paragraph 5(d) of this Order. Within 30 days of a written demand from the Department, Respondent PBP Homes shall submit payment of the appropriate stipulated penalties in accordance with Paragraph 7 herein. The Department may demand stipulated penalties at any time after violations occur. Nothing in this Paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Should the Department be required to initiate a lawsuit to recover stipulated penalties under this Paragraph, the Department shall not be foreclosed from seeking civil penalties for violations of this Order in an amount greater than the stipulated penalties set out in this Paragraph.

10. Respondents shall allow all authorized representatives of the Department access to the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

11. Respondents shall use all reasonable efforts to obtain any necessary access to implement the terms of this Order. If necessary access cannot be obtained, or is revoked by owners or entities controlling access to the properties to which access is necessary, Respondents shall notify the Department within five (5) business days of such refusal or revocation. The Department may, at any time, seek to obtain access as is necessary to implement the terms of this Order. Respondents shall reimburse the Department for any damages, costs, or expenses, including expert and attorney fees, that the Department is ordered to pay or that the Department incurs in connection with its efforts to obtain access that is necessary to implement the terms of this Order.

Respondents shall pay these sums to the Department or arrange a payment schedule with the Department within 30 days of written demand by the Department.

12. The sale or conveyance of the Property does not relieve Respondents of the obligations imposed by this Order. In the event of a sale or conveyance of the Property, if all of the requirements of this Order have not been fully satisfied, Respondents shall: (i) notify the Department of such sale or conveyance of the Property, at least 30 days prior to the sale or conveyance; (ii) provide the name and address of the purchaser/ grantee, operator, or person(s) in control of the Property; and (iii) provide a copy of this Order with all attachments to the purchaser/ grantee, operator, or person(s) in control of the Property.

13. If any event, including administrative or judicial challenges by third parties unrelated to Respondents, occurs which causes a delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondents shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondents and could not have been or cannot be overcome by Respondents' due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondents, nor shall the failure of a contractor, subcontractor, materialman, or other agents (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondents unless the cause of the contractor's late performance was also beyond the contractor's control. Upon the occurrence of an event causing the delay, or upon becoming aware of a potential for delay, Respondents shall notify the Department orally within 24 hours or by the next working day and shall, within seven (7) days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the

timetable by which Respondents intend to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondents, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such an agreement shall adopt all reasonable measures necessary to avoid or minimize the delay. Failure of Respondents to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondents' right to request an extension of time for compliance with the requirements of this Order.

14. This Order only addresses violations of the rules and statutes of the Department. Entry of this Order does not constitute a permit from the Department.

15. The entry of this Order does not relieve Respondents of the need to comply with applicable federal, state, or local laws, regulations, or ordinances.

16. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69, 253.04, 373.129, and 403.121, Fla. Stat. Failure to comply with the terms of this Order shall constitute a violation of Sections 373.430, and 403.161, Fla. Stat.

17. Respondents are fully aware that a violation of the terms of this Order may subject Respondents to judicial imposition of damages, civil penalties of up to \$15,000.00 per day, per violation, and criminal penalties.

18. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Order.

19. The Department, for and in consideration of the complete and timely performance

by Respondents of the obligations agreed to in this Order, hereby waives the right to seek the judicial imposition of damages or civil penalties for alleged violations addressed in this Order. This waiver does not affect any claim the Department may have for violations not addressed herein, notwithstanding that the other claims may involve the same activities addressed herein.

20. Respondents acknowledge and waive their right to an administrative hearing pursuant to Sections 120.569 and 120.57, Fla. Stat., on the terms of this Order. Respondents acknowledge the right to appeal the terms of this Order pursuant to Section 120.68, Fla. Stat., and waive that right upon signing this Order.

21. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

22. This Order is a final order of the Department pursuant to Section 120.52(7), Fla. Stat., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Fla. Stat. Upon the timely filing of a petition, this Order will not be effective until further Order of the Department.

23. Persons who are not parties to this Order but whose substantial interests are affected by this Order have a right, pursuant to Sections 120.569 and 120.57, Fla. Stat., to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated.

Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Fla. Stat. The petition shall contain the following information:

- (a) The Order identification number (23-0774) and the county in which the subject matter or activity is located;
- (b) The name, address, and telephone number of each petitioner;
- (c) The name, address, and telephone number of the petitioner's representative (if any), which shall be the address for service purposes during the course of the proceeding;
- (d) An explanation of how the petitioner's substantial interests will be affected by the Order;
- (e) A statement of when and how the petitioner received notice of the Order;
- (f) A statement of all material facts disputed by petitioner, if any;
- (g) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- (h) A statement of which rules or statutes the petitioner contends require reversal or modification of the Order; and
- (i) A statement of the relief sought by the petitioner, precisely stating the action petitioner wishes the Department to take with respect to the Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received)

within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Fla. Stat., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Fla. Admin. Code.

A person whose substantial interests are affected by the Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Fla. Stat., or may choose to pursue mediation as an alternative remedy under Section 120.573, Fla. Stat., before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which includes the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;

- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement;
- (g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed and incorporating it by reference; and
- (h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Fla. Stat., the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute,

the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

24. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals.

