

ADDITIONAL AGENDA ITEM

FLORIDA INLAND NAVIGATION DISTRICT Board of Commissioners Meeting

9:00 a.m., Friday, September 09, 2016

**Wyndham Grand Jupiter at Harbourside
122 Soundings Avenue
Jupiter (Palm Beach County), FL 33477-5088**

**Additional Agenda Item 20A. License Agreement to Provide Temporary Truck Access
Through Dredged Material Management Area SJ-14, St.
Johns County, FL.**

The Florida Inland Navigation District (District) has been approached by neighboring land owners (SONOC Company, LLC) to allow truck access through Dredged Material Management Area (DMMA) SJ-14. Trucks will be hauling pine trees from a neighboring commercial farm that have been adversely affected by the notorious "Pine Bark Beetle". Representatives from the Division of Forestry have met staff and the adjacent land owner on site, and have recommended removal of the affected trees to control the spread of the infestation. Access through the District's DMMA is necessary for the most direct removal route.

The District's attorney has drafted an agreement that will provide the necessary due diligence for this operation to occur with little to no impact or liability to the District. The adjacent land-owner has also notified the County of the proposed activity and obtained a required driveway permit for temporary access.

The activity will utilize the District's perimeter road and access gates only, and will be periodically monitored by District staff. The agreement will terminate upon project completion or within one year.

(Please see attached back up pages A2-A11)

RECOMMEND: Approval of a maximum one (1) year license agreement with SONOC Company LLC for temporary access through DMMA SJ-14, St. Johns County, FL.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is entered into this ____ day of September, 2016 between FLORIDA INLAND NAVIGATION DISTRICT, an independent special taxing district of the State of Florida ("District"), and SONOC COMPANY, LLC, a Delaware limited liability company authorized to do business in the State of Florida ("Sonoc").

WITNESSETH:

Whereas, District owns a parcel of real property lying and being in St. Johns County, Florida known as DMMA SJ-14, which is legally described in Exhibit "A" attached hereto and made a part hereof by referenced (the "FIND Parcel"); and

Whereas, Sonoc owns a parcel of real property lying and being in St. Johns County, Florida which is graphically described on the map attached hereto as Exhibit "B" attached hereto and made a part hereof by reference (the "Sonoc Parcel"); and

Whereas, the Sonoc Parcel has an infestation of Southern Pine Beetles which requires Sonoc to clear cut certain portions of the Sonoc Parcel and thin the remaining portions of the Sonoc Parcel; and

Whereas, the Sonoc Parcel is located in close proximity to the FIND Parcel and it would be convenient for Sonoc to remove the cut timber by using an existing road through the FIND Parcel to access Nocatee Parkway; and

Whereas, Sonoc has requested that the District grant a license for Sonoc and its contractors to use the existing road on the west side of the FIND Parcel to remove timber from the Sonoc Parcel; and

Whereas, the District is willing to grant a license for Sonoc and its contractors to use the existing road on the west side of the FIND Parcel to remove timber from the Sonoc Parcel, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), the mutual promises and benefits, and other good and valuable consideration, the receipt and adequacy of which is acknowledged by the parties, the District and Sonoc hereby agree as follows:

1. The foregoing recitals are true, complete and incorporated herein by reference.
2. The District hereby grants a non-exclusive, temporary license ("License") to Sonoc and its contractors over, upon and through the FIND Parcel for the sole purpose of using the existing road located on the west side of the FIND Parcel to remove timber from the Sonoc Parcel during the Southern Pine Beetle control project.

