

May 10, 2021

Shawn Hamilton
Deputy Secretary for Land and Recreation
Florida Department of Environmental Protection
3900 Commonwealth Blvd MS44
Tallahassee, FL 32399

Via Email

Dear Mr Hamilton:

For decades my family and several other boating families we know as friends have used the south public dock at the Narrows on Cayo Costa. Much of the dock was destroyed by Hurricane Charlie, but it was still usable as an access point. The dock had always been used lightly, but when it is used it is a treasure to us because all the other bayside docks are on private property. When the wind has a westerly component the waves can be quite large making the beachfront not safely accessible. It is days like these that the public dock allows us to enjoy Cayo Costa. I taught both of my young daughters to surf on exactly such days with my flats skiff safely anchored bayside at the south public dock. Without that access this wouldn't have been possible.

In early 2016 my family arrived, surf boards on board our flats boat and a west wind blowing, to find that the former dock was completely reconstructed including a large locked door. I have since learned that a private company, with approval of the Florida Department of Environmental Protection, had closed this public access point to the public unless you pay that company to use their vessel service to dock at the former public dock. How could historic public access to public lands be limited to one private company while the rest of the public is shut out with no notice or opportunity for public input? The boating public is clearly a large stakeholder in this important access point and had been completely ignored. Further, one private company had been given exclusive use to a very valuable taxpayer property which makes no sense.

Now years have passed and I've observed a new issue. My small flats skiff results in no impact to the ecology of the area with my family's use, yet the tour boats that got exclusive use without the public being notified have altered the local ecology of the immediate area significantly by prop dredging a giant hole in the former bottom. Those boats do not belong in the shallow sensitive bay, small family skiffs do! The large vessels were impacting the shallow bay over a very short period of time after decades of public boater use resulted in no environmental impact. Aerial imagery clearly shows this to be the case.

As a civil engineer I did some further regulatory and permitting related discovery. It seems the Army Corp of Engineers authorized the "installation of three 8" diameter pilings" and the "reframing and re-decking of 640 square feet of an existing boardwalk structure." South Florida Water Management District issued an exemption from an Environmental Resource Permit for the "replacement or repair of existing docks and piers, including mooring piles, provided the existing structure is still functional or has been rendered non-functional within the last year by a discrete event such as storm, flood, accident, or fire." The Florida Statute cited is 403.813(1)(d) and it requires the dock to "be in the same location and of the same configuration and dimensions as the dock or pier being repaired."

It seems the permittee, the State of Florida Board of Trustees of the Internal Improvement Trust Fund, was either unaware of the conditions of the former dock or purposely misled the permitting entities. The end dock boat landing has not existed since Friday the 13th of August 2004 when Hurricane Charley's category 4 eyewalls crossed at the Narrows. Over the years after as mentioned above, the former boardwalk deteriorated to an overgrown trail consisting of pieces of the former dock, muck, and a few concrete blocks that had mysteriously appeared. Further, over that 11-year time the mangroves had done much to retake their former claim to the trail as the trail was barely passable in some locations. The above statute requires that no aquatic plants or native trees be removed.

An inspection of the new facility reveals that none of the old dock remains. A new bulkhead extends into the bay where none existed. Just the bulkhead itself includes 4 driven piles and 2 new mooring piles when only three were permitted by the ACOE in total. All of the deck and framing are new including many more piling. Mangroves, our most important native aquatic vegetation, were extensively cleared for the new boardwalk. All the work was performed 11 years after the

former “discrete event such as storm, flood, accident, or fire” with the name Hurricane Charley, occurred. SFWMD clearly describes their granted ERP exception as within one year, the construction was 10 years after any such exception should have existed. I have not researched the penalties that would be imposed if a private owner or contractor were to flout Florida Statutes so flagrantly, but it is safe to say they would be significant.

In summation, it appears a private entity is using publicly owned land as its own private access point as a revenue source while making every effort to shut out the public from the use of our public property. They are doing so after constructing a dock and boardwalk facility that circumvented the federal, state, and county permitting process. They are continuing to add piling (two more have appeared for mooring large vessels) to the facility with no permitting and are actively prop dredging the area for deeper access for large vessels where none historically existed. And, most amazingly, they have done all of the above with the apparent approval and participation of the FDEP, the agency that regulates submerged public land use and the permitting of such use. This whole situation reeks of governmental abuse of power and back door deals that used to be common, but I thought were a relic of the worst of the old days. I generally believe the State of Florida is privileged to have good government and this is very bad government. I urge the return of the south public dock to its historic decades-long family-level light usage without restriction.

Sincerely

Kevin Shimp

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