25. No modifications of the terms of this Order shall be effective until reduced to writing and executed by Respondents and the Department.


26. Copies of Department rules referenced in this Order may be examined at any Department Office or may be obtained by written request to the District Office referenced above.

The rules referenced in this Order are also available at:

<https://floridadep.gov/ogc/ogc/content/rules>.

FOR THE RESPONDENT PBP HOMES:

10/3/23
DATE


Jeffrey Rabacchi
President
PBP Homes, Inc.

FOR THE RESPONDENT MAHON:

10-5-23
DATE


William T. Mahon
Property Owner

[THIS SPACE INTENTIONALLY LEFT BLANK]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this 10th day of October 2023 in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



 Gregory J. Strong
District Director

Filed, on this date, pursuant to Section 120.52, Fla. Stat., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

October 10, 2023

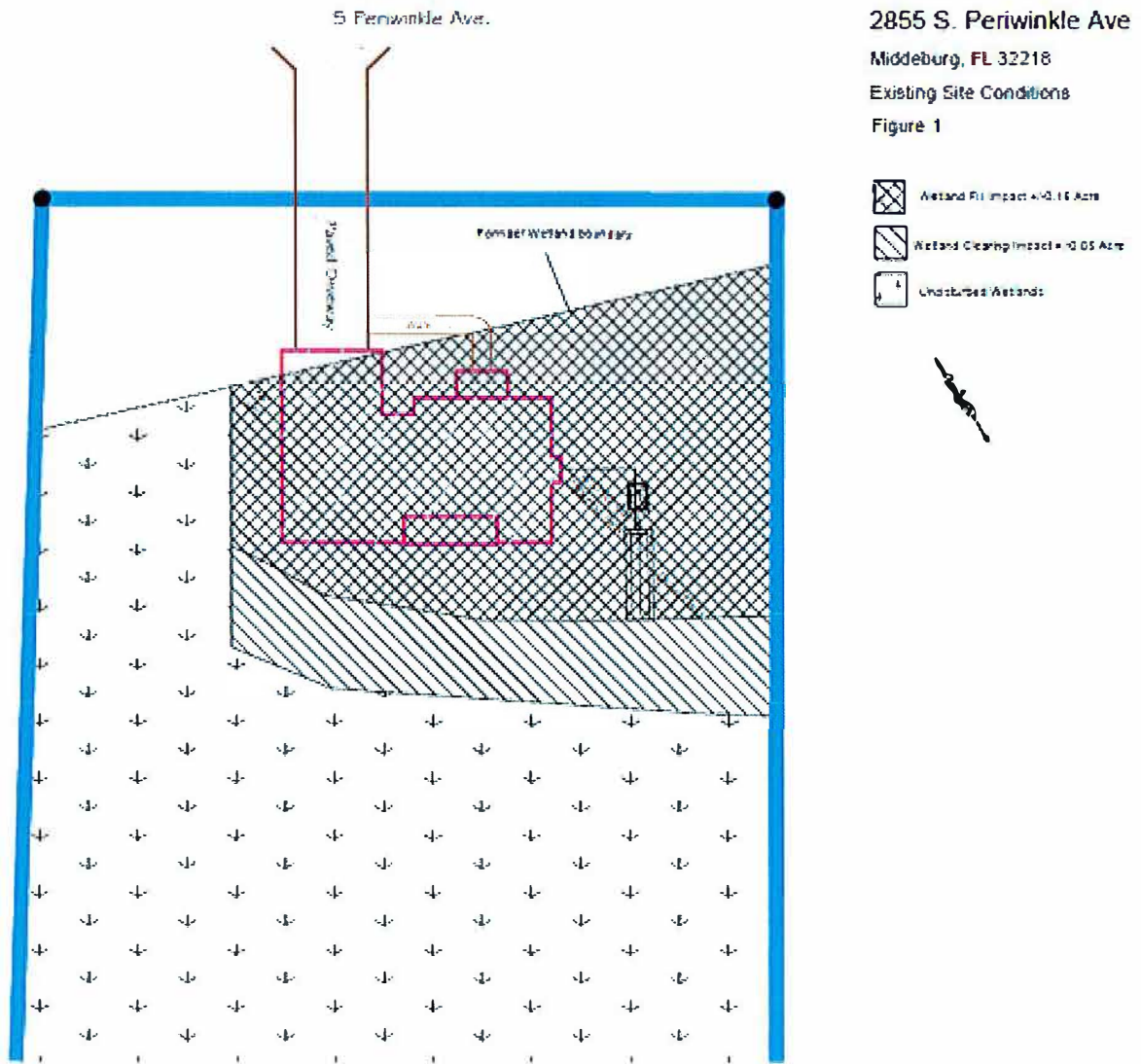
Date

ec: FDEP-OGC: Lea Crandall, Agency Clerk, FDEP-NED.

EXHIBIT A

WETLANDS IMPACTS

PBP Homes/William Mahon Property
2855 SOUTH PERIWINKLE AVENUE
MIDDLEBURG, FLORIDA 32068



This map is for informational purpose and it does not bind the Department, its agents or employees, nor does it convey any legal rights expressly or implied



Created by: Brian Spahr
Date: August 8, 2022