3. The License shall expire upon the completion of the removal of timber from the Sonoc Parcel to carry out the Southern Pine Beetle control project, or at the end of one (1) year from the date of this Agreement, whichever is sooner. The District reserves the right to terminate the License at any time that Sonoc or its employees, agents, or contractors violate the terms of this Agreement and such violation has not been cured within three (3) business days of Sonoc's receipt of a written notice of the violation.
4. Sonoc shall maintain the road and gates on the FIND Parcel in good condition at all times and, at the termination of this Agreement, shall restore the FIND Parcel to the same condition as exists as of the date of this Agreement, ordinary wear and tear excepted.
5. Sonoc shall comply with all of the conditions of St. John County Permit No. 16-555.
6. Sonoc shall secure the gates to the FIND Parcel at all times that the road is not in actual use. Sonoc shall either provide a key or combination to its locks or shall daisy chain its locks with the District's locks so that the District can freely access the FIND Parcel.
7. Sonoc shall indemnify, defend and hold the District, its commissioners, officers and employees harmless from and against any liability, suit, action, damages, fines, penalties, cost or expense, including attorneys' fees and court costs, due to or arising out of this Agreement. This paragraph shall survive the termination of this Agreement.
8. Sonoc shall carry comprehensive general liability insurance with minimum limits of One Million Dollars (\$1,000,000.00) per person and Two Million Dollars (\$2,000,000.00) aggregate and shall name the District as an additional insured.
9. Sonoc shall not voluntarily, involuntarily, or by operation of law, assign, transfer, mortgage or otherwise encumber (herein collectively referred to as an "assignment") the License or any interest of Sonoc therein, in whole or in part.
10. In the event this Agreement shall be the subject of litigation between the parties hereto for any reason whatsoever, the prevailing party in such litigation shall recover from the other party the costs of such action, including, but not limited to, reasonable attorneys' fees incurred in any and all mediation, arbitration, trial, appellate, post-judgment, bankruptcy and administrative proceedings. In the event of any litigation arising out of or resulting from this Agreement, the venue of such litigation shall be had only in the state or federal courts in Palm Beach County, Florida.
11. Each notice, correspondence, document or other communication (collectively, "Notice") required or permitted to be given hereunder shall be in writing and shall be delivered either by personal delivery (including delivery by services such as Federal Express) or by depositing it with the United States Postal Service or any official successor thereto, certified mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party as follows:

If to Sonoc:

Sonoc Company, LLC
 Attn: _____
 4310 Pablo Oaks Court
 Jacksonville, FL 32224-9631

With copy to:

If to District:

Florida Inland Navigation District
1314 Marcinski Road
Jupiter, Florida 33477
Attention: Executive Director

With a copy to:

Peter L. Breton, Esq.
Breton, Lynch, Eubanks et al.
605 North Olive Avenue, 2nd Floor
West Palm Beach, FL 33401

Except as provided herein to the contrary, Notice shall be deemed delivered at the time of personal delivery, or, if mailed, on the third mail delivery day after the day of mailing as provided above, and the time period in which a response to any Notice must be given or any action taken with respect thereto shall commence to run from the date it is personally delivered or, if mailed, the date of receipt so deemed. In addition, the inability of the United States Postal Service to deliver because of a change of address of the party of which no Notice was given to the other party shall be deemed to be the receipt of the Notice sent. Changes of address and persons to whom Notice shall be addressed shall be made by Notice hereunder.

12. Miscellaneous.

- a. Sonoc has inspected the FIND Parcel and the road and is familiar with their present condition and takes said property in "As-Is" condition.
- b. The failure of the District to take any action against Sonoc for violation of any of the terms of the Agreement shall not prevent a subsequent act of a similar nature from being a violation of the Agreement.
- c. This Agreement fully and completely expresses all agreements and understandings of the parties hereto. Furthermore, this Agreement shall be binding upon and shall inure to the benefit of the respective heirs, successors, assigns and legal representatives of the parties hereto and shall not be changed, amended or terminated unless in writing and signed by the parties hereto.
- d. THE PARTIES HERETO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER PERTAINING TO ANY MATTER WHATSOEVER

ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR SONOC'S USE OF THE LICENSE.

- e. If any term or condition of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of the terms and conditions of this Agreement shall not be affected thereby, and this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- f. This Agreement shall not be recorded in the Office of the Clerk of any Circuit Court in the State of Florida.
- g. This Agreement shall be construed under the laws of the State of Florida.
- h. This Agreement may be executed in counterparts, all of which taken together shall be deemed an original, with a facsimile and/or an e-mail signature serving as an original thereof.

IN WITNESS WHEREOF, the parties hereto have set forth their hands and seals on the year and date aforesaid.

