



# Department of Environmental Protection

Jeb Bush  
Governor

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

Colleen M. Castille  
Secretary

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 13, 2006

Martin County  
2401 S.E. Monterey Road  
Stuart, Florida 34996

c/o

Clay M. Bryant, P.E.  
Gahagan & Bryant Associates, Inc.  
3802 W. Bay to Bay Blvd., Suite B-22  
Tampa, FL 33629

**Permit Modification No. 0129368-009-EM  
Permit No. 0129368-002-JC, Martin County  
St Lucie Inlet Improvements (Time Extension)**

Dear Mr. Bryant:

Your request of April 17, 2006, to modify this permit on behalf of Martin County has been received and reviewed by Department staff. The proposed modification is to extend the original permit expiration date three (3) years, from April 18, 2006, to April 18, 2009. The time extension only applies to previously authorized structural improvements to the jetties at the St. Lucie Inlet. Dredging of the impoundment basin is no longer authorized under this permit.

### **BACKGROUND/HISTORY**

In accordance with the St. Lucie Inlet Management Study, adopted by the Department in 1995, Permit No. **0129368-002-JC** authorized a number of inlet improvement activities, including the excavation (deepening) of the existing impoundment basin, extension of the south jetty, and elevation and sand tightening of the north jetty. All sand and excavated rock was to be placed in an offshore disposal site. The five-year permit was issued on April 18, 2001.

An application was made by the U.S. Army Corps of Engineers (Corps) for maintenance dredging of the inlet channel, with nearshore disposal to -20 feet (NGVD), under File No. **0129368-001-JC**. However, the Corps withdrew their application following the issuance of Permit No. **43-294982-9** to Martin County on February 20, 1997. The 1997 permit authorized the County to conduct maintenance dredging of the channel, sediment basin and interior flood

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shoal. Able to work under the County's permit as a contractor, the Corps withdrew the request for their own permit.

On May 2, 2001, Variance No. **0129368-003-EV** was issued for a mixing zone of 4000 feet, with fixed monitoring locations that were alternated based on tidal conditions. On the same date, Permit Modification No. **0129368-004-JC** authorized 24-hour use of a clamshell dredge, initially restricted to daylight hours due to manatee concerns.

Permit Modification No. **0129368-005-JC**, issued on November 1, 2001, authorized maintenance dredging of the federal entrance channel, and nearshore disposal of dredged sand between DEP Monuments R-89 and R-108 from both the channel and sediment basin. An additional construction staging area seaward of the jetties was also approved.

In 2002, the County applied for a modification (File No. **0129368-006-JC**) to add maintenance dredging of the Atlantic Intracoastal Waterway to this permit in order to increase the amount of material placed along the southern shoreline. The permittee did not reply to a request for additional information for over a year, and withdrew the application on February 19, 2004, at the suggestion of Bureau staff.

Emergency dredging was authorized under Permit Modification **0129368-007-JC** to remove a 10,000 cubic yard shoal at the intersection of the Intracoastal Waterway and Okeechobee Waterway using the USS Currituck (a small hopper dredge). The modification was issued on December 5, 2002.

On August 24, 2005, Permit Modification No. **0129368-008-EM** approved one final emergency dredging of the impoundment basin with placement in the nearshore, below mean high water (MHW). The permittee did not utilize this authorization because the U.S. Army Corps of Engineers (USACE) was subsequently allocated additional funds to perform the maintenance dredging with beach placement above MHW under Permit No. 43-294982-9.

**JUSTIFICATION/NECESSITY**

The permittee's agent, Gahagan and Bryant, states:

The U.S. Army Corps of Engineers successfully completed excavation of the impoundment basin during 2002, however, there was not sufficient funding to complete the improvements to the north and south jetties. The Corps has recently obtained additional funding for the project and is planning to advertise for bids during this summer, with construction to occur during the spring/summer of 2007.

