



FLORIDA DEPARTMENT OF Environmental Protection

Southwest District
13051 North Telecom Parkway, Suite 101
Temple Terrace, FL 33637-0926

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Interim Secretary

June 22, 2021

Trent Goss
Woodland Lakes Mobile Home Community, LLC
10912 N 56th Street
Temple Terrace, FL 33617
t.goss@yahoo.com

Re: Executed Consent Order OGC File No. 21-0385
Woodland Lakes Mobile Home Park
ERP Site No. 395678, BOT No. 530359553
Polk County

Dear Mr. Goss:

Enclosed please find the executed Consent Order OGC No. 21-0385 regarding the above referenced facility. The effective date of the Consent Order is the filing date entered by the designated Department Clerk on the signature page. Please be aware of the conditions of this Order per paragraph 10 through 15.

For inquiries, you may contact Hannah Westervelt at 813-470-5752 or by email at Hannah.Westervelt@floridadep.gov.

Sincerely,

A handwritten signature in blue ink that reads "Kelley M. Boatwright".

Kelley M. Boatwright
Southwest District Director
Florida Department of Environmental Protection

Enclosure: Executed Consent Order OGC File No. 21-0385

ec: Alexis Black, DEP – Southwest District, Alexis.Black@floridadep.gov
Hannah Westervelt, DEP – Southwest District, Hannah.Westervelt@floridadep.gov
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Jason Alligood, Kimley-Horn, Jason.Alligood@kimley-horn.com

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND BOARD OF TRUSTEES OF
THE
INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTHWEST DISTRICT
and BOARD OF TRUSTEES OF THE)	
INTERNAL IMPROVEMENT TRUST FUND)	
OF THE STATE OF FLORIDA,)	
)	
)	
vs.)	OGC FILE NO. 21-0385
)	
WOODLAND LAKES MOBILE HOME)	
COMMUNITY, LLC.)	
)	
)	
)	
)	

CONSENT ORDER and TEMPORARY USE AGREEMENT

This Consent Order and Temporary Use Agreement (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (Board), as complainants, and Woodland Lakes Mobile Home Community, LLC (Respondent) to reach settlement of certain matters at issue between the Department, the Board and Respondent.

The Department and the Board finds and the Respondent admits 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 Order.

2. The Board is responsible for overseeing state lands and ensuring they are managed in trust for the citizens of the State of Florida pursuant to chapter 253, Florida Statutes, and title 18, Florida Administrative Code. The Department has the duty to perform all staff duties and functions related to the administration of state lands as provided in section 253.002, Florida Statutes.

3. Respondent is a person within the meaning of sections 253.04 and 373.019(15), Florida Statutes.

4. Respondent is the owner of real property located at 1901 U.S. Highway 17/92 West, Haines City, Polk County, Florida 33844.

5. The Department and the Board find that the Respondent violated rules 62-330.020(2)(a) and 18-21.005(1)(d), Florida Administrative Code, respectively. A file review by Department personnel on November 20, 2020 revealed that 19 structures, totaling approximately 13,472 square feet, were constructed on sovereign submerged state lands (Sovereign Lands) without a valid permit from the Department and a valid sovereignty submerged lands lease (Proprietary Authorization) from the Board to use Sovereign Lands. The above described activities were conducted on these Sovereign Lands within the landward extent of Lake Haines and its contiguous wetlands, waters of the state, as defined by Florida Law, adjacent to Respondent's riparian upland real property.

6. Respondent desires to enter into this Order to resolve these violations and to use the Sovereign Lands and water column adjacent to the Respondent's riparian upland real property described in paragraph 4 of this Order.

7. Respondent desires to obtain Proprietary Authorization from the Board to maintain and use the structures located on the Sovereign Lands as depicted in Exhibit "A".

8. The parties acknowledge that the application, approval and issuance of Proprietary Authorization to use the Sovereign Lands may require a time period of several months.

9. The Respondent desires to have the temporary use of the structures located on Sovereign Lands during the processing and review of the Respondent's application for Proprietary Authorization to use the Sovereign Lands.

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

ORDERED:

10. Respondent shall submit a complete application for Proprietary Authorization to use the Sovereign Lands to the Board within **90 days** of the effective date of this Order for the Sovereign Lands identified above.