AS TO DISTRICT:

FLORIDA INLAND NAVIGATION DISTRICT

BY: _____

Mark Crosley, Executive Director

DATED: _____

AS TO SONOC:

SONOC COMPANY, LLC

BY: _____

Name: _____

Title: _____

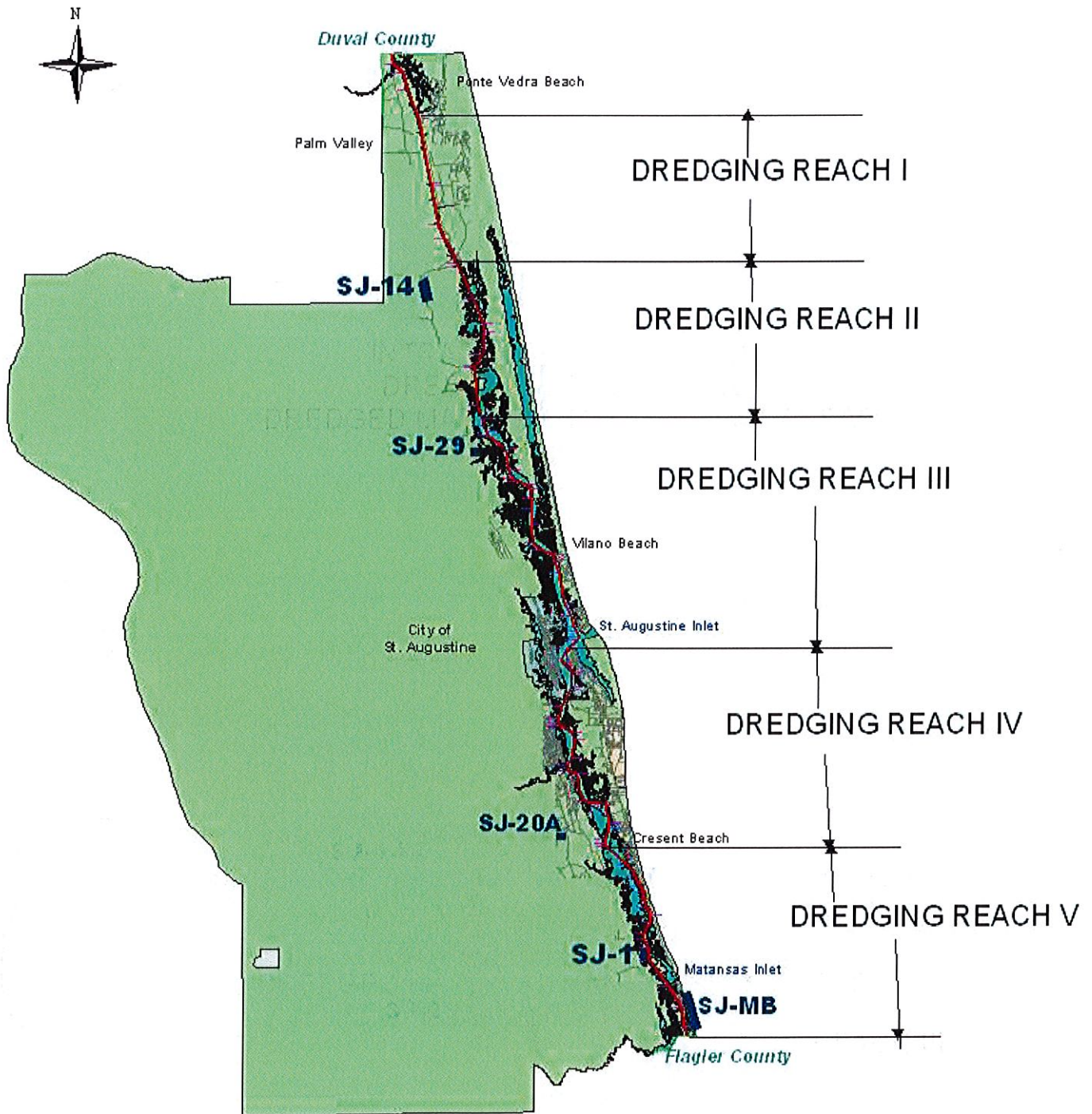
DATED: _____

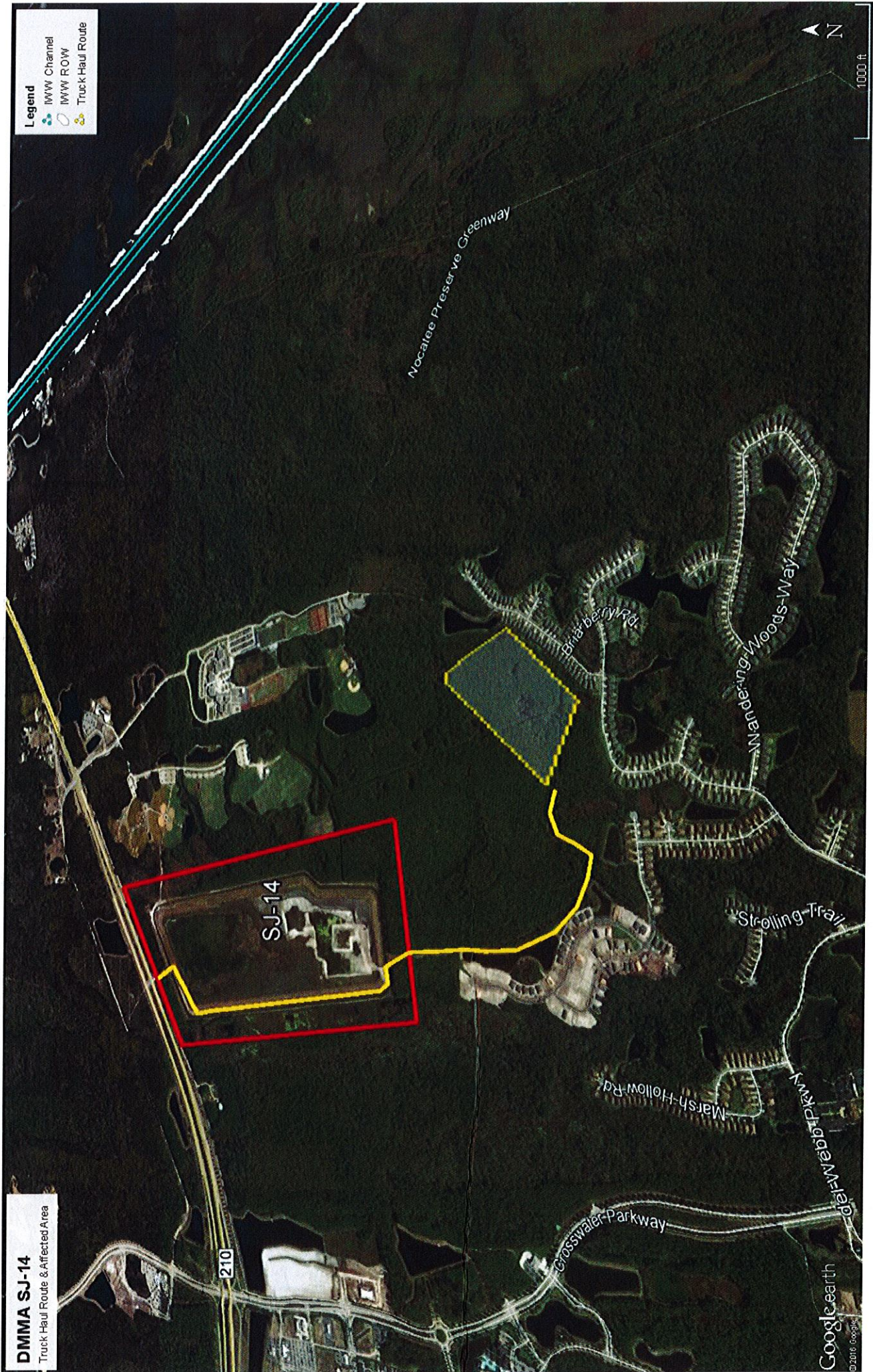
PERMIT #16-555 'SPECIAL CONDITIONS'