**STAFF ASSESSMENT**

The Department declined to grant a three (3) year extension when it was first requested under Permit Modification 0129368-008-EM because staff did not condone nearshore disposal of

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beach-quality material beyond the maintenance dredging event that was anticipated in 2005. As explained in the previous modification, staff has reservations about the placement of beach-quality sand in the nearshore (below MHW) because it is not consistent with the St. Lucie Inlet implementation plan, adopted by the Department in 1995, which recommends the placement of "all beach compatible dredged material on downdrift beaches in eroded areas." It is not apparent what portion of the material placed in the nearshore during previous events, if any, is migrating to the beach face, or otherwise preventing beach erosion. Anecdotal evidence exists that some contribution is made, including observations of sand color variation and decreased fill volume requirements of the overlapping Town of Jupiter Island nourishment project (Permit No. 0186991-001-JC). The level of analysis included in submitted reports is insufficient, though, to clearly characterize the behavior of the nearshore material. Further, given the previous monitoring data, it may be impossible to distinguish the contribution of the material placed in the nearshore from the sand placed upon the beach under the Town of Jupiter Island. However, the Department does not oppose a time extension to allow construction of the jetty improvements if dredging of the impoundment basin and navigational channels is no longer allowed under this permit.

The project description shall be revised as follows (~~strikethroughs~~ are deletions, underlines are additions):

**ACTIVITY DESCRIPTION:**

The project is to construct improvements within St. Lucie Inlet. This includes the initial construction of an impoundment basin, which will be created by dredging sand overburden and rock substratum from a 1750 ft. long x 450 ft. wide area to a depth of -16 ft. MLW, plus 2 ft. of allowable overdredge, and (for the initial excavation only) the removal of 2 additional ft. of rock as a safety buffer for future maintenance dredging (for a total dredge depth of -20 ft. MLW for the initial event only). ~~Dredging will also include maintenance of the existing federal navigation channel (Depth 16 ft. MLW, plus 2 ft allowable overdepth).~~ In November of 2002, 10,400 cubic yards of beach-quality sand will be dredged from a shoal located inside St. Lucie Inlet, at the intersection of the Intracoastal Waterway (IWW) and the Okeechobee Waterway (OWW), and placed in the St. Lucie Inlet Sediment Impoundment Basin. The project also involves raising the outer 450 ft. section of the north jetty with additional armor stone and widening its footprint, as well as extending the south jetty by 200 ft. through the installation of a steel sheetpile wall flanked by armor stone. In addition, the landward portion of the north jetty will be sand tightened with a geotextile membrane core overlain by 8 ton armor stone beginning at the terminus of the current sheetpile wall at Sailfish Point and extending seaward for a distance of 440-ft. ~~Approximately 100,000 cy of sand overburden and approximately 200,000 cy of limestone rock will be excavated. In 2005, maintenance dredging of the sediment basin is authorized one additional and final time under this permit. Excavation will be conducted by either hydraulic dredge, clamshell dredge, or marine excavator. All excavated~~ beach-quality sand material excavated during the jetty improvements will be

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deposited in the adjacent sediment impoundment basin nearshore disposal area located between R-89 and R-108, landward of the 16-foot (MLW) contour, and all excavated rock material not incorporated into the jetties will be placed at a permitted offshore artificial reef site located northeast of the inlet (DEP Permit No. 43-0166768-001-EI). As of 2006, no dredging of the sediment impoundment basin or navigational channels are authorized under this permit.

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The monitoring requirements shall be revised as follows:

**MONITORING REQUIRED:**

**1. Water Quality**

Parameter: Turbidity - Nephelometric Turbidity Units (NTUs)

DONALDSON ARTIFICIAL REEF SITE [*Not an addition*]

Frequency: At the completion of disposal of each barge load of excavated material.

Location:

Background: At least 500 meters upcurrent from the barge discharge location, outside of any visible turbidity plume, at mid-depth.

Compliance: No more than 150 meters downcurrent from the barge discharge location, within the densest portion of any visible turbidity plume, at mid-depth.

