



# 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

## **CERTIFIED - RETURN RECEIPT REQUESTED**

November 18, 2011

Martin County  
2401 SE Monterey Road  
Administrative Center Building  
Stuart, FL 34996

c/o

Stacey Roberts  
Atkins  
101 Arthur Anderson Pkwy  
Suite 260  
Sarasota, FL 34232

Permit Modification No. 0269814-009-BN  
Permit No. 0269814-001-EM, Martin County  
St. Lucie Inlet Sand Bypassing

Dear Ms. Roberts:

Your request to modify Permit No. 0269814-001-EM, was received on October 14, 2011, and has been reviewed by Department staff. The proposed permit modification is to redefine the water quality monitoring conditions.

The following information describes the project history from the time of original permit issuance, and the subjects directly related to the proposed modification. For additional background, please refer to the Bureau website:

[http://bcs.dep.state.fl.us/env-prmt/martin/issued/0269814\\_St.\\_Lucie\\_Inlet\\_Sand\\_Bypassing\\_\(5\\_Year\\_Renewal\)/](http://bcs.dep.state.fl.us/env-prmt/martin/issued/0269814_St._Lucie_Inlet_Sand_Bypassing_(5_Year_Renewal)/)

St. Lucie Inlet is located in northeast Martin County and has been maintained as a federal navigation project since the early 1900's. The northern jetty (on Hutchinson Island) was constructed during the late 1920's in an effort to stabilize the inlet by trapping sand moving south. The northern shoreline was stabilized, however, the southern shoreline (on Jupiter Island) began to experience increased erosion. In an effort to reduce the erosion on Jupiter Island, a southern jetty, an offshore breakwater and a sediment impoundment basin were added over the years. However, this segment of shoreline (approximately 5.8 miles) remains critically eroded.

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The Department adopted the St. Lucie Inlet Management Study on August 7, 1995, for the purposes of evaluating the erosive impact of the inlet on adjacent beaches, and to recommend corrective measures to mitigate identified impacts.

On May 18, 1995, the U.S. Army Corps of Engineers (Corps) submitted an application (File No. **0129368-001-JC, x-ref 43-271204-9**). A Notice of Intent to Issue the Joint Coastal Permit was issued in 1996; however, the Corps did not accept the draft permit conditions and withdrew the application.

On February 20, 1997, the Department issued **Permit No. 43-294982-9** and **Variance No. VE 43-714** to Martin County. The permit authorized the periodic maintenance dredging of the St. Lucie Inlet interior flood shoal, sedimentation basin and navigation channel, and the placement of approximately 714,000 cubic yards of sand on Jupiter Island, between R-72 and R-84. The antidegradation variance authorized elevated turbidity levels up to 29 NTUs above background at the edge of the standard mixing zone for the waters fronting St. Lucie Inlet State Park and the Hobe Sound National Wildlife Refuge, which are designated as Outstanding Florida Waters. The bypassing project was complete in June 1999.

On April 29, 1999, Permit No. 43-294982-9 was modified to allow a time extension of construction into the marine turtle nesting period, through May 15th; the extension was only valid for the 1999 event. A second modification was issued on July 20, 1999, to allow one-time dredging of finger canals connected to the intracoastal waterway. The canal entrances were dredged to a maximum depth of -5.0 feet MLW, and approximately 5,000 cubic yards of material was placed in the Florida Inland Navigation District (FIND) M-5 Dredge Materials Management Area (DMMA).

Between July and October 2000, the Corps dredged approximately 220,000 cubic yards of sandy material from the impoundment basin (and Cut 1) and placed it in the nearshore, between monuments R-88 and R-99. This event was authorized under Permit No. 43-294982-9.

On April 18, 2001, the Department issued Permit No. **0129368-002-JC** to Martin County for 5 years. That permit authorized a number of inlet improvement activities, including the excavation 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 placed in an offshore disposal site.

On May 2, 2001, the Department issued Variance No. **0129368-003-EV** and Permit Modification No. **0129368-004-JC** to Martin County in order to revise Permit No. 0129368-002-JC. The variance authorized an expanded mixing zone that extended up to 4,000 feet. The modification authorized the use of a clamshell dredge 24-hours a day; initially the dredge was restricted to daylight hours due to manatee concerns.

On November 1, 2001, the Department issued Permit Modification No. **0129368-005-JC** to Martin County in order to revise Permit No. 0129368-002-JC. This modification authorized

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maintenance dredging of approximately 300,000 cubic yards of material from the federal entrance channel and sediment basin. The dredged material was placed in the nearshore disposal site, between R-89 and R-108.

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

On December 5, 2002, the Department issued Permit Modification **0129368-007-JC** to Martin County in order to revise Permit No. 0129368-002-JC. The modification allowed the one-time only removal of 10,000 cubic yards of material from the shoal at the intersection of the Intracoastal Waterway and Okeechobee Waterway, using the USS Currituck (a small hopper dredge).

