



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
1520 ROYAL PALM SQUARE BLVD, SUITE 310
FORT MYERS, FLORIDA 33919

February 26, 2024

REPLY TO
ATTENTION OF

Regulatory Division
West Permits Branch
Fort Myers Permits Section
SAJ-2024-00188 (NW-MLT)

Peter Winton
Assistant County Manager
Lee County Board of County Commissioners
2120 Main Street, Fort Myers, Florida 33901
jmalo@leegov.com (Josh Malo, MSTBU Coordinator)

Dear Mr. Winton:

The U.S. Army Corps of Engineers (Corps) assigned your application for a Department of the Army permit, which the Corps received on January 17, 2024, the file number SAJ-2024-00188. A review of the information and drawings provided indicates that the proposed project includes the authorization to maintenance dredge a portion of the Sheffield Canal. The total dredging area is 56,600 square feet (1.3 ac.) resulting in removal of 3,300 cubic yards of accumulated sediments to a maximum depth of -5 feet mean low water (MLW). All spoil material will be hauled to an upland location owned by the City of Fort Myers for final disposal. The applicant will use turbidity curtains and Best Management Practices to prevent sedimentation of surrounding waters. The project site is located in the Sheffield Canal adjacent to Whiskey Creek, in Section 10, Township 45 South, Range 24 East, in Fort Myers, Lee County, Florida (Latitude: 26.57488°; Longitude: -81.89634°). These activities are authorized pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC § 403) and Section 404 of the Clean Water Act (33 USC § 1344).

Your project, as depicted on the enclosed drawings, is authorized by Nationwide Permit (NWP) Numbers 35 and 16. In addition, project specific conditions have been enclosed. These NWPs verifications are valid until **March 14, 2026**. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have 12 months from the date of the modification or revocation of the NWPs to complete the activity under the present terms and conditions of this nationwide permit. Please access the U.S. Army Corps of Engineers' (Corps) Jacksonville District's Regulatory Internet page to access Internet links to view the Final Nationwide Permits, Federal Register Vol. 82, dated January 6, 2017, specifically pages 1983 to 2008, and the table of Regional Conditions. The Internet page address is:

<http://www.saj.usace.army.mil/Missions/Regulatory.aspx>

Please be aware this Internet address is case sensitive and should be entered as it appears above. Once there you will need to click on "Source Book"; and, then click on "Nationwide Permits." These files contain the description of the Nationwide Permit authorization, the Nationwide Permit general conditions, and the regional conditions, which apply specifically to this verification for NWP's 16 and 35. Enclosed is a list of the six General Conditions, which apply to all Department of the Army authorizations. You must comply with all of the special and general conditions and any project specific condition of this authorization, or you may be subject to enforcement action. In the event you have not completed construction of your project within the specified time limit, a separate application or re-verification may be required.

The following special conditions are included with this verification:

1. **Reporting Address:** The Permittee shall submit all reports, notifications, documentation, and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:
 - a. For electronic mail (preferred): SAJ-RD-Enforcement@usace.army.mil (not to exceed 15 MB).
 - b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.
- The Permittee shall reference this permit number, SAJ-2024-00188 (NW-MLT), on all submittals.
2. **Commencement Notification:** Within 10 days from the date of initiating the work authorized by this permit the Permittee shall submit a completed "Commencement Notification" Form.
3. **Self-Certification:** Within 60 days of completion of the work authorized by this permit, the permittee shall complete the attached "Self-Certification Statement of Compliance" form and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self- Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.
4. **Assurance of Navigation and Maintenance:** The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the

Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

5. Posting of Permit: The Permittee shall have available and maintain for review a copy of this permit and approved plans at the construction site.

6. Turbidity Barriers: Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend to within 1 foot of the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained until the authorized work has been completed and all suspended and erodible materials have been stabilized. Turbidity barriers shall be removed upon stabilization of the work area.

7. Manatee Conditions: The Permittee shall comply with the “Standard Manatee Conditions for In-Water Work – 2011”. The most recent version of the Manatee Conditions must be utilized.

8. Jacksonville District Programmatic Biological Opinion (JAXBO): Structures and activities authorized under this permit will be constructed and operated in accordance with all applicable PDCs contained in the JAXBO, based on the permitted activity. Failure to comply with applicable PDCs will constitute noncompliance with this permit. In addition, failure to comply with the applicable PDCs, where a take of listed species occurs, would constitute an unauthorized take. The NMFS is the appropriate authority to determine compliance with the Endangered Species Act. The most current version of JAXBO can be accessed at the Jacksonville District Regulatory Division website in the Endangered Species section of the Sourcebook located at:
<http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

JAXBO may be subject to revision at any time. The most recent version of these JAXBO must be utilized during the design and construction of the permitted work.

9. Daylight Hours: All work must be completed during daylight hours.

10. Cultural Resources/ Historic Properties:

a. No structure or work shall adversely affect, impact, or disturb properties listed in the *National Register of Historic Places* (NRHP), or those eligible for inclusion in the NRHP.

b. If, during permitted activities, items that may have historic or archaeological origin are observed the Permittee shall immediately cease all activities adjacent to the discovery that may result in the destruction of these resources and shall prevent his/her employees from further removing, or otherwise damaging, such resources. The applicant shall notify both the Florida Department of State, Division of Historical

Resources, Compliance Review Section at (850)-245-6333 and the Corps, of the observations within the same business day (8 hours). Examples of submerged historical, archaeological or cultural resources include shipwrecks, shipwreck debris fields (such as steam engine parts, or wood planks and beams), anchors, ballast rock, concreted iron objects, concentrations of coal, prehistoric watercraft (such as log "dugouts"), and other evidence of human activity. The materials may be deeply buried in sediment, resting in shallow sediments or above them, or protruding into water. The Corps shall coordinate with the Florida State Historic Preservation Officer (SHPO) to assess the significance of the discovery and devise appropriate actions. Project activities shall not resume without verbal and/or written authorization from the Corps.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition and, if deemed necessary by the SHPO or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend, or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

11. Dredged Material Disposal: The Permittee shall place all dredged material in a self-contained, upland disposal site as noted in the permit. The Permittee shall maintain the upland disposal site to prevent the discharge of dredged material and associated effluent into waters of the United States.

This letter of authorization does not give absolute Federal authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above referenced NWP, please contact Mr. Michael Taylor by telephone at 239-922-3885 or by email at Michael.I.taylor@usace.army.mil.

Thank you for your cooperation with our permit program. The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at <https://regulatory.ops.usace.army.mil/customer-service-survey/>. Please be aware this Internet address is case sensitive, and you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

Sincerely,

A handwritten signature in black ink, appearing to read "M. I. Taylor", written in a cursive style.

Michael Taylor, Project Manager
West Permits Branch

Enclosures:

General Conditions

Department of the Army Permit Transfer Request

Commencement Notification Form

Self-Certification Statement of Compliance

Standard Manatee Conditions for In-Water Work

National Marine Fisheries Service's "General PDCs Applicable to All Projects"

National Marine Fisheries Service's "JAXBO PDC for In-Water Activities"

National Marine Fisheries Service's "JAXBO PDC Activity 3 Dredging"

Project Narrative

Permit Drawings

GENERAL CONDITIONS
33 CFR PART 320-330

1. The time limit for completing the work authorized ends on **March 14, 2026**.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We 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.
4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

PERMIT NUMBER: SAJ-2024-00188 (NW-MLT)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, Post Office Box 4970, Jacksonville, FL 32232-0019.

