



FLORIDA DEPARTMENT OF Environmental Protection

South District
PO Box 2549
Fort Myers FL 33902-2549
SouthDistrict@FloridaDEP.gov

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

October 31, 2023

R & K Lee Co. d/b/a Coastline Boat Lift Covers LLC.
c/o Keegan Weeks
6420 Topaz Ct Unit 2
Fort Myers, FL 33966
coastlineblc@gmail.com

Re: Consent Order
OGC Case No. 23-1218
Site 385596 / Project 410768
Man-Made Canal, Class III Florida Waters
Parcel No. 402227377006 – 140 Graham St SE Port Charlotte, FL 33952
Charlotte County – SLERC

Dear Keegan Weeks:

Enclosed is the signed and entered Consent Order, OGC No. 23-1218, to resolve this case. This copy is for your records. Please note that all compliance dates for the Consent Order begin on the date of entry, which is October 31, 2023. Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

All payments required by the Consent Order should be a cashier's check/money order or paid online via the DEP Business Portal at <http://www.fldepportal.com/go/pay/>. Also, any document submittals may be mailed to the above address or for your convenience can be sent to our email mailbox at ftmerp_compliance@dep.state.fl.us.

If you have any questions, please contact Alexandria Martinez by email at Alexandria.N.Martinez@FloridaDEP.gov or by phone at 239-344-5629. Your cooperation in resolving this case is appreciated. Your cooperation in resolving this case is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer L. Carpenter".

Jennifer L. Carpenter
Director of District Management
South District Office
Florida Department of Environmental Protection

JLC/ AM

Enclosure(s): Executed consent order with attachments
cc: Robert & Lynn Keenan, lifonthewater@msn.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,)	IN THE OFFICE OF THE SOUTH DISTRICT
)	
Complainant,)	
)	
vs.)	OGC FILE NO. 23-1218
)	
ROBERT KEENAN, LYNN KEENAN, KEEGAN WEEKS, and R & K LEE CO.,)	
)	
Respondents.)	
<hr style="width: 100%;"/>)	

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department"), and Robert Keenan, Lynn Keenan, Keegan Weeks, and R & K Lee Co., ("Respondents") to reach settlement of certain matters at issue between the Department and Respondents.

The Department finds, and the 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, Florida Statutes, and the rules promulgated and authorized thereunder, Title 62, Florida Administrative Code. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondents are persons within the meaning of Section 373.019(15), F.S

3. Respondent Robert Keenan and Respondent Lynn Keenan are the owners of property located at 140 Graham St SE, Port Charlotte, FL 33952, Parcel ID No. 402227377006, Section 27, Township 40, Range 22, Charlotte County, Florida (Property).

4. Respondent R & K Lee Co. is a Florida profit corporation, doing business as Coastline Boat Lift Covers. Respondent R & K Lee Co.'s principal place of business is located at 6201 Arc Way Fort Myers, FL 33966. Respondent Keegan Weeks is the president of R & K Lee Co. Respondent Robert Keenan hired Respondent R & K Lee Co. to construct a boatlift canopy

at the Property. Respondent R & K Lee Co. conducted the activities described in paragraphs 5-7 below.

5. On May 13, 2022, Respondent Keegan Weeks used the Department's electronic Self-Certification application, on behalf of Respondent Robert Keenan (File No. 0420966-001EE), to certify compliance with the terms and conditions of an exempt single-family dock project at private, single-family residence at the Property.

6. On April 25, 2023, Department staff conducted a site inspection at the Property in response to the Self-Certification File No. 0420966-001EE. Department staff observed two docks, two boatlifts (one boatlift had a canopy cover), two floating docks, and a seawall. The total overwater surface area of the docking facility was measured to be approximately 1,249 square feet. The activity was conducted on the above-described property within the landward extent of a canal, a Class III waterbody of the State, as defined by Florida Law.

7. The Department finds that the Respondents violated Section 373.430 F.S. and Rule 62-330.020(2), F.A.C., which requires that an Environmental Resource Permit be obtained prior to construction of a private dock with more than 1,000 square feet of overwater surface area. The activity was conducted on the above-described property within the landward extent of a canal, a Class III Waters of the State, as defined by Florida Law.

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

ORDERED:

8. **Within 30 days of the effective date of this Consent Order, Respondent R&K Lee Co. shall pay the Department \$8,420.00 in settlement of the regulatory matters addressed in this Consent Order.** This amount includes \$7,500.00 for violation of Section 373.430(1)(b), F.S. and Rule 62-330.020, F.A.C., \$420.00 for permit recovery fees, and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Respondent R&K Lee Co. shall make all payments required by this Consent Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the Department of Environmental Protection, mailed to Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549, and shall include both the OGC number assigned to

this Consent Order, which is 23-1218, and the notation “Water Quality Assurance Trust Fund.” Online payments by e-check can be made by going to the DEP Business Portal at <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

10 Respondents shall not conduct any dredging, filling, or construction activities on or within the landward extend 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 the Departments permitting requirements; nor shall Respondents conduct any activities on state-owned lands below the ordinary or mean high water lines without first obtaining a lease, easement, or other consent of use from the Department.

14. This Consent Order includes regulatory authorization (under the Individual Permit described in Rule 62-330, F.A.C.) for the construction of and the ability to operate and maintain a 1,238 square foot docking facility as depicted in Exhibit A, attached. This Consent Order constitutes a water quality certification under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

a. All conditions shall be adhered to in Attachment I attached hereto and incorporated herein.

b. All conditions in Attachment I shall continue in perpetuity even as the corrective actions required in this consent order have been satisfied and the case administratively closed.

15. If any event, including administrative or judicial challenges by third parties unrelated to the Respondents, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondents shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the 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 agent (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 occurrence of an event causing 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 calendar 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 intends 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 agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondents to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondents' rights to request an extension of time for compliance with the requirements of this Consent Order.

9. 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 Consent Order and the rules and statutes of the Department.

10. Entry of this Consent Order does not relieve Respondents of the need to comply with applicable federal, state or local laws, regulations or ordinances.

11. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 373.129, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 373.430, Florida Statutes.

12. Respondents are fully aware that a violation of the terms of this Consent Order may subject Respondents to judicial imposition of damages, civil penalties of up to \$10,000 per day per violation and criminal penalties.

13. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, 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, 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, Florida Statutes.

The petition shall contain the following information:

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

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, 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 include the Respondents, 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 Consent 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, 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; and
- (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.

(h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, 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, Florida Statutes, 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.

14. 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 Consent Order.

15. The Department, for and in consideration of the complete and timely performance by Respondents of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations addressed in this Consent Order.

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

17. 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. No modifications of the

terms of this Consent Order shall be effective until reduced to writing and executed by both Respondents and the Department.

18. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549. Online e-check payment can be made by going to the DEP Business Portal at <http://www.fldepportal.com/go/pay/>.

19. In the event of a sale or conveyance of the property, if all of the requirements of this Consent Order have not been fully satisfied, Respondents shall, at least 30 days prior to the sale or conveyance of the property, (1) notify the Department of such sale or conveyance and (2) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the property shall not relieve the Respondents of the obligations imposed in this Consent Order.

20. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent 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.

21. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, 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, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

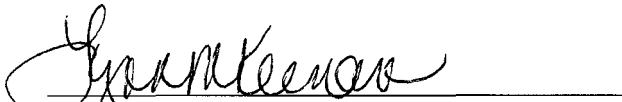
22. The undersigned certifies that as a corporate officer/member of R & K Lee Co. he/she is authorized and empowered to negotiate, enter into and execute, in the name and on behalf of the Respondent, R & K Lee Co., any agreements, documents, instruments, certificates, including and without limitation, this Consent Order entered into between Respondent and the State of Florida Department of Environmental Protection.