On August 24, 2005, Permit Modification No. **0129368-008-EM** authorized emergency dredging of the impoundment basin and placement of dredged material in the nearshore. The Permittee did not utilize this authorization because the Corps was subsequently allocated additional funds to perform the maintenance dredging with beach placement above MHW under Permit No. 43-294982-9.

On July 13, 2006, the Department issued Modification No. **0129368-009-EM**, which extended the expiration date of Permit No. 0129368-002-JC, from April 18, 2006, to April 18, 2009. The time extension was only valid for the previously authorized structural improvements to the jetties at the St. Lucie Inlet.

On November 3, 2006, the Department issued Modification No. **0269814-001-EM** to Martin County in association with the five-year renewal of Permit No. 43-294982-9. Pursuant to Specific Condition No. 2 of the 15-year permit, the Department must complete a comprehensive review of the activities authorized under the permit every 5 years. The permit was modified in accordance with current revisions of Chapters 161 and 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.), as well as updated Department policies and guidelines. The modification also incorporated a nearshore hardbottom monitoring plan at the beach disposal location, a revised physical monitoring plan, shorebird monitoring conditions and supplemental turbidity monitoring stations to support plume analysis. The modification also specified that the current variance (File No. VE-43-714) would be voided as of January 1, 2008. The intent was that the Permittee would use the additional monitoring data to support an updated and justified variance request for a mixing zone for the next nourishment event.

On July 17, 2008, the Department issued Modification No. **0129368-010-JN**, which authorized another time extension of Permit No. 0129368-002-JC from April 18, 2009 to April 18, 2010. This authorized continuation of activities associated with the jetty improvements.

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On May 8, 2009, the Department issued Modification No. **0129368-011-JN**, to revise Permit No. 0129368-002-JC. The modification authorized a small turbidity mixing zone up to 75 meters, for turbidity associated with the construction of the jetties.

On June 18, 2007, the Department issued Modification No. **0269814-002-EM** to Martin County, which added a dune feature to the beach design template between R-59 and R-69 under Permit No. 43-294982-9.

On October 7, 2011 the Department issued Modification No. **0269814-005-JN** to Martin County, which authorizes the use of the nearshore disposal area, located between DEP monuments R-89 and R-108, for disposal of beach compatible material that will be dredged for the 2011/2012 maintenance event only.

On October 7, 2011 the Department issued Modification No. **0269814-006-JN** to Martin County, which granted a two year statutory time extension, extending the expiration date of the permit to February 20, 2014.

On August 1, 2001, Martin County applied to the Department for Permit No. **0269814-007-JC** for the continued maintenance of the St. Lucie Inlet consistent with the adopted Inlet Management Plan. The proposed project includes the maintenance dredging of the inlet channel, impoundment basin and interior flood shoal with multiple options for disposal of maintenance dredged materials including beach placement. This application is currently incomplete.

On October 10, 2011 Martin County applied for a variance (File No. **0269814-008-BV**) for an expanded turbidity mixing zone of 600 meters and a maximum allowable turbidity level of 8 NTUs above background at the edge of the mixing zone in Outstanding Florida Waters. The variance was issued on November 18, 2011.

**JUSTIFICATION / STAFF ASSESSMENT**

In response to the requirement of Modification No. **0269814-001-EM**, the Permittee collected additional turbidity data in the 2007 event to justify an amended and minimized variance request for the project, in order to bring the mixing zone limits and antidegradation allowance into accordance with current rules and policies. The new variance will minimize the potential for environmental impacts resulting from turbidity produced by this project.

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The specific permit conditions shall be revised as follows (strikethroughs are deletions, underlines are additions):

**SPECIFIC PERMIT CONDITIONS:**

12. The permittee shall comply with the following manatee protection construction conditions:
  - 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 shutdown 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](mailto:ImperiledSpecies@myFWC.com)

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- 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](http://MyFWC.com/manatee). Questions concerning these signs can be sent to the email address listed above.
- ~~a. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatee(s).~~
- ~~b. 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 of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.~~
- ~~c. Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.~~
- ~~d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction 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.~~
- ~~e. If manatee(s) are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own volition.~~
- f. ~~Any collision with and/or injury to a manatee shall be reported~~

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~~immediately to the Florida Marine Patrol at 1-800-DIAL-FMP (1-800-342-5367). Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-772407-562-3909) in south Florida.~~

- ~~g. Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 1/2" by 11" which reads *Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the Florida Marine Patrol at 1-800-DIAL-FMP (1-800-342-5367). The U.S. Fish and Wildlife Service should also be contacted in Jacksonville (1-904-232-2580) for north Florida or in Vero Beach (1-772407-562-3909) for south Florida.*~~

The monitoring requirements shall be revised as follows (strikethroughs are deletions, underlines are additions):

**MONITORING REQUIRED:**

1. **Water Quality**

Parameter: Turbidity - Nephelometric Turbidity Units (NTUs)

DREDGE BORROW SITE:

Frequency: Every four hours during daylight dredging operations. ~~The first sampling event shall occur within one hour of dredging commencement and continue every four hours thereafter during dredging.~~

Location: Background: At least ~~500~~ 300 meters upcurrent from the dredge, outside of any visible turbidity plume, at mid-depth.