(TRANSFEREE-SIGNATURE)

(SUBDIVISION)

(DATE)

(LOT)

(BLOCK)

(NAME-PRINTED)

(STREET ADDRESS)

(MAILING ADDRESS)

(CITY, STATE, ZIP CODE)

COMMENCEMENT NOTIFICATION

*Within ten (10) days of initiating the authorized work, submit this form via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-2024-00188 (NW-MLT)

2. **Permittee Information:**

Name: _____

Email: _____

Address: _____

Phone: _____

3. **Construction Start Date:** _____

4. **Contact to Schedule Inspection:**

Name: _____

Email: _____

Phone: _____

Signature of Permittee

Printed Name of Permittee

Date

SELF-CERTIFICATION STATEMENT OF COMPLIANCE

*Within sixty (60) days of completion of the authorized work, submit this form via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, not to exceed 15MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-2024-00188 (NW-MLT)

2. **Permittee Information:** Name: _____

Email: _____

Address: _____

Phone: _____

3. **Date Authorized Work Started:** _____ **Completed:** _____

4. **Contact to Schedule Inspection:** Name: _____

Email: _____

Phone: _____

5. **Description of Authorized Work (e.g. bank stabilization, fill placed within wetlands, docks, dredging, etc.):** _____

6. **Acreage or Square Feet of Impacts to Waters of the United States:** _____

7. **Describe Mitigation completed (if applicable):** _____

8. **Describe any Deviations from Permit (attach drawing(s) depicting the deviations):**

I certify that all work and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

Signature of Permittee

Printed Name of Permittee

Date

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shut down if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.

CAUTION: MANATEE HABITAT

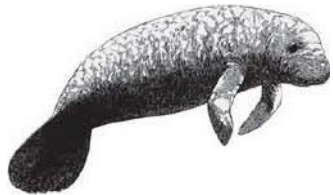
All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work
all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:



Wildlife Alert:

888-404-FWCC (3922)

cell *FWC or #FWC

General PDCs Applicable to All Projects:

AP.1. The applicant must agree to adhere to PDCs for *In-Water Activities* (provided below).

AP.2. All projects involving the installation of piles or sheet piles shall follow the PDCs for *In-Water Noise from Pile and Sheet Pile Installation* (Section 2.2). This Opinion does not cover projects that use seismic surveys, low frequency sonar, explosions, and seismic air guns.

AP.3. All projects proposed in or near areas with mangroves, seagrasses, corals, or hard bottom habitat must refer to PDCs for *Mangroves, Seagrasses, Corals, and Hard Bottom for All Projects* (provided below) to determine whether the project is covered under the Opinion and, if it is covered, to ensure it is sited, designated, and implemented following all of the PDCs in that section.

AP.4. For every project, the USACE must determine if the project is located within:

- Smalltooth sawfish critical habitat limited exclusion zones (Section 2.1.1.1)
- Gulf sturgeon critical habitat migratory restriction zones (Section 2.1.1.2)
- Atlantic sturgeon critical habitat exclusion zone (St. Marys River) (Section 2.1.1.3)
- North Atlantic right whale educational sign zones (Section 2.1.1.4)
- U.S. Caribbean sea turtle critical habitat restriction zones (Section 2.1.1.5)
- Bryde's whale exclusion zone (Section 2.1.1.6)

Where the activity is excluded from the Opinion within a particular zone, the application must be processed under a separate consultation. Where additional restrictions apply to activities within that zone, the USACE or other authorizing entity must ensure that the project meets the requirements for that zone.

AP.5. This Opinion only covers new construction (i.e., installation, repair, replacement) and does not apply to after-the-fact consultations or enforcement actions handled by the USACE.

AP.6. All activities must be completed during daylight hours.

**U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological
Opinion (JaxBO) Project Design Criteria (PDCs) for In-Water Activities**

November 20, 2017

- 1) **(AP.7.) Education and Observation:** The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at:
http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html
- 2) **(AP.8.) Reporting** of interactions with protected species:
 - a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to takereport.nmfs@noaa.gov and SAJ-RD-Enforcement@usace.army.mil.
 - b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email Sawfish@MyFWC.com
 - c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email nmfs.ser.sturgeonnetwork@noaa.gov
 - d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
 - e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.
- 3) **(AP.9.) Vessel Traffic and Construction Equipment:** All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:
 - a) *Construction Equipment:*
 - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
 - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
 - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of

construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.

b) *All Vessels:*

- i) Sea turtles: Maintain a minimum distance of 150 ft.
- ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
- iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
- iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
- v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
- vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
- vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

- 4) **(AP.10.) Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:

- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
- c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
- d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
- e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm

Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):

- i) Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
 - ii) The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cableline). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.
- 5) **(AP.11.) Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.
- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
 - b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

Project Design Criteria

PDCs specific to Activity 3 (maintenance, minor, and muck dredging):

A3.1. Activities covered by this Opinion include:

A3.1.1. Maintenance dredging of existing areas such as canals, channels, basins, berths, marinas, boat slips, and areas around intake and discharge structures. Maintenance dredging will be limited to the depth and width previously authorized by the USACE or other regulatory authority such as FDEP or water management districts. There is no size limit for maintenance dredging so long as it meets the previously authorized depth and width. If the previous authorized depth is unknown, dredging is limited to -7.0 ft MLW including any advanced maintenance or overdredge.

A3.1.2. Minor dredging (non-maintenance) dredging as follows:

A3.1.2.1. For dredging to accommodate vessel mooring at boat slips around docks and marinas, the size is limited to the minimum necessary to accommodate vessel mooring, not to exceed 5,000 ft². The maximum allowed dredging depth (including overdredge) cannot exceed the depth of the adjacent navigational channel (i.e., controlling depth) or a maximum depth of -7 ft MLW. For projects located adjacent to federal channels (not within the dredged navigational channel), the dredging depth can exceed -7 ft MLW so long as it does not exceed the controlling depth of the federal channel.

A3.1.2.2. For treasure hunting and salvage operations that use blowers, propeller deflectors, and suctioning devices, the size is limited to a total of 5,000 ft² and is limited to sandy areas only.

A3.1.2.3. Minor dredging does not include dredging to create new navigational channels.

A3.1.2.4. Minor dredging includes dredging to accommodate the placement of shoreline stabilization, outfall structures; boat ramps; upland cut boat ramps and basins; temporary platforms, fill, and cofferdams; and placement of erosion and scour control-measures. This type of dredging is usually required to embed materials and/or to allow smooth transition of the work to the natural surrounding elevation.

A3.1.3. Muck Dredging, or removing accumulated organic to restore natural habitats and for water quality enhancement, as follows:

A3.1.3.1. Muck dredging cannot be used to increase water depths to support navigation, access, or vessel mooring.

A3.1.3.2. Dredging depths are limited to only that necessary to remove the muck layer down to natural sediments.

The following PDCs apply to all the activities described in PDC A3.1 above:

A3.2. This Opinion does not cover hopper dredging.