Special Conditions of Permit #16-555

1. This permit will be allowed and activated for six (6) months. However, the SJC Inspector will review the site and conditions on 03/01/17 and if ALL conditions have been complied with this permit can be extended to 09/01/17 if needed.
2. Two (2) signs located 500' from each direction of the access point will be required stating, "TRUCKS ENTERING HIGHWAY", and installed before any construction begins.
3. This permit is being issued for temporary access only. This permit in no way authorizes any other work to be done.
4. Connecting roadways will be monitored by the applicant and any and all unsafe conditions must be corrected immediately. No mud, dirt, sand, etc., will be allowed to accumulate on the roadway surface.
5. Stabilized material, if required, must be installed and maintained by the applicant within the SJC right-of-way in order to protect the E.O.P. (Edge of Pavement). Any damage to the edge of pavement will be the responsibility of the applicant and will be repaired to SJC standards based on the requirements of the SJC Inspector assigned to the project.

INTRACOASTAL WATERWAY
DREDGING REACHES AND
DREDGED MATERIAL MANAGEMENT AREAS
IN ST. JOHNS COUNTY





Pine Bark Beetles

Pine Bark Beetles of Florida

Pine bark beetles are insects that normally attack stressed and dying pine trees, and usually do not infest trees that are otherwise healthy and vigorous. They feed and breed in the inner bark of pine trees, and introduce symbiotic fungi into the tree, often causing or hastening the death of the tree as a result. In natural forest settings, these native beetles serve an important function, by weeding out weak trees and freeing up resources for healthy individuals.

There are five native species of pine bark beetles that are important in Florida: three species of *Ips* engraver beetles (*Ips calligraphus*, *I. grandicollis*, and *I. avulsus*), and two species of *Dendroctonus*, including the southern pine beetle or SPB (*D. frontalis*), and the black turpentine beetle (*D. terebrans*). A dying pine may have multiple bark beetle species feeding in it.

The behavior and potential impact of these different types of pine bark beetles differ from one another in important ways, so it's preferable to determine what species of bark beetles are primarily involved in an infestation before choosing a control strategy. For all of these species, the best approach is to prevent infestations from starting, by using management strategies that promote good tree health and vigor.

Ips Pine Engraver Beetles

Of these bark beetle species, the *Ips* engraver beetles are the most frequently observed in association with pine tree mortality in Florida. The three common species in Florida tend to infest different parts of the tree: *I. calligraphus* in large-diameter material near the bottom of a mature tree, *I. grandicollis* in the mid to upper bole (or lower bole of smaller trees), and *I. avulsus* in small-diameter material in or near the crown. A healthy, vigorous pine tree is not likely to be susceptible to attack by *Ips* beetles, and they are normally restricted to colonizing pines that are already very stressed, damaged, or dead for other reasons. Unlike southern pine beetle (SPB) infestations, *Ips* infestations do not expand rapidly through aggressive tree-to-tree spread of the beetles. Thus, removal of infested trees does not necessarily reduce the probability of attack on neighboring trees.

Links about *Ips* Pine Engraver Beetles:

- *Ips* Engraver Beetles (<http://www.freshfromflorida.com/content/download/4705/30001/ent417.pdf>) [ 198.56 KB]
- *Ips* Featured Creature Site (http://entnemdept.ufl.edu/creatures/trees/beetles/ips_beetles.htm) (Univ. FL.)

Black Turpentine Beetle (BTB)

The black turpentine beetle (*Dendroctonus terebrans*) is the largest of these pine bark beetle species. It attacks near the base of the tree, where the inner bark is thickest, and may also infest fresh stumps. BTB activity is often found in association with *Ips* and SPB infestations, and the beetles are attracted to stressed and injured trees. BTB is not usually known to spread aggressively or to kill healthy trees, and trees can sometimes recover from a limited number of attacks by this species.

Links about Black Turpentine Beetles:

- Black Turpentine Beetle (<http://www.freshfromflorida.com/content/download/4704/29995/ent405.pdf>) [ 104.76 KB]
- BTB Featured Creature Site (http://entnemdept.ufl.edu/creatures/trees/beetles/black_turpentine_beetle.htm) (Univ. FL.)