DREDGING/EXCAVATION SITE [*Not an addition*]

Frequency: Twice each day during dredging operations: 1) at the mid-point of the tidal cycle during a flood tide, and 2) at the mid-point of the tidal cycle during an ebb tide.

Location:

Background: 1) During flood tide: The average of measurements taken at (seaward) stations A1, A2, and A3, taken at mid-depth.  
2) During ebb tide: The average of measurements taken at (landward) stations B1, B2, and B3, taken at mid-depth.

Compliance: 1) During flood tide: At (landward) stations B1, B2, and B3, taken at mid-depth.  
2) During ebb tide: At (seaward) stations A1, A2, and A3, taken at mid-depth.

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NEARSHORE DISPOSAL SITE

~~Frequency: Twice daily, at least four hours apart, at the completion of disposal of a barge load of excavated material.~~

~~Location:~~

~~Background: At least 500 meters upcurrent from the barge discharge location, outside of any visible turbidity plume or project influence, at mid-depth.~~

~~Compliance: No more than 1000 meters downcurrent from the barge discharge location, and no farther north than DEP Monument R-88 (to avoid the existing hardbottom community), within the densest portion of any visible turbidity plume, at mid-depth.~~

Weekly summaries of all monitoring data shall be submitted to the JCP Compliance Officer at the Bureau of Beaches and Coastal Systems and to the DEP Southeast District Office within one week of analysis with documents containing the following information: (1) permit number; (2) dates and times of sampling and analysis; (3) a statement describing the methods used in collection, handling, storage and analysis of the samples; (4) a map indicating the sampling locations; and (5) a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data. Water quality monitoring reports may be submitted electronically.

Monitoring reports shall also include the following information for each sample that is taken:

- (a) time of day samples taken;
- (b) calibration of the turbidity meter;
- (b) depth of water body;
- (c) depth of sample;
- (d) antecedent weather conditions;
- (e) tidal stage and direction of flow; and
- (f) wind direction and velocity.

The compliance locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. If monitoring reveals turbidity levels at the compliance sites greater than 29 NTUs above background turbidity levels, construction activities shall cease immediately [*not an addition*] and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. The permittee shall immediately notify the JCP Compliance Officer of each exceedance and

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shall contact the Bureau for consultation within 24 hours of the third water quality violation.

**2. Physical Monitoring**

Pursuant to 62B-41.005(16), F.A.C., physical monitoring of the project is required through acquisition of project-specific data to include, ~~as applicable at a minimum~~, topographic and bathymetric surveys of the beach, offshore, and borrow site areas, aerial photography, and engineering analysis. The monitoring data is necessary in order for both the project sponsor and the Department to regularly observe and assess, with quantitative measurements, the performance of the project, any adverse effects which have occurred, and the need for any adjustments, modifications, or mitigative response to the project. The scientific monitoring process also provides the project sponsor and the Department information necessary to plan, design, and optimize subsequent follow-up projects, potentially reducing the need for and costs of unnecessary work, as well as potentially reducing any environmental impacts that may have occurred or be expected.

**Prior to construction placement of sand on the beach or in the nearshore, the permittee shall submit a detailed Monitoring Plan subject to review and approval by the Department.** The Monitoring Plan shall indicate the project's predicted design life.

A monitoring plan that combines or uses monitoring from other projects or annual countywide monitoring would be considered. Data collection for this permit may overlap other project monitoring, and consolidation of data collection should be considered. However, monitoring submittals must clearly identify all permits and conditions, and contracts with DEP, that the submittals are intended to satisfy. This will allow for more efficient accounting by all parties and permit compliance accounting by the Department. The approved Monitoring Plan can be revised at any later time by written request of the permittee and with the written approval of the Department. If subsequent to approval of the Monitoring Plan there is a request for modification of the permit, the Department may require revised or additional monitoring requirements as a condition of approval of the permit modification.