Compliance: ~~No more than~~ 150 meters downcurrent from the dredge, in the densest portion of any visible turbidity plume, at mid-depth.

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BEACH DISPOSAL SITE (within Outstanding Florida Waters):

All turbidity measurements for beach placement will be taken seaward of the wave plunge zone.

Frequency: Every four hours during daylight beach fill placement.  
~~Supplemental measurements may be conducted during daylight hours only.~~

Location: Background: At least ~~500~~1000 meters upcurrent from the discharge point, outside of any visible turbidity plume, at mid-depth, the same distance offshore as the associated compliance sample.

Compliance: ~~No more than 150 meters downcurrent of the discharge point, within the densest portion of any visible turbidity plume, at mid-depth.~~ Samples shall be collected at mid depth, where densest portion of the turbidity plume crosses the edge of a mixing zone polygon measuring 600 meters shore-parallel and 150 meters offshore, starting from the point where the return water is discharged into the Atlantic Ocean.

Supplemental: At ~~300~~400 meters, ~~700 meters and 1000 meters~~ downcurrent (shore-parallel) of the discharge point within the densest portion of any visible turbidity plume, at mid-depth.

Weekly summaries of all monitoring data shall be submitted to the Bureau of Beaches and Coastal Systems (attn: JCP Compliance Officer) and to the Southwest District Office within one week of analysis with documents containing the following information: (1) permit number and project name; (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.

Monitoring reports shall also include the following information for each sample that is taken: a) time of day samples taken; 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

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temporary mixing zone for turbidity allowed during construction. If monitoring reveals compliance turbidity levels ~~at the beach compliance site~~ greater than 29 NTUs above the associated background at the dredge site or 8 NTU's above background at the beach disposal site (within OFW) ~~turbidity levels (and 0 NTUs above background within Outstanding Florida Waters after January 1, 2008),~~ construction activities shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels.

Monitoring reports shall be submitted to the Bureau of Beaches and Coastal Systems (attn: JCP Compliance Officer) in Tallahassee. Failure to submit reports in a timely manner constitutes grounds for revocation of the permit. When submitting this information to the DEP, please clearly include, at the top of each page or as a cover page to the submittal: **"This information being provided in partial fulfillment of the monitoring requirements in Permit No. 0269814-009-BN 43-294982-9."**

After thorough review of your application, staff finds that the proposed modification is not expected to adversely affect water quality or change the determination that the project is clearly in the public interest. Staff has also determined that the proposed alteration does not 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, and that the proposed alteration does not reduce the design adequacy of the project. Since the proposed modification is not expected to result in any adverse environmental impact or water quality degradation, the **permit is hereby modified** as requested. By copy of this letter, we are notifying all necessary parties of the modification(s).

This letter of approval does not alter the February 20, 2014 expiration date, other Specific or General Conditions, or monitoring requirements of the permit. This letter must be attached to the original permit.

This permit is hereby modified unless a sufficient petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, Florida Statutes (F.S.), 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.

### **NOTICE OF RIGHTS**

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

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General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35,  
Tallahassee, Florida 32399-3000.

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 (F.A.C.), 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.

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

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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.

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

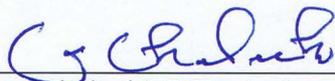
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filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department.

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. 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.

If you have any questions regarding this matter, please contact Molly Edson at the letterhead address (add Mail Station 300) or by telephone at (850) 414-7778.

Sincerely,



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Gene Chalecki, P.E., Acting Chief  
Bureau of Beaches and Coastal Systems

LE/mte

cc: Gene Chalecki, BBCS  
Robert Brantly, BBCS  
El Kromhout, BBCS  
Vladimir Kosmynin, BBCS  
Jennifer Smith, SLER EA, DEP, District Office  
Alex Reed, BBCS  
Mark Taynton, CCCL Field Inspector  
Jenny Cheng, CE Processor  
JCP Compliance  
Paden Woodruff, BBCS  
Roxane Dow, BBCS  
Rob Buda, BECP Project Manager, BBCS  
Lainie Edwards, BBCS  
Robbin Trindell, FWC, ISMS  
Joe Walsh, FWC  
BBCS 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.

Ejahn Yongun      11/18/11  
Deputy Clerk                      Date