Southern Pine Beetle (SPB)

Southern pine beetle (*Dendroctonus frontalis*) is perhaps the best-known pest of southern pines. Like *Ips* and black turpentine beetles, SPB normally attacks stressed and dying pine trees. Under certain environmental conditions, however, SPB outbreaks can occur, during which vast acreages of pines in both forests and residential landscapes are mass-attacked and killed. Florida has experienced devastating SPB outbreaks in the recent past. Historically, the range of SPB in the state has included only north and central Florida, and no SPB activity has been recorded south of Orange and Hernando Counties. Bark beetle activity observed in south Florida can most likely be attributed to *Ips* and black turpentine beetles.

Links about *Ips* Southern Pine Beetles:

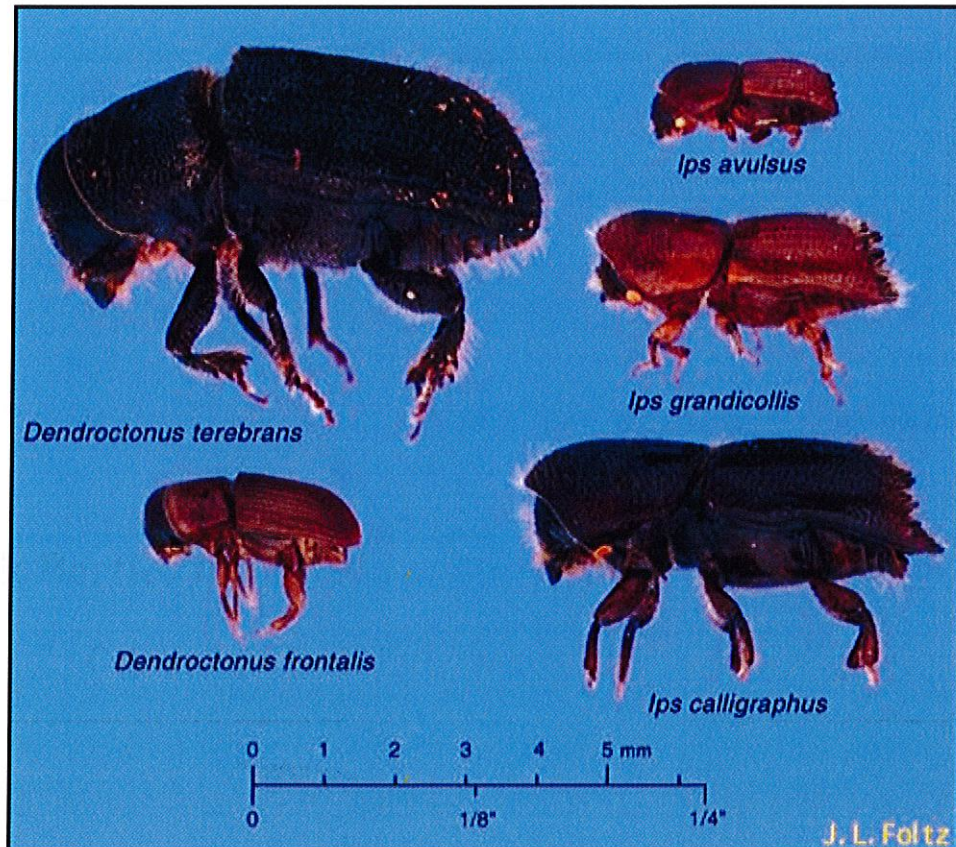
- Florida Forest Service's Southern Pine Beetle site

DOCUMENT READER DOWNLOAD LINK

 Adobe PDF Reader

Pine Bark Beetles in Florida

Coleoptera: Scolytidae, *Dendroctonus* spp., *Ips* spp.



More than 30 species of bark beetles are associated with pine trees in Florida, but only five species are likely to be serious pests. These species, pictured above, are easily distinguished based on a few morphological and behavioral characters. Adults are separated into the two genera based on the posterior declivity being either rounded and smooth or depressed and surrounded by spines. Size alone is enough to distinguish between the two species of *Dendroctonus*, while size and the number of spines will separate the three *Ips* species. The size, shape, and location of the galleries made by adults and larvae as they move through the inner bark can also be used to identify these bark beetles.

More information about each species is presented below.

Southern pine beetle, SPB, *Dendroctonus frontalis* Zimmermann