- A3.3. With respect to the dredged material, all dredged material must be placed in an USACE-verified upland disposal site, EPA or USACE-designated open water disposal site, USACE Dredged Material Management Area, or USACE-approved beneficial use sites for mitigation or restoration, as long as it meets PDC A3.3.1-A3.3.3 below.
- A3.3.1. The disposal sites shall employ erosion control measures such as upland erosion control, such as filtration or berms, or in-water turbidity curtains.
- A3.3.2. Handling and storage of dredged material must be completed in a manner that prevents sedimentation, erosion, and turbidity during dewatering, overflow, transferring, and storage of the dredged material. For example, the overwater transfer of dredge material should either contain the dredged material and any water to prevent sedimentation or employ other methods, such as turbidity curtains in the marine environment, to ensure that any turbidity generated as the water is returned to the marine environment is contained. If the applicant conducts sediment testing voluntarily or in compliance with other law, and such testing indicates high levels of contaminants in the sediments to be dredged, water from dewatering should not be released back into the marine environment.
- A3.3.3. This Opinion does not cover the use of in-water disposal sites (e.g., beneficial use sites or ocean disposal sites) unless the use of the in-water disposal sites has previously undergone ESA-Section 7 consultation with NMFS for disposal of material at these locations. If the applicant is seeking disposal in an in-water disposal location not previously consulted on by NMFS, then the entire project (both dredging and disposal) must be consulted on separately and is not covered under this Opinion.
- A3.3.4. This Opinion applies to upland disposal of beach quality sand on beaches if placed above the existing MHW, if the grain size analysis indicates that the dredged sand is compatible with the existing beach sand, and if the sand placement does not change the existing waterward extension of the beach. Placement of beach sand on nesting beaches above MHW that may affect ESA-listed species is under the jurisdiction of the USFWS.
- A3.4. This Opinion does not cover dredging within the mapped and authorized federal navigational channels (e.g., ICW, AIWW, GIWW, or harbors [e.g., Port Canaveral]). Dredging outside of the mapped channel in the surrounding waters is covered.

Additional PDCs for Activity 3 applicable in critical habitat:

In addition to the PDCs above, the project must be designed to meet the following PDCs if the project occurs in the critical habitat as described below.

A3.5. Smalltooth sawfish critical habitat:

- A3.5.1. Maintenance dredging of canals in smalltooth sawfish critical habitat is covered under this Opinion as long as it is within the previously authorized dredge footprint and to the previously USACE authorized depth.
- A3.5.2. For minor dredging: If only the shallow euryhaline (MHWL to -3 ft MLLW) water essential feature is present (i.e., no red mangroves), dredged depths are limited to a maximum depth of -3 ft MLLW. If red mangroves are present,

	dredging, excavation, or disposal is not allowed within 5 ft of all red mangrove prop roots.
A3.5.3.	Muck dredging, as defined in PDC A3.1.3, is not allowed in shallow, euryhaline habitat (MHWL to -3 ft MLLW)
A3.5.4.	Dredging and disposal activities are not allowed in areas identified as smalltooth sawfish limited exclusion zones, defined in Section 2.1.1.1.
A3.6.	Gulf sturgeon critical habitat: No treasure hunting or muck dredging is allowed in Gulf sturgeon critical habitat at any time of year. No maintenance or minor dredging is allowed in Gulf sturgeon critical habitat between September and March, when sturgeon are likely to be present in these areas. When allowed, maintenance and minor dredging activities shall be conducted according to the PDCs above for all dredging activities.
A3.7.	<i>Acropora</i> critical habitat and the U.S. Caribbean: This Opinion does not cover dredging (maintenance, minor, or muck) and disposal in <i>Acropora</i> critical habitat where the essential features are present or within the U.S. Caribbean. This Opinion does not cover projects requiring penetrating or removing underlying hard substrate (e.g., bedrock, hardbottom) using any methods including blasting or fracturing. Treasure hunting is not allowed in <i>Acropora</i> critical habitat or the U.S. Caribbean.
A3.8.	Johnson's seagrass critical habitat: Treasure hunting is not allowed in waters less than 12 ft (4 m) deep. Muck dredging is not allowed if the essential features are present. All other dredging is covered if conducted according to the PDCs above for all dredging activities.
A3.9.	U.S. Caribbean sea turtle critical habitat (hawksbill, leatherback, and the NA DPS of green sea turtle critical habitat) and loggerhead sea turtle critical habitat: Dredging consistent with the PDCs above can occur in these critical habitat areas.

Lee County Board of County Commissioners
Sheffield Canal Maintenance Dredging
“Project Description”

Introduction – This is a request by Lee County’s Board of County Commissioners, who propose maintenance dredging of the Sheffield Canal to provide navigational access for two residential subdivisions. Sheffield Canal is a manmade canal, located in Section 10, Township 45 South, Range 24 East, Lee County, Florida. Please note this site is not located within the Smalltooth Sawfish habitat.

The canal was originally created prior to 1944 as a part of the Iona Drainage District. The portion of canal in question was designated as Canal L. Directly to upstream of the proposed dredging is Whiskey Creek Drive, a roadway with a flat bridge deck setting about 6’ above the water. 150’ to the east of Whiskey Creek Drive there exists a weir that controls the drainage for an area of roughly five square miles. The west end of the canal joins Whiskey Creek, a natural body of water. From the confluence of Sheffield Canal and Whiskey Creek, 700’ downstream there is the McGregor Boulevard Bridge and another 700’ downstream is the edge of the Caloosahatchee River. The McGregor Bridge has a vertical clearance of less than 20’ which will restrict barge traffic with equipment. This fact will dictate a methodology that allows for transfer of dredged sediment to the adjacent uplands.

Sovereignty Submerged Lands Lease:

The project is located on a manmade canal, known as Sheffield Canal (fka IDD Canal L), no state lands are involved in this project.

The following is a summary of the proposed work components.

Dredging:

The grand total dredging/excavation area is 56,600 s.f. (1.3 ac.) and 3,300 c.y. to a maximum depth of -5’ MLW. The proposed dredge footprint of the eastern 700’ is approximately 60’ wide, with the western 630’ being 25’ wide. These widths represent the center 50% within the existing canal. The dredging limit will match the existing -5’ MLW depth contour. Please note the following:

- There is no submerged aquatic vegetation in the footprint of the dredging area.
- No mangroves are within the footprint of the dredging area.
- No new slips are proposed.
- Individual boat slips are requested to be authorized for dredging at each owner’s discretion and individual expense.

Construction Methods & Sequencing:

The proposed sequence of work may be altered depending on the Contractors method of construction. This is offered only as an illustration of how the work may be completed and is subject to change depending on the selected Contractor and site conditions. All work is to be completed during daylight hours.



Lee County Board of County Commissioners
Sheffield Canal Maintenance Dredging
"Project Description"

Once the agency authorizations are obtained Lee County will solicit for a dredger. Due to the McGregor Boulevard Bridge downstream, and the Whiskey Creek Drive bridge immediately upstream this request is for both hydraulic and mechanical methodologies. It is anticipated that a small hydraulic system that pumps into a dump truck with a sealed bed containing an internal decanting weir is the most likely method. However, to so as not to preclude a small mechanical system, both methods are being requested. The hydraulic system would have return water going directly back to the dredge footprint within the canal. The mechanical system extracts a minimal amount of water with the sediment, and it is typically allowed to evaporate and percolate out at a Dredged Material Management Area before being transported to the final material placement location.

Dredged sediment once into a dump truck is intended to be transported to property owned by the City of Fort Myers for final placement.