FOR THE RESPONDENT ROBERT KEENAN:


Robert Keenan

10/17/23
Date

FOR THE RESPONDENT LYNN KEENAN:



Lynn Keenan

10/17/2023
Date

[This portion intentionally left blank.]

3/17/23


FOR THE RESPONDENT R & K LEE CO.:



Keegan Weeks, President
R & K Lee Co. d/b/a Coastline Boat Lift Covers

10-31-23
Date

FOR THE RESPONDENT KEEGAN WEEKS:



Keegan Weeks

10-31-23
Date

[This portion intentionally left blank.]

Please do not write below this line. For DEP use only.

DONE AND ORDERED this 31st day of October,
2023, in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jennifer L. Carpenter
Director of District Management
South District Office
Florida Department of Environmental Protection

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



Clerk

October 31, 2023

Date

Final Clerked furnished copies:

cc: Lea Crandall, Agency Clerk [agency_clerk@dep.state.fl.us]

RECEIVED

OCT 24 2023

D.E.P. South District

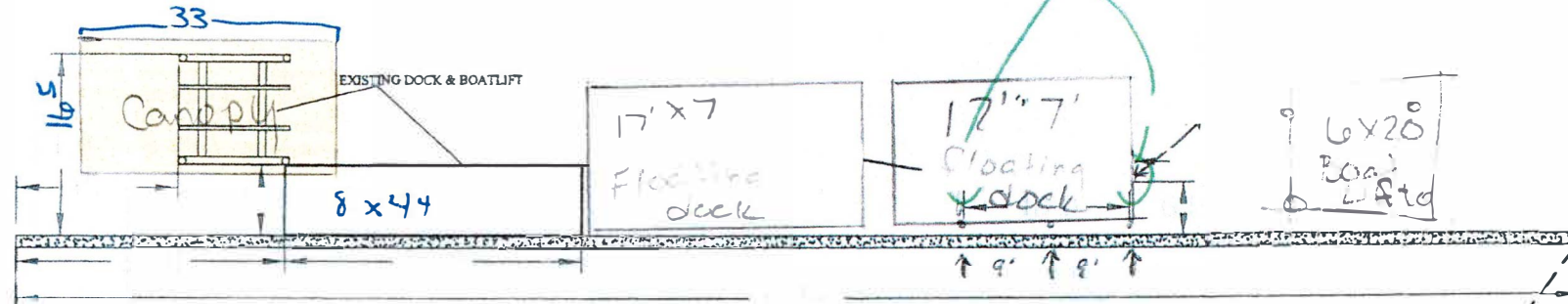


Exhibit A
 OGC No. 23-1218
 Pg 1 of 1

ALPINE WATERWAY
 120' WATER WIDTH

Permit # 2021 0725957

Canopy	528 square feet
Floating docks	238 square feet
North dock	352 square feet
South dock	120 square feet
Total	1,238 square feet



140 GRAHAM ST
 LOT 228
 BLOCK 1175
 PCH 43

P/L

P/L

8" X 20' PILING

ATTACHMENT I
OGC Case No. 23-1218
GENERAL CONDITIONS

The following general conditions are binding on all Consent Orders authorizing activities that would have required an individual permit issued under this chapter, except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

Conditions for all Authorized Activities

1. Respondents Robert Keenan and Lynn Keenan must maintain the activity authorized by this Consent Order in good condition and in conformance with the terms and conditions of this Consent Order. Respondents Robert Keenan and Lynn Keenan are not relieved of this requirement if they abandon the authorized activity, although Respondents Robert Keenan and Lynn Keenan may make a good faith transfer to a third party in compliance with Paragraph 11 below. Should Respondents Robert Keenan and Lynn Keenan wish to cease to maintain the authorized activity or desire to abandon it without a good faith transfer, Respondent must obtain a permit from this office, which may require restoration of the area.
2. If Respondents Robert Keenan and Lynn Keenan discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this Consent Order, they must immediately notify this office of what they have found. The Department will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
3. If a conditioned water quality certification has been issued for the project, Respondents Robert Keenan and Lynn Keenan must comply with the conditions specified in the certification as special conditions to this Consent Order.
4. Reliance on Respondents Robert Keenan and Lynn Keenan's Data: The determination of this office that issuance of this Consent Order is not contrary to the public interest was made in reliance on the information provided by Respondents Robert Keenan and Lynn Keenan.
5. Reevaluation of Consent Order Decision: This office may reevaluate its decision on this Consent Order at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. Respondents Robert Keenan and Lynn Keenan's failure to comply with the terms and conditions of this Consent Order.
 - b. The information provided by Respondents Robert Keenan and Lynn Keenan in support of your Consent Order settlement proves to have been false, incomplete, or inaccurate.
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Individual Authorization Conditions

6. All activities shall be implemented following the plans, specifications and performance criteria approved by this Consent Order.

7. Unless the Consent Order is transferred under rule 62-330.340, Florida Administrative Code, or transferred to an operating entity under rule 62-330.310, Florida Administrative Code, Respondents Robert Keenan and Lynn Keenan are liable to comply with the plans, terms, and conditions of the Consent Order for the life of the project or activity.
8. Respondents Robert Keenan and Lynn Keenan shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the authorized activity, and any required permit to conduct new work outside of the work authorized in this Consent Order must be obtained prior to implementing the changes.
9. This Consent Order does not:
 - a. Convey to Respondents Robert Keenan and Lynn Keenan any property rights or privileges, or any other rights or privileges other than those specified herein or in chapter 62-330, Florida Administrative Code;
 - b. Convey to Respondents Robert Keenan and Lynn Keenan or create in Respondents Robert Keenan and Lynn Keenan any interest in real property;
 - c. Relieve Respondents Robert Keenan and Lynn Keenan from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
 - d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by Respondents Robert Keenan and Lynn Keenan.
10. Respondents Robert Keenan and Lynn Keenan shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the Consent Order.
11. Respondents Robert Keenan and Lynn Keenan shall notify the Agency in writing:
 - a. Immediately if any previously submitted information is discovered to be inaccurate; and
 - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the Consent Order in accordance with rule 62-330.340, Florida Administrative Code. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
12. Upon reasonable notice to Respondents Robert Keenan and Lynn Keenan, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the Consent Order.
13. If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement

are encountered at any time within the project site area, the authorized project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. Respondents Robert Keenan and Lynn Keenan or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, Fla. Stat. For project activities subject to prior consultation with the DHR and as an alternative to the above requirements, Respondents Robert Keenan and Lynn Keenan may follow procedures for unanticipated discoveries as set forth within a cultural resources assessment survey determined complete and sufficient by DHR and included as a specific Consent Order condition herein.

14. Any delineation of the extent of a wetland or other surface water submitted as part of the Consent Order authorization, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this Consent Order or a formal determination under rule 62-330.201, Florida Administrative Code, provides otherwise.

15. This Consent Order is issued based on Respondents Robert Keenan and Lynn Keenan's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed authorized activity. If any adverse impacts result, the Agency will require Respondents Robert Keenan and Lynn Keenan to eliminate the cause, obtain any necessary permits or permit modifications, and take any necessary corrective actions to resolve the adverse impacts.

16. A Recorded Notice of Consent Order may be recorded in the county public records in accordance with subsection 62-330.090(7), Florida Administrative Code. Such notice is not an encumbrance upon the property.

17. In addition to those general conditions above, the Agency shall impose any additional project-specific special conditions necessary to assure the authorized activities will not be harmful to the water resources, as set forth in rules 62-330.301 and 62-330.302, Florida Administrative Code, Volumes I and II, as applicable, and the rules incorporated by reference in this chapter.