As guidance for obtaining Department approval, the plan shall generally contain the following items:

- a. Topographic and bathymetric profile surveys of the beach and offshore shall be conducted within 90 days prior to commencement of construction, and within 60

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days following completion of construction of the project. Thereafter, monitoring surveys shall be conducted annually for a period of three (3) years, then biennially until the next beach nourishment event or the expiration of the project design life, whichever occurs first. The monitoring surveys shall be conducted during a spring or summer month and repeated as close as practicable during that same month of the year. If the time period between the immediate post-construction survey and the first annual monitoring survey is less than six months, then the permittee may request a postponement of the first monitoring survey until the following spring/summer. A prior design survey of the beach and offshore may be submitted for the pre-construction survey if consistent with the other requirements of this condition.

The monitoring area shall include profile surveys at each of the Department of Environmental Protection's DNR reference monuments within the bounds of the nearshore disposal site and along at least 5,000 feet of the adjacent shoreline on both sides of the beach fill area. For those project areas that contain erosion control structures, such as groins or breakwaters, additional profile lines shall be surveyed at a sufficient number of intermediate locations to accurately identify patterns of erosion and accretion within this subarea. All work activities and deliverables shall be conducted in accordance with the latest update of the Bureau of Beaches and Coastal Systems (BBCS) Monitoring Standards for Beach Erosion Control Projects, Sections 01000 and 01100.

The influence of the nearshore disposal site on the adjacent beaches shall be specifically analyzed for possible adverse and beneficial effects, and surveys of the nearshore disposal site shall be conducted concurrently with the beach profile surveys required above by extending the profile lines a minimum of 500 feet seaward of the nearshore disposal site seaward boundary. A prior design survey of the nearshore disposal area may be submitted for the pre-construction survey if consistent with the other requirements of this condition. Beach and offshore profile surveys shall be conducted immediately prior to sand placement, immediately following completion of the project, and annually thereafter. The profile alignments will be identical to the azimuths previously established for each monument. All beach profiles shall extend from the monument at least 3000 feet seaward and out to the depth of closure if greater. Additional surveys may be required following a major storm as determined by the Department.

- b. Bathymetric surveys of St. Lucie Inlet and adjacent area shall be conducted

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immediately following project completion and annually thereafter. Soundings shall be taken in accordance with the minimum specifications identified in the approved monitoring plan.

- c. Aerial photography of the beach shall be taken concurrently with the post-construction survey and each annual and biennial monitoring survey required above, as close to the date of the beach profile surveys as possible. The limits of the photography shall include the surveyed monitoring area as described above. All work activities and deliverables shall be conducted in accordance with the latest update of the *BBCS Monitoring Standards for Beach Erosion Control Projects, Section 02000 – Aerial Photography Acquisition*. (Note: If nearshore hardbottom is present within the project area, then aerial photography shall be conducted in accordance with the latest update of the *BBCS Monitoring Standards for Beach Erosion Control Projects, Section 02100 – Environmental Aerial Photography Acquisition*.)
- d. The permittee shall submit an engineering report and the monitoring data to the BBCS within 90 days following completion of the post-construction survey and each annual or biennial monitoring survey.

The report shall summarize and discuss the data, the performance of the nearshore disposal project, and identify erosion and accretion patterns within the monitored area. In addition, the report shall include a comparative review of project performance to performance expectations and identification of adverse impacts attributable to the project. Such as the influence of the nearshore disposal site on the adjacent beaches shall be specifically analyzed for possible adverse and beneficial effects.

Appendices shall include plots of survey profiles and graphical representations of volumetric and shoreline position changes for the monitoring area. Results shall be analyzed for patterns, trends, or changes between annual surveys and cumulatively since project construction. All submittals shall reference the location Department of Environmental Protection's DNR reference monuments.