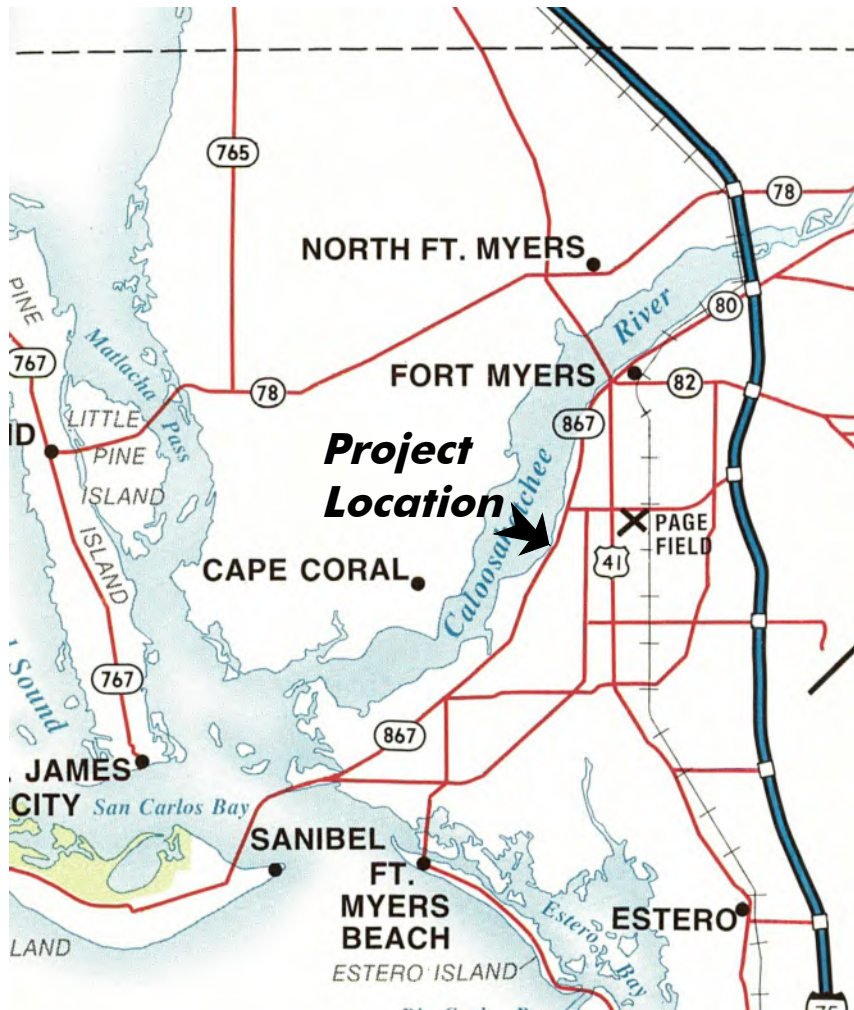
No obstruction to vessel traffic is foreseen during the dredging. If the necessity arises the Contractor will make provisions for navigational access by boaters transiting through the work area.

The Contractor will implement best management practices during all phases of construction to prevent the spread of turbidity outside of the enclosed work area. Turbidity curtains are proposed around the in-water work sites to control turbidity into the waters of the state, and from entering the surrounding water bodies. Turbidity curtains will be used to surround the work being done and are to be advanced as the work advances but not before turbidity levels have subsided below state standards. Turbidity will be visually monitored. Weighted turbidity curtains will be installed around all stages of construction and will be relocated as the work progresses. Turbidity control measures and curtains will be maintained until all construction is complete and all turbidity has subsided to acceptable levels. All turbidity controls shall be inspected daily, and any repairs made immediately prior to construction continuing. Turbidity levels must not exceed 29 NTU's above background.

The applicant agrees to comply with the November 2017 "National Marine Fisheries Service's (NMFS) Recently Issued Final Programmatic Biological Opinion (Referred to as JAXBO) for In-Water Work"; the 2011 "Standard Manatee and Marine Turtle Construction Conditions for In-Water Construction"; and the March 2006 "Sea Turtle and Smalltooth Sawfish Construction Conditions". All applicable work condition information for protected species will be provided to the selected contractor(s).

SECTION: 10
TOWNSHIP: 45 S
RANGE: 24 E

0 2.5mi 5mi
SCALE FEET



Vicinity Map

SCALE: 1" = 5mi

PERMIT PLANS, NOT FOR CONSTRUCTION



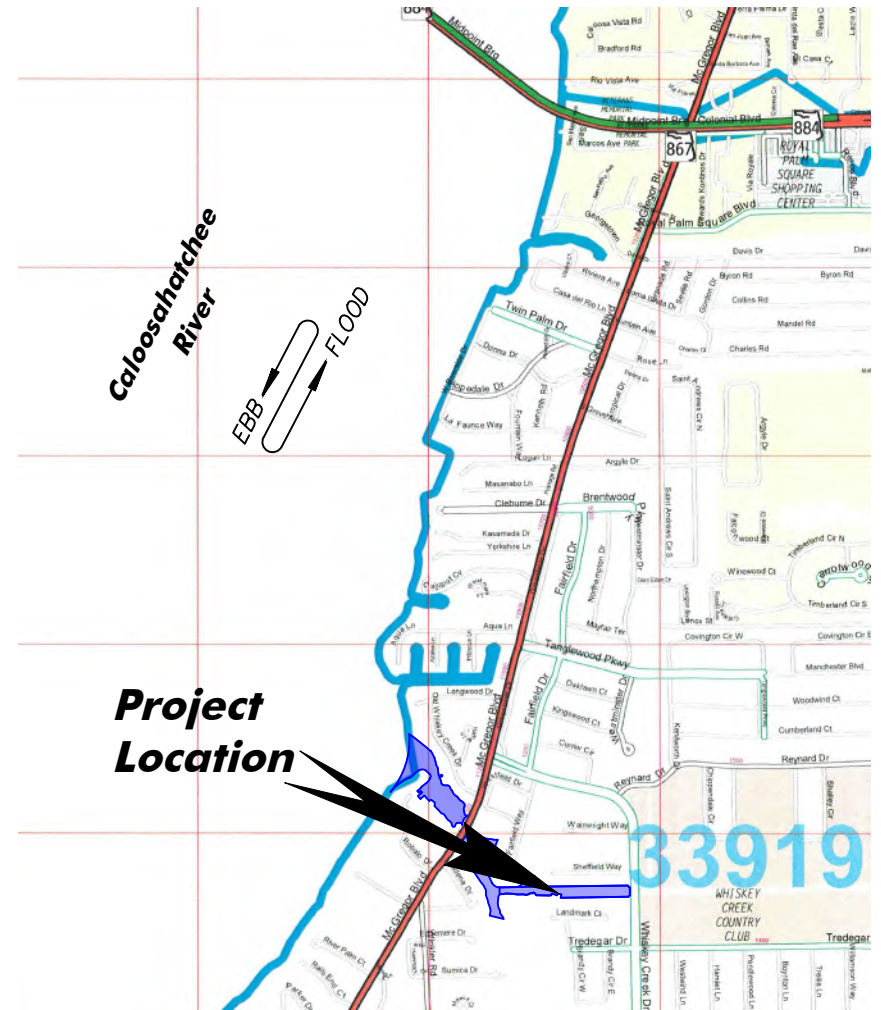
1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

1-9-24

CRY

Sheffield Canal

0 1000 2000
SCALE FEET



Location Map

SCALE: 1" = 2000'