11. Within **90 days** of the effective date of this Order, Respondent shall use best management practices to remove the freestanding metal boat lift, the freestanding covered

structure, and Dock 13 from sovereign submerged lands, as represented by Exhibits "B" and "C", respectively. Respondent shall protect all wetland areas or water bodies which are outside the specific limits of construction from erosion, siltation, scouring, excess turbidity, or dewatering. Turbidity curtains and other such erosion/turbidity control devices shall be installed pursuant to Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual, Fourth Impression – October 2002, website address:

<http://www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf>, prior to the commencement of dredging, filling, or construction activity. The devices shall remain functional at all times and shall be maintained on a regular basis. Turbidity and/or sedimentation resulting from any activities associated with the project shall not be allowed to enter waters of the State. Floating turbidity curtains (FDOT Type II or equivalent) shall be used to surround all open water work areas and shall remain in place until such time as turbidity levels within these work areas have reduced sufficiently so as not to exceed the State water quality standards.

12. In the event that an application for Proprietary Authorization to use the Sovereign Lands is not approved by the Board, or the Respondent fails to execute the Lease prior to the expiration or termination of the temporary use agreement, whichever occurs first, the Respondent shall remove all structures referenced herein from the Sovereign Lands at the Respondent's sole expense. In the event that the Respondent asserts title to the Sovereign Lands identified above, and either the Respondent fails to timely submit the information concerning title as required herein, or the Board denies the Respondent's claim of title and the Respondent has not commenced an action to quiet title as specified herein, the Respondent shall remove all structures referenced herein from the Sovereign Lands at the Respondent's sole expense. In the event that the Respondent fails to complete the requirements of paragraph 10 of this Order, the Respondent shall remove all structures referenced herein from the Sovereign Lands at the Respondent's sole expense. The complete removal of the structures as required by this paragraph shall be accomplished within 180 days following the expiration or termination of the temporary use agreement, whichever occurs first.

14. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 10 through 12 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order. Within 30 days of written demand from the

Department, Respondent shall make payment of the appropriate stipulated penalties to the "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 15 of this Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Order in an amount greater than the stipulated penalties due under this paragraph.

15. Within **30 days** of the effective date of this Order, Respondent shall pay the Board \$13,330.07 for deposit into the Internal Improvement Trust Fund as compensation for the past and current use of the Sovereign Lands without the approval or authorization of the Board. Such payment, which shall be in the form of a cashier's check, certified check, or money order payable to the Department of Environmental Protection shall be delivered to the Board's Accounting Office, Post Office Box 3070, Tallahassee, Florida 32315-3070. The invoice is included and referenced as Attachment A.

16. The consideration paid for this Order includes the fees due for the use of the Sovereign Lands from November 20, 2016 through November 20, 2021. This consideration is not refundable, notwithstanding the denial of Proprietary Authorization to use the Sovereign Lands by the Board.

17. The Respondent acknowledges that the fees assessed for the Proprietary Authorization to use the Sovereign Lands in this Order after March 1, 2021 are an estimate created using the base rate of \$0.1864 per square foot fee from the 2021-2022 billing cycle times the approximate square footage of the lands preempted by the structures. A supplemental invoice will be generated and issued to the Respondent at the time of lease execution that accounts for any difference in lease fees owed for the new per square foot fee established on March 1, 2021 which is based on changes in the consumer price index, pursuant to rule 18-21.011(1)(b), Florida Administrative Code, and changes in the square footage of the preempted area based on a survey supplied by the Respondent pursuant to Respondent's application for Proprietary Authorization to use the Sovereign Lands, and the Respondent hereby agrees to pay the full amount of any

additional fees owed to the Board due to these changes within 30 days of the receipt of the supplemental invoice.

18. **The Respondent acknowledges and understands that the grant of this Order and the payment of the amount herein does not guarantee that the Board will grant the Respondent a Proprietary Authorization to use the Sovereign Lands or that the Department of Environmental Protection will recommend that the appropriate form of Proprietary Authorization be granted.**

19. The Respondent is hereby granted the temporary exclusive use of the structures located on the Sovereign Lands identified above, consisting of approximately 13,472 square feet, waterward of Respondent's riparian upland real property described above in paragraph 4. This temporary exclusive use is for a term not to exceed one year from the effective date of this Order, or until the date of execution of Proprietary Authorization to use the Sovereign Lands between the Board and the Respondent, whichever occurs first. The Respondent shall make no claim of title to or interest in the Sovereign Lands identified above solely by reason of occupancy or use thereof under this Order.

20. The existing structures can only be utilized as they were on the effective date of this Order. In the event any part of any of these structures is determined by a final adjudication issued by a court of competent jurisdiction to encroach or interfere with riparian rights of the adjacent upland riparian owner, Respondent agrees to either obtain written consent for the offending structure from the affected adjacent upland riparian owner or remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this Order and be grounds for immediate termination of this Order at the sole option of the Board.

21. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, 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 Respondent, 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, Respondent shall notify the Department and the Board orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department and the Board, notify the Department and the Board 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 Respondent 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 Respondent, 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 Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Order.

22. Respondent shall allow all authorized representatives of the Department and the Board access to the Respondent's riparian upland property and the Sovereignty Lands at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes of the Department and the Board.

23. Respondent shall not conduct any dredging, filling, or construction activities on or within 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; nor shall Respondent conduct any activities on state lands below the ordinary or mean high water line without first obtaining the appropriate form of Proprietary Authorization to use the Sovereign Lands from the Board.

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

25. Respondent shall save and hold harmless and indemnify the Board, the Department, and the State of Florida against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of, any person or persons and for loss or damage to any property arising out of or connected with Respondent's occupation and use of the Sovereignty Lands and the structures or activities located thereon. By execution of this Order,

Respondent waives any claim it may have against the Department or the Board concerning the Sovereign Lands.

26. 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 and 373.129, Florida Statutes. Failure to comply with the terms of this Order shall constitute a violation of sections 253.04 and 373.430, Florida Statutes.

27. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$15,000 per day per violation and criminal penalties.

28. The Department and the Board hereby expressly reserve 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.

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

30. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes, on the terms of this Order. Respondent acknowledges its right to appeal the terms of this Order pursuant to section 120.68, Florida Statutes, and waives that right upon signing this Order.

31. 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 Order shall be effective until reduced to writing and executed by both Respondent, the Department, and the Board.

32. In the event of a sale or conveyance of the Respondent's riparian upland property, if all of the requirements of this Order have not been fully satisfied, Respondent 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 Order with all attachments to the new owner. The sale or conveyance of the property shall not relieve the Respondent of the obligations imposed in this Order. Further, this Order and any rights and privileges contained herein, are for the sole benefit and use of the Respondent and shall not be assigned or transferred by the Respondent to any other

party without the prior written consent of the Department and the Board, which consent shall not be unreasonably withheld.

33. The terms of this Order pertaining to the Respondent's use of the Sovereign Lands may be enforced by the Board notwithstanding that the proprietary authorization granted hereunder has expired.

34. Unless otherwise specified, all submittals and payments required by this Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, **Attn: Hannah Westervelt, Environmental Manager, 13051 North Telecom Parkway, Suite 101, Temple Terrace, FL 33637.**

35. This Order is a settlement of the Department's and the Board'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.

36. This Order is a final order 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 Order will not be effective until further order.

NOTE: The Board's actions relating to Proprietary requirements contained in this Consent Order are not subject to challenge under Chapter 120, Florida Statutes. Any litigation involving these Proprietary requirements shall be initiated and maintained only in Leon County.

37. Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Consent Order;


- 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) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- g) A statement of the 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.

The petition 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 at 13051 North Telecom Parkway, Suite 101, Temple Terrace, FL 33647. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Florida Administrative Code Rule 62-110.106(12).

38. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelist.htm>


FOR THE RESPONDENT:

8th Jun 2021
DATE


Trent Goss
(Title) Owner

DONE AND ORDERED this 22^{AB} day of June^{AB}, 2021, in Hillsborough^{AB}, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Kelley Boatwright
Assistant District Director
Southwest District

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

Rhonda Hughes
Clerk

June 22, 2021
Date

BOARD OF TRUSTEES OF THE
INTERNAL
IMPROVEMENT TRUST FUND OF THE
STATE OF FLORIDA

By: Kelley M. Boatwright
Mary E. Yeagan Kelley M. Boatwright AB
Southwest District Director

cc: Lea Crandall, Agency Clerk, Lea.Crandall@floridadep.gov

EXHIBIT "A"



EXHIBIT "B"

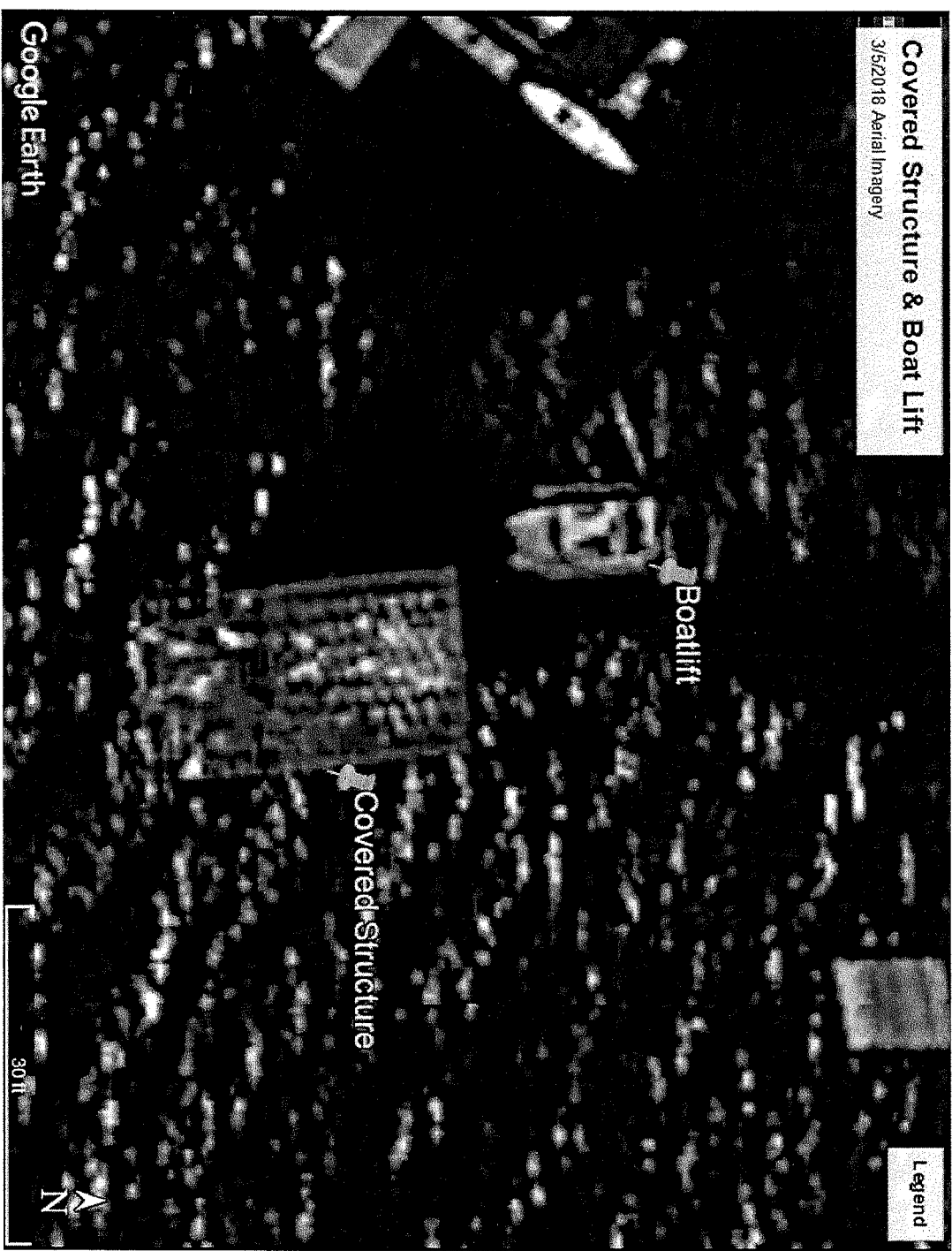


EXHIBIT "C"