- e. Monitoring reports and data shall be submitted to the Bureau of Beaches and Coastal Systems (Attention JCP Compliance Officer) in Tallahassee. Failure to submit reports and data in a timely manner constitutes grounds for revocation of the permit. When submitting any monitoring information to the Bureau, please

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include a transmittal cover letter clearly labeled with the following, at the top of each page or as a cover page to the submittal: **"This monitoring information is submitted in accordance with Item No. [XX] of the approved Monitoring Plan for the St. Lucie Inlet Improvements (Impoundment Basin Maintenance) project, Permit No. 0129368-002-JC, for the monitoring period [XX]."**

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Staff has determined that the previously authorized jetty improvement activity is consistent with the statutes and rules that are currently in effect and no significant change in shoreline conditions has occurred since the Permit Modification No. 0129368-008-EM was issued on August 24, 2005. The applicant has demonstrated that the activity can be completed within the time extension requested based on a schedule for completion included with the request. Furthermore, the proposed time extension is not expected to increase the potential for adverse impact on the coastal system, public beach access seaward of the mean high water line or nesting sea turtles and hatchlings and their habitat.

Staff finds that the proposed modification is not expected to adversely affect water quality or be contrary to the public interest. Since the proposed modification is not expected to result in any adverse environmental impact or water quality degradation, the **permit is hereby modified** as indicated above. By copy of this letter, we are notifying all necessary parties of the modification.

This letter of approval extends the expiration date to **April 18, 2009**. The modification does not alter the Specific Conditions, General Conditions, or monitoring requirements of the permit, except as described above. This letter must be attached to the original permit.

This permit is hereby extended unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, Florida Statutes, as provided below. The procedures for petitioning for a hearing are set forth below. Mediation under Section 120.573, F.S., is not available for this proceeding.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

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Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in further modification of the permit or even a denial of the application. If a sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this permit modification automatically becomes only proposed agency action on the application subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this permit modification until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time has expired.

Under Rule 62-110.106(4), Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Any intervention will be only at the discretion of the presiding judge upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first.

Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

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The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S.

In accordance with Rule 28-106.201, F.A.C., a petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C. Under Sections 120.569(2)(c) and (d), F.S., a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

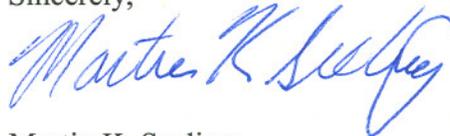
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This permit modification constitutes an order of the Department. The applicant has the right to seek judicial review of the order under Section 120.68, F.S., by the filing of a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department. The applicant, or any party within the meaning of Section 373.114(1)(a), F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1), F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the final order is filed with the Clerk of the Department.

The Department does not require notice of this agency action to be published. However, the applicant may elect to publish notice as prescribed in Rule 62-110.106, F.A.C., which constitutes notice to the public and establishes a time period for submittal of any petition. When there has been no publication of notice of agency action or notice of proposed agency action as prescribed in Rule 62-110.106, F.A.C., a person may request a copy of the agency action. The Department shall upon receipt of such a request, if agency action has occurred, promptly provide the person with notice.

If you have any questions regarding this matter, please contact me at the letterhead address (add Mail Station 300), by telephone at (850) 414-7728, or Steven MacLeod at (850) 414-7806.

Sincerely,



Martin K. Seeling  
Environmental Administrator  
Bureau of Beaches & Coastal Systems

MKS/smm

cc:

Kathy FitzPatrick, Martin County  
Rick McMillan, USACE, CESAJ-DP-C

Mark Taynton, BBCS-CCCL  
Vladimir Kosmynin, BBCS-JCP

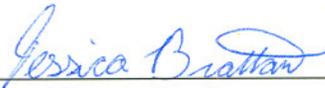
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Jim McAdams, USACE, CESAJ-PD-EA  
Robbin Trindell, FWC, ISMS  
Mary Duncan, FWC, ISMS  
Major Brett Norton, FWC, South Region  
Georgia Vince, DEP, SE District

Robert Brantly, BBCS-CE  
James LaGrone, BBCS-CE  
Paden Woodruff, BBCS-BECP  
Phil Sanders, BBCS-BECP  
BBCS Permit File

**FILING AND ACKNOWLEDGMENT**

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

 7/13/06  
Deputy Clerk Date