UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 28 2018

CERTIFIED MAIL L 70171450000079130759
RETURN RECEIPT REQUESTED

Pelicano Crusher Corporation
c/o Ms. Maria Cintron
1169 Indian Lake Road
Daytona Beach, Florida 32124

RE: Information Request Letter 308-18-009

Dear Ms. Cintron:

The U.S. Environmental Protection Agency, Region 4, has learned that a discharge of dredged and/or fill material has occurred in waters of the United States in wetlands adjacent to Bennett Swamp and the Tomoka River without a U.S. Army Corps of Engineers (Corps) Clean Water Act (CWA) Section 404, 33 U.S.C. § 1344, permit on property owned by Pelicano Crusher Corporation (Pelicano). The parcel, totaling approximately 4.36-acres, is located on the east side of Indian Lake Road at or near 1169 Indian Lake Road, in Volusia County, Florida (See Exhibits A and B of enclosed Information Request). According to our preliminary investigation, the discharge occurred sometime after September 12, 2017 in association with mechanized land clearing and filling for a commercial development.

The EPA is continuing to investigate Pelicano's compliance with the CWA. Therefore, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby requests that Pelicano provide the information set forth in Enclosure A within thirty (30) days of receipt of this letter. Your response should be sent to:

Mr. Christopher Parker
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
Marine Regulatory and Wetlands Enforcement Section
61 Forsyth Street S.W.
Atlanta, Georgia 30303

Failure to provide a full and complete response to this information request or to adequately justify a failure to respond within the time frame specified above may result in an EPA enforcement action pursuant to federal law, including, but not limited to 33 U.S.C. § 1319 and 18 U.S.C. § 1001.

If Pelicano believes that any of the requested information is Confidential Business Information (CBI), it may assert a business confidentiality claim with respect to such information in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.* Please separate documents that you wish to protect as CBI from non-confidential documents. Sending documents claimed as CBI electronically to the EPA is done at the risk of the claimant, as the EPA does

not have the capability to encrypt electronic information. The EPA requests that any such information be physically mailed to the address provided. If Pelicano does not assert a CBI claim, the EPA may make information submitted under this request available to the public without further notice to Pelicano. Additional information regarding the EPA's requirements for confidential treatment of information can be found in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.*

We have also enclosed a document that provides information for small businesses that may be subject to an EPA enforcement action. This document is for your use and to assist you in understanding the compliance assistance resources and tools available to you. Any decision to seek compliance assistance at this time, however, does not relieve Pelicano of its obligation to the EPA nor does it create any new rights or defenses and will not affect the EPA's decision to pursue enforcement action.

If you have any questions concerning this matter, please contact Mr. Christopher Parker at (404) 562-9838 or have your attorney contact Mr. Matthew Hicks at (404) 562-9670.

Sincerely,

Thomas McGill
Chief
Ocean, Wetlands, and Streams Protection Branch

Enclosures

cc: Mr. Robert Halbert, Chief, U.S. Army Corps of Engineers, Enforcement Section
Mr. John Truitt, Florida Department of Environmental Protection

ENCLOSURE A – EPA SECTION 308 INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this information request.

2. Precede each answer with the number of the Question to which it corresponds.

3. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.

4. You must provide the information requested even though you may contend that it includes confidential business information (CBI) such as trade secrets. You may, if you desire, assert a CBI claim covering part or all of the information requested, under 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet with the words "trade secret," "proprietary," or "company confidential" stamped or typed on it. Information covered by such claim will be disclosed by the EPA only to the extent, and only by means, of the procedures set forth in the regulation set forth above. **If you do not assert a confidentiality claim, when you submit your information to the EPA, the EPA may disclose the information to the public without further notice to you.** You should read the above cited regulations carefully before asserting a CBI claim, since certain categories of information are not properly the subject of such a claim.

Definitions

The following definitions shall apply to the following words as they appear in the Questions below:

5. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.

6. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.

7. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.

8. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

9. The term "identify" means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.

10. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

11. The term "Discharge Area" means the wetlands that have been impacted either through filling, excavating, or mechanical land clearing with side cast of dredged and/or fill material. More specifically, the Discharge Area is in wetlands situated on the Site, in Volusia County, Florida, near 29.152558° north latitude and 81.148193° west longitude.

12. The term "Site" means the parcel or parcels of land on which the Discharge Area is located and is contained within Section 36, Township 15S, Range 31E, Volusia County, Florida, on the east side of Indian Lake Road at or near 1169 Indian Lake Road. The Site is indicated on the enclosed Exhibits A and B.

13. The term "Work" means any land clearing activities, ditching, dredging, side casting, road construction, stream crossing construction, mechanical land clearing, piping of streams, timber harvesting, excavating, mining or filling activities that have occurred in wetlands located at the Site since you owned, controlled, or did any Work on the Site.

14. The term "you" and/or "Respondent" shall mean Pelicano Crusher Corporation and/or any company, entity, or corporation that has directed work at the Site.

Questions

Please provide the EPA with the following information or documents pertaining to the Site identified in Exhibits A and B:

15. Copies of any deeds, leases, easements, mineral rights or other documents revealing the ownership interest or interests in the Site.

16. The name and address of any contractor, subcontractor, consultant, agent, or individual who directed or participated in the Work at the Site.

17. The types of equipment used to carry out the Work, and the names and addresses of the person and/or companies that own and/or operate the equipment.

18. The date upon which Work was commenced and the date upon which the Work was completed or will be completed.

19. A description of all Work at the Site performed by Respondent, or on behalf of the Respondent by its contractor(s), subcontractor(s), consultant(s), or agent(s).

20. A description of any Work performed at the Site by any entity other than the Respondent, its contractor(s), subcontractor(s), consultant(s), or agent(s).

21. A description of the entire scope of activities at the Site including any maps and engineering plans.

22. A description of the condition of the overall Site before Work commenced.

23. A description of the condition of the Discharge Area before Work commenced.

24. Copies of any on-site environmental assessments, including environmental assessments of soils, vegetation or hydrology at the Site.

25. Copies of any State or local permits that may have been received for the Work on the Site.

26. Please provide all Federal permits you received to conduct Work at the Site. If you did not obtain Federal permits for Work at the Site, please explain why.

27. Plans for any additional filling, excavating, or other land disturbing activities at the Site.

28. Copies of documents, including notes, pertaining to any written or verbal communication with Federal, State, or local agencies regarding the Work.

29. The names and activities of all contractors or consultants or other entities that assisted with securing any local, state, or federal permits or easements associated with the Site.