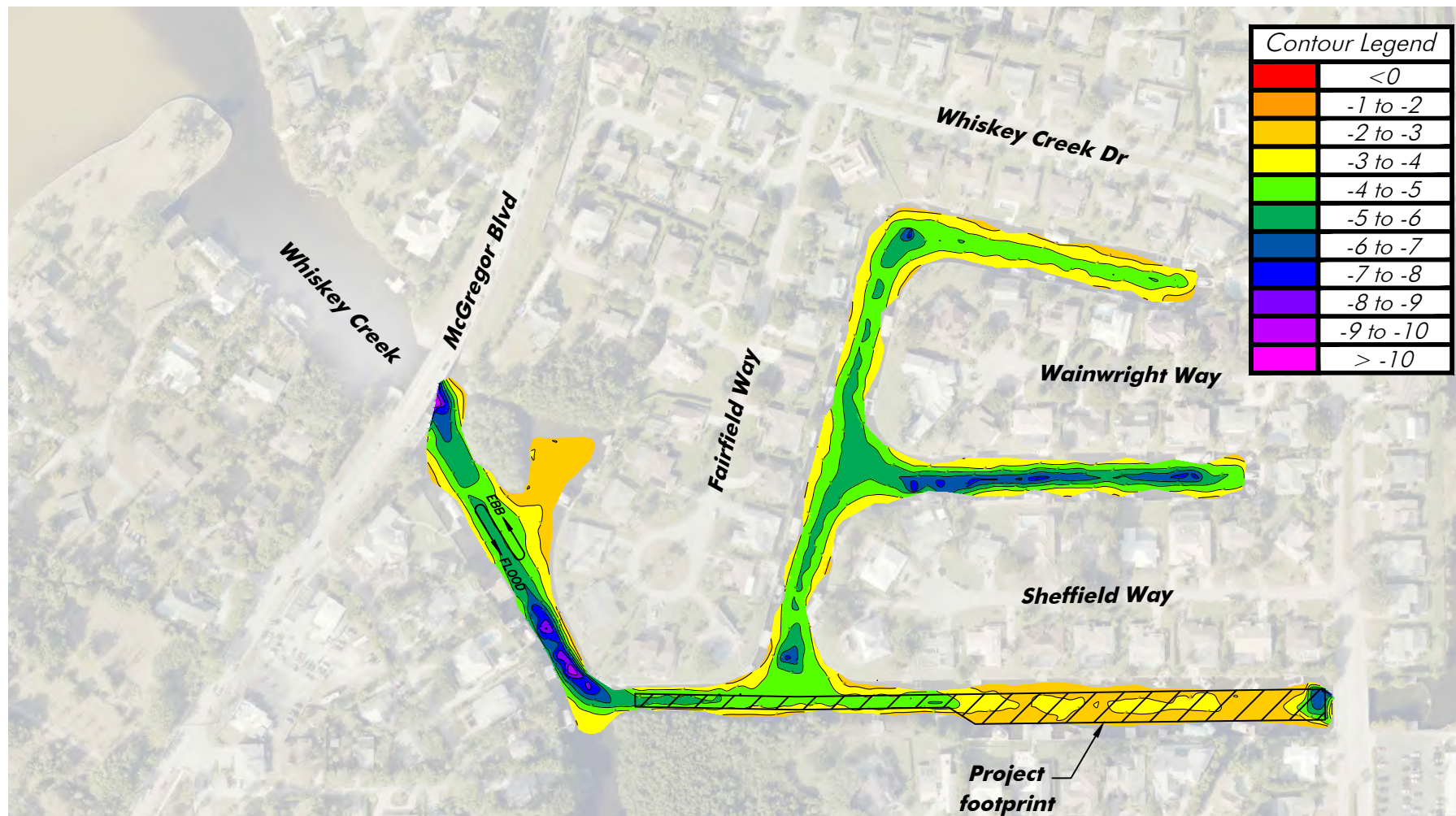
January 09, 2024 1:23:38 p.m.
Drawing: LEE31MASTER.DWG

SHEET
1/7

SECTION: 10
TOWNSHIP: 45 S
RANGE: 24 E

2019 Lee County Aerial

0 150 300
SCALE FEET



Notes: Bathymetric Survey completed by HWA, Inc on 3-4-21. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

PERMIT PLANS, NOT FOR CONSTRUCTION

Overall Plan View

SCALE: 1" = 300'

January 09, 2024 1:23:38 p.m.
Drawing: LEE31MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

1-9-24

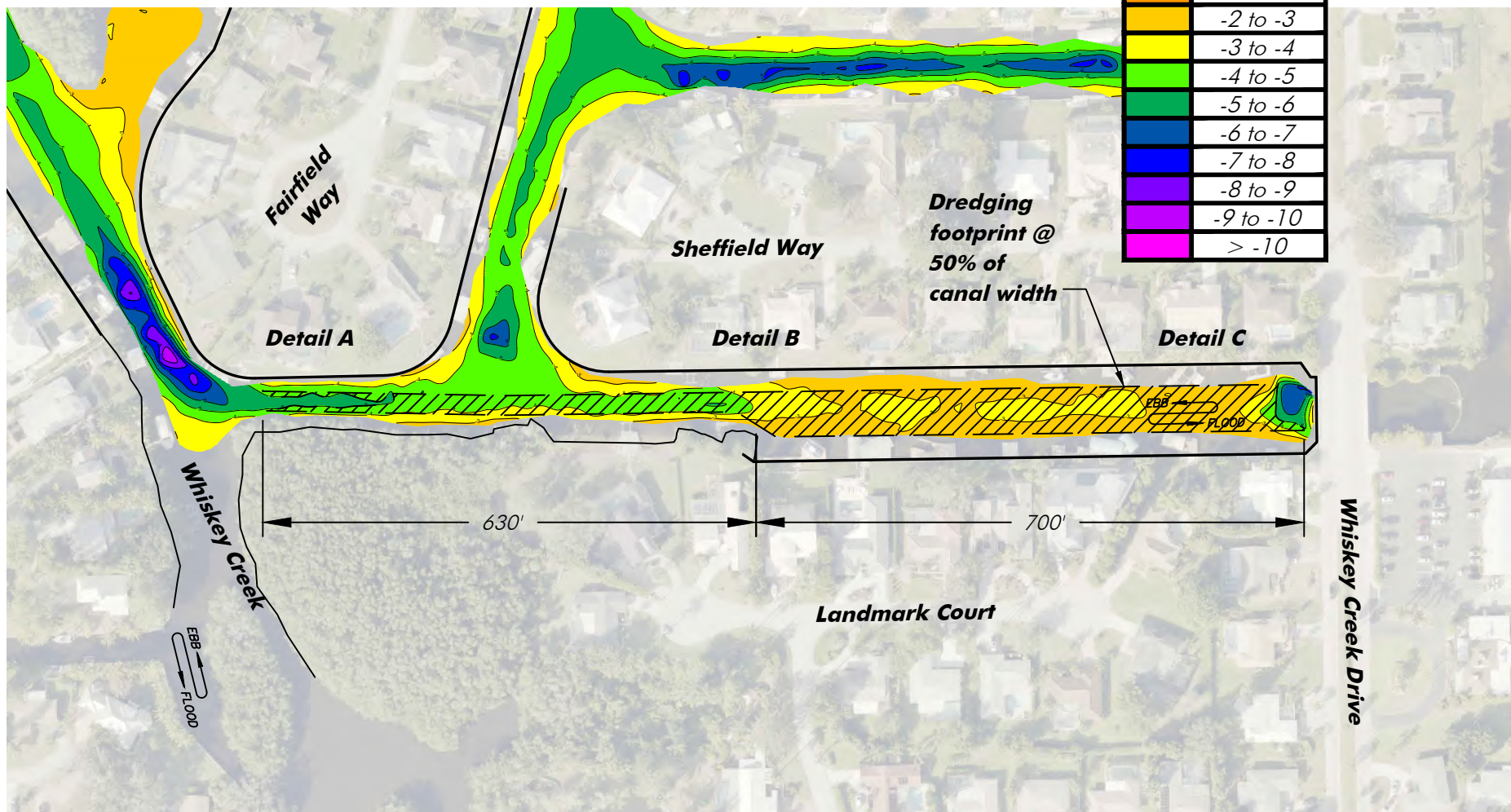
CRY

Sheffield Canal

SHEET
2/7

SECTION: 10
TOWNSHIP: 45 S
RANGE: 24 E

2019 Lee County Aerial



Notes: Bathymetric Survey completed by HWA, Inc on 3-4-21. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

PERMIT PLANS, NOT FOR CONSTRUCTION

Plan View
SCALE: 1" = 200'

January 09, 2024 1:23:38 p.m.
Drawing: LEE31MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

1-9-24

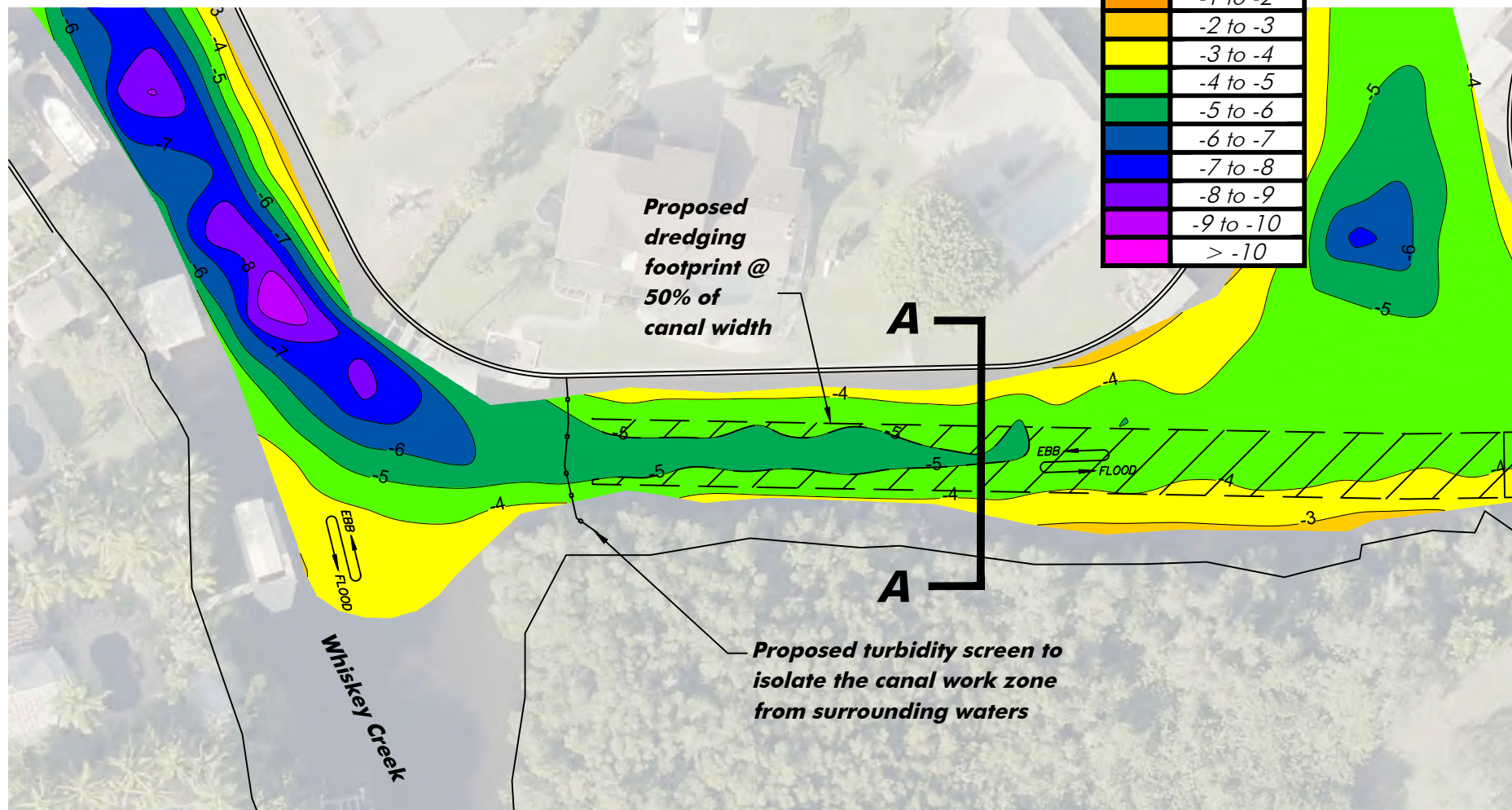
CRY

Sheffield Canal

SHEET
3/7

SECTION: 10
TOWNSHIP: 45 S
RANGE: 24 E

2019 Lee County Aerial



Notes: Bathymetric Survey completed by HWA, Inc on 3-4-21. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

PERMIT PLANS, NOT FOR CONSTRUCTION

Detail A

SCALE: 1" = 60'

January 09, 2024 1:23:38 p.m.
Drawing: LEE31MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

1-9-24

CRY












Sheffield Canal

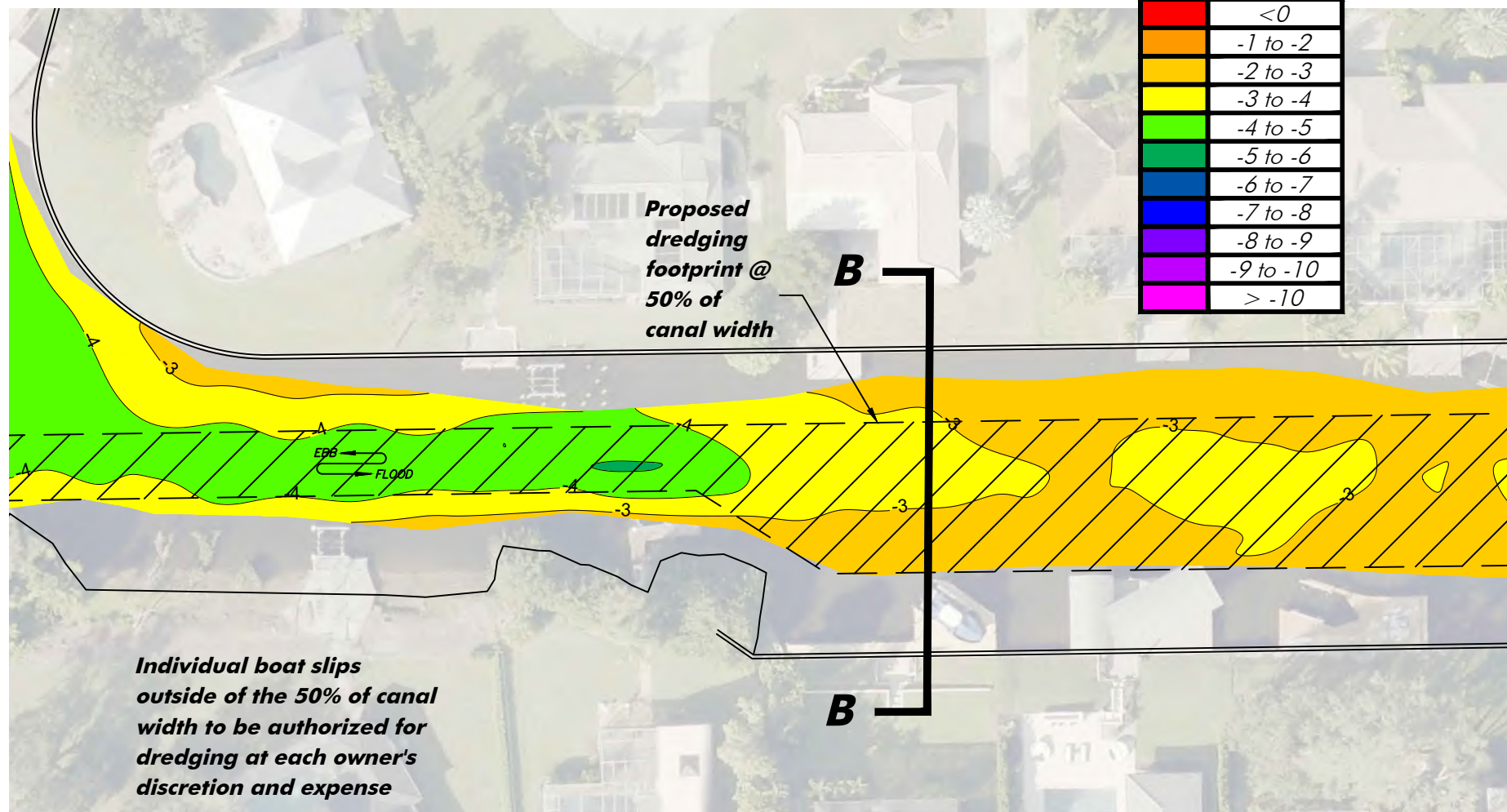
SHEET
4/7

SECTION: 10
TOWNSHIP: 45 S
RANGE: 24 E

2019 Lee County Aerial

0 30 60
SCALE FEET

Contour Legend	
	<0
	-1 to -2
	-2 to -3
	-3 to -4
	-4 to -5
	-5 to -6
	-6 to -7
	-7 to -8
	-8 to -9
	-9 to -10
	> -10



Notes: Bathymetric Survey completed by HWA, Inc on 3-4-21. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

PERMIT PLANS, NOT FOR CONSTRUCTION

Detail B

SCALE: 1" = 60'

January 09, 2024 1:23:38 p.m.
Drawing: LEE31MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

1-9-24












CRY

Sheffield Canal

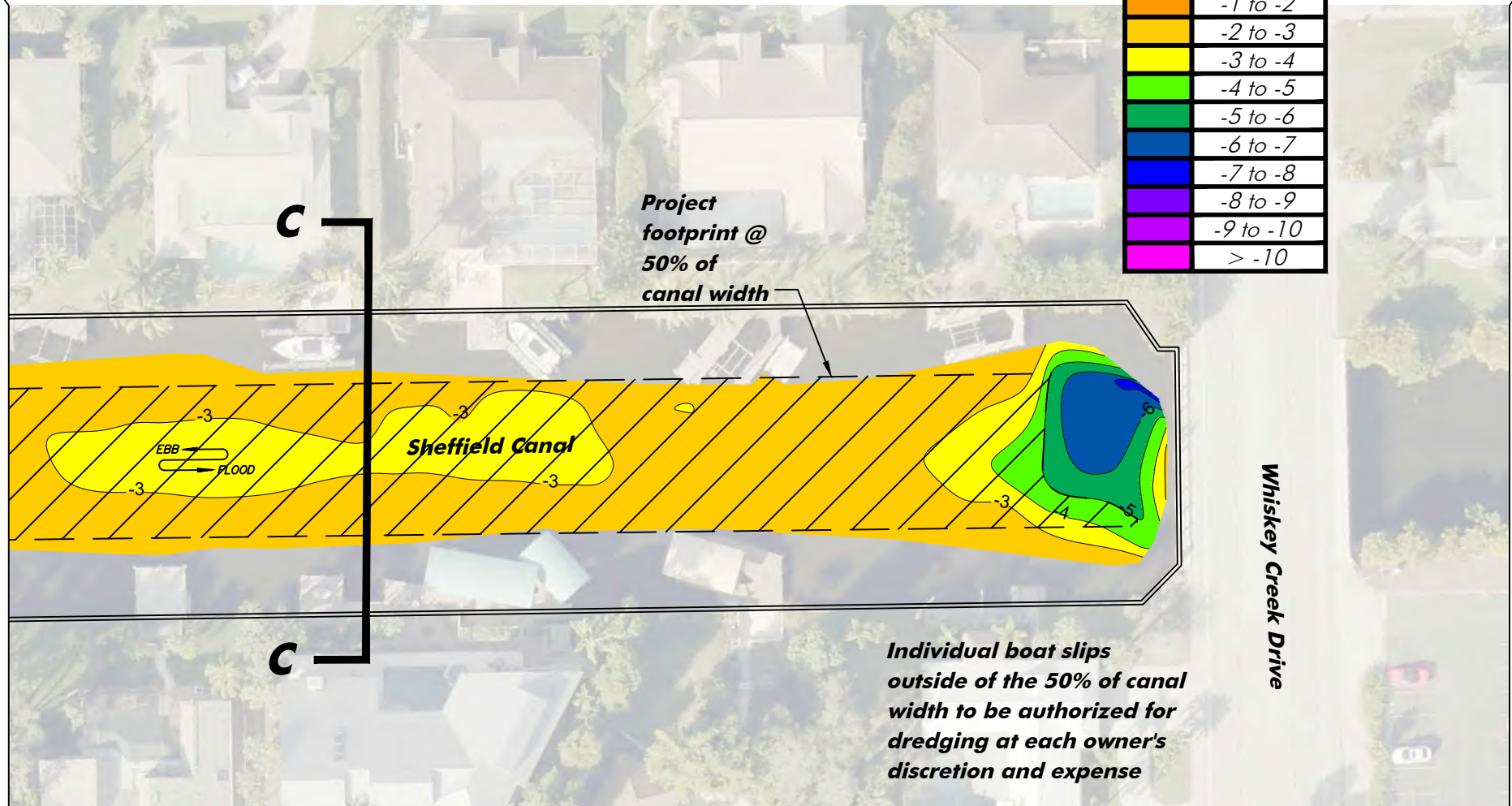
SHEET
5/7

SECTION: 10
TOWNSHIP: 45 S
RANGE: 24 E

2019 Lee County Aerial

Contour Legend	
	<0
	-1 to -2
	-2 to -3
	-3 to -4
	-4 to -5
	-5 to -6
	-6 to -7
	-7 to -8
	-8 to -9
	-9 to -10
	> -10

0 30 60
SCALE FEET



Notes: Bathymetric Survey completed by HWA, Inc on 3-4-21. Depths reference MLW per DEP MHW Request, MLW = -0.71' NAVD88.

PERMIT PLANS, NOT FOR CONSTRUCTION

Detail C
SCALE: 1" = 60'

January 09, 2024 1:23:38 p.m.
Drawing: LEE31MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

