



## Florida Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Herschel T. Vinyard, Jr.  
Secretary

April 5, 2012

David M. Levin  
Icard, Merrill, Cullis, Timm,  
Furen & Ginsburg, P. A.  
1777 Tamiami Trail, Suite 401  
Port Charlotte, Florida 33948

RE: VME 11-03

Dear Mr. Levin:

Thank you for your letter dated February 10, 2012, regarding the violation of Section 161.053, Florida Statutes, on property owned by Richard W. Hazen, located in Holmes Beach, in Manatee County, Florida.

After review of your letter, I must respectfully disagree with the conclusions reached in your letter that the unauthorized activities are exempt from the Department's permitting requirements. It is the Department's charge, or responsibility, to determine whether specific activities are exempt from the Department's permitting requirements. Thus, neither you nor your client can determine that certain activity is exempt and does not require Department approval prior to construction.

While the enclosed wood frame deck and roof viewing deck is partially supported by an existing Australian Pine Tree, the structure is also supported by four 12-inch diameter wooden pilings, with concrete type foundations. Therefore, the structure, as installed, does not appear to be exempt from the Department's permitting requirements, pursuant to Section 161.053(11)(c), Florida Statutes, and Rule 62B-33, Florida Administrative Code.

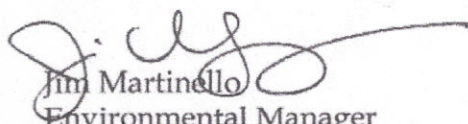
You are welcome to provide any information that you may have from a qualified professional engineer, showing that the structure would not cause a measurable impact, however, at this time the Department does not agree that the structure is exempt. The placement of large 12-inch pilings, with concrete pad type foundations, is not an activity that the Department would consider as qualifying for an exemption.

David M. Levin  
April 5, 2012  
Page 2

In order to resolve this matter to the Department's satisfaction, your client must either apply for and be granted an after-the-fact permit, or remove the structure from the area seaward of the CCCL. If Mr. Hazen wishes to make application to the Department, we will expect submittal of an application within twenty-one (21) days of your receipt of this letter. Otherwise, the Department would expect the structure to be removed within the same 21 day time frame.

If you have any questions regarding this matter, please contact me at 850/414-7772, or at the letterhead address referencing mail station 300.

Sincerely,



Jim Martinello  
Environmental Manager  
Bureau of Beaches and Coastal Systems

:jm

Certified Mail # 7011 2000 0002 6088 7600

cc: Dr. Swamy  
Steve West  
City of Holmes Beach  
Richard W. Hazen