30. Copies of any contracts covering Work at the Site.

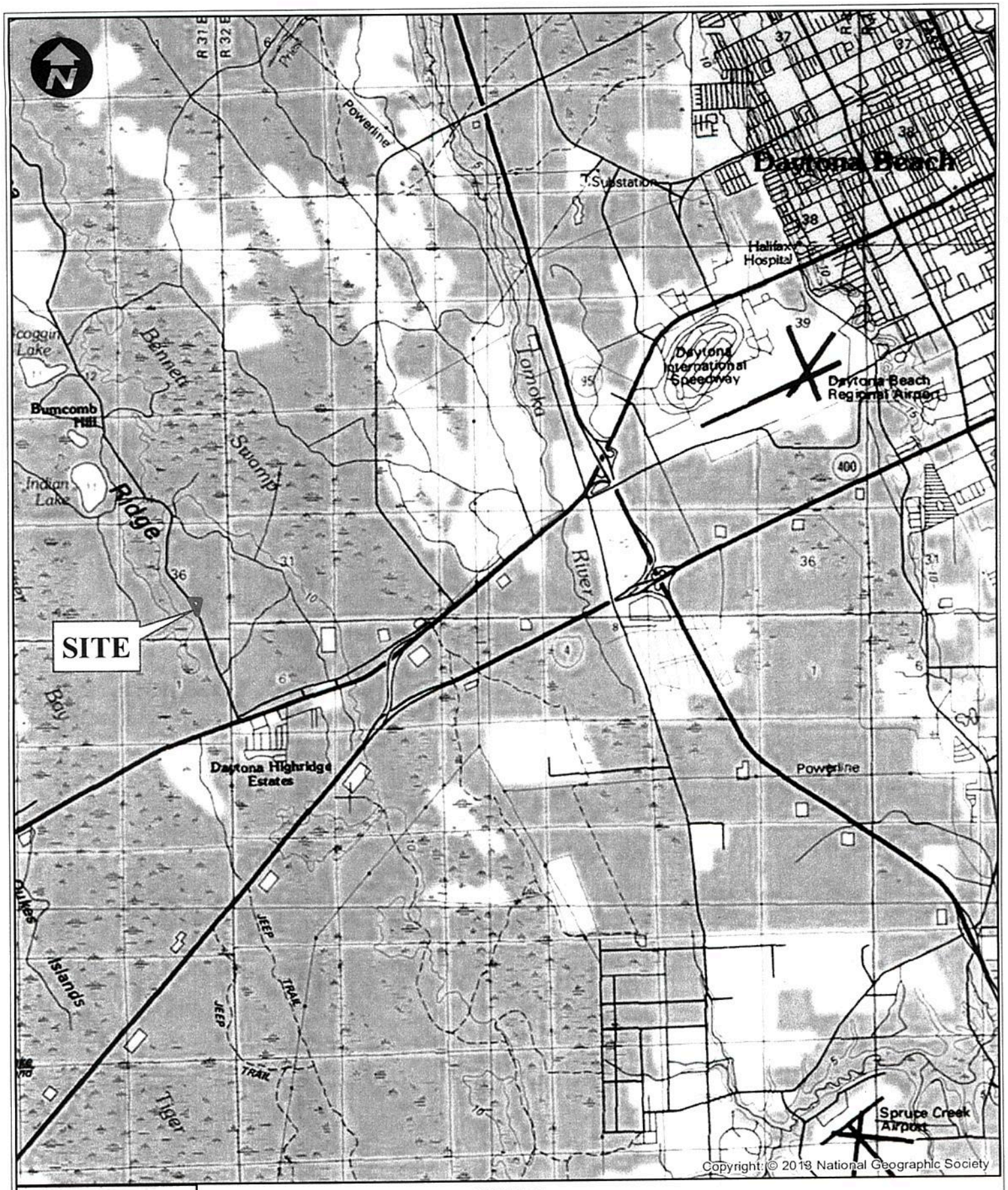
31. Please identify the individual or individuals who prepared the responses to this Information Request.

At the end of your response to this information request, please include the following certification:

> "I certify that I have personally reviewed the information contained in this response to the information request and the response is truthful, accurate and complete. I further certify that the response to the information request contains all documents responsive to the request. I am aware that there are significant penalties for submitting false information including the possibility of further enforcement under the CWA."