1-9-24

CRY

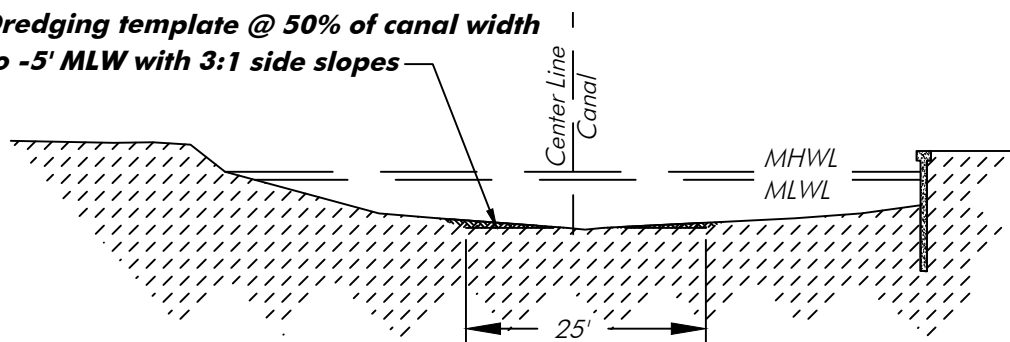
Sheffield Canal

SHEET
6/7

SECTION: 10
TOWNSHIP: 45 S
RANGE: 24 E

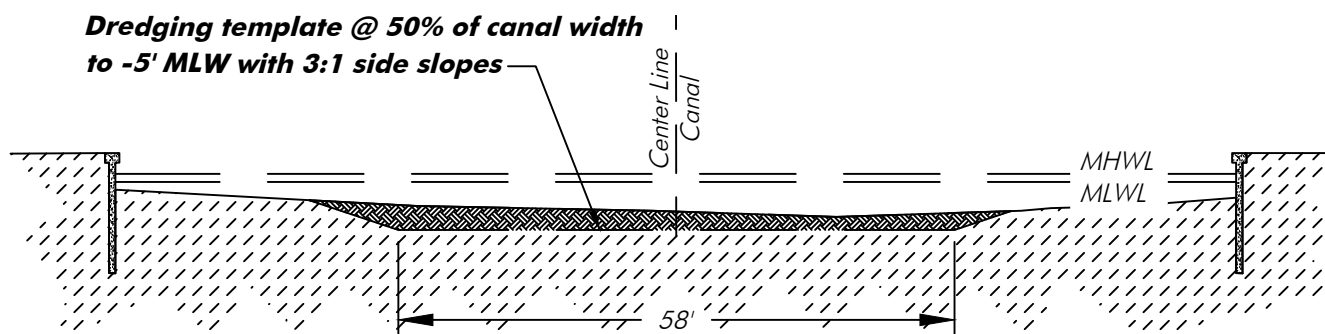
0 10 20
SCALE FEET

**Dredging template @ 50% of canal width
to -5' MLW with 3:1 side slopes**



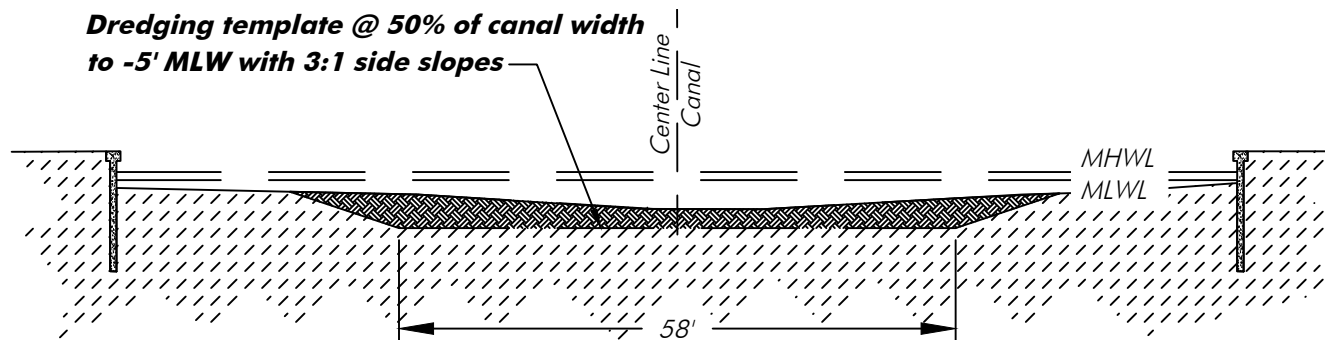
A-A

**Dredging template @ 50% of canal width
to -5' MLW with 3:1 side slopes**



B-B

**Dredging template @ 50% of canal width
to -5' MLW with 3:1 side slopes**



C-C

Notes: Bathymetric Survey completed by HWA,
Inc on 3-4-21. Depths reference MLW per DEP
MHW Request, MLW = -0.71' NAVD88.

PERMIT PLANS, NOT FOR CONSTRUCTION

Sections

SCALE: 1" = 20'

January 09, 2024 1:23:38 p.m.
Drawing: LEE31MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

1-9-24

CRY

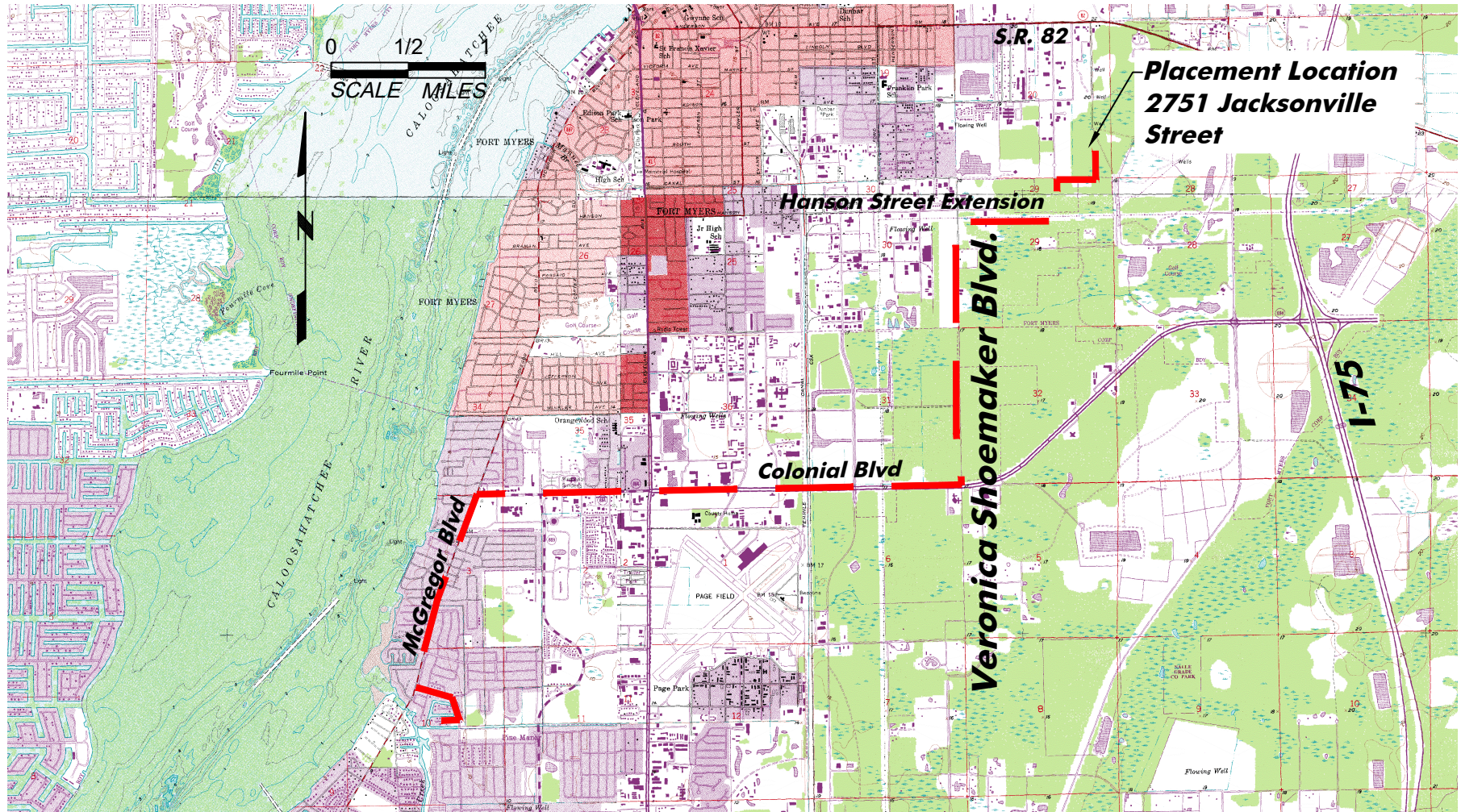
Sheffield Canal

SHEET

7/7

SECTION: 10
TOWNSHIP: 45 S
RANGE: 24 E

USGS Quad Map



Material Placement Site

PERMIT PLANS, NOT FOR CONSTRUCTION

SCALE: 1" = 1/2 Mile

January 09, 2024 1:23:38 p.m.
Drawing: LEE31MASTER.DWG



1938 Hill Avenue, Fort Myers, Florida 33901
Office: 239-334-6870 Fax: 239-334-7810
MARINE and ENVIRONMENTAL CONSULTANTS

1-9-24

CRY

Sheffield Canal

SHEET
1/1