_____

Name
Title



LOCATION MAP
NOT TO SCALE

EXHIBIT A
PELICANO CRUSHER CORP.
VOLUSIA COUNTY, FLORIDA

0 0.5 1 2 Miles

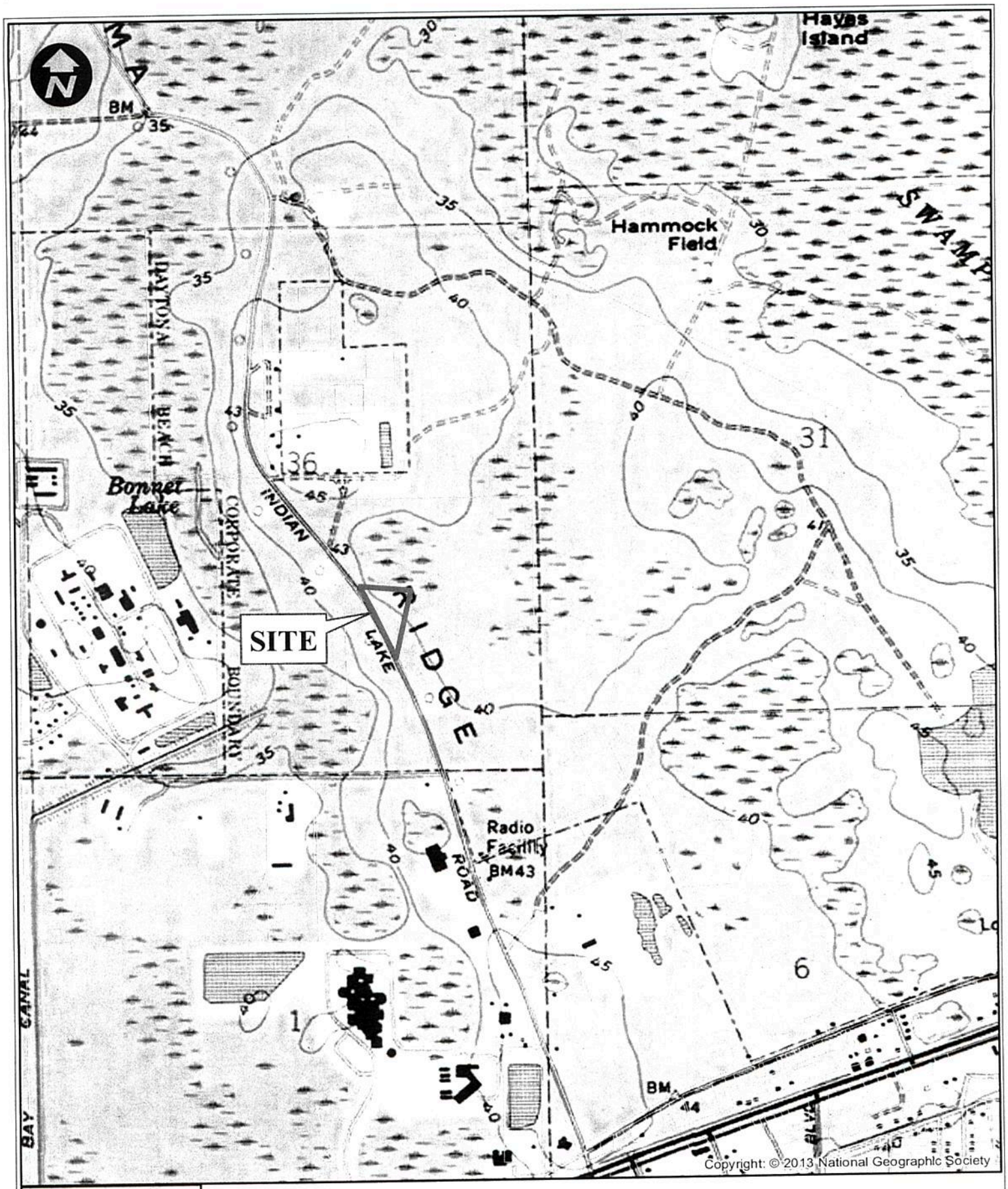


EXHIBIT B
PELICANO CRUSHER CORP.
VOLUSIA COUNTY, FLORIDA

LOCATION MAP
NOT TO SCALE

0 750 1,500 3,000 Feet

7017 1450 0000 7913 0759

U.S. Postal Service

CERTIFIED MAIL® RECEIPT

Domestic Mail Only

For delivery information, visit our website at *www.usps.com®*.

OFFICIAL USE

Certified Mail Fee

$

Extra Services & Fees *(check box, add fee as appropriate)*

- ☐ Return Receipt (hardcopy) $
- ☐ Return Receipt (electronic) $
- ☐ Certified Mail Restricted Delivery $
- ☐ Adult Signature Required $
- ☐ Adult Signature Restricted Delivery $

Postmark Here

JUN 28 2018

Postage

$

Total

$

Sent

Street

City,

Pelicano Crusher Corporation
c/o Ms. Maria Cintron
1169 Indian Lake Road
Daytona Beach, Florida 32124

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions