FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

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RICK SCOTT
GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

August 29, 2013

Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

Re: Elizabeth Padron vs. Carl J. Ekblom and DEP
DOAH Case No.: 12-3291
OGC Case No.: 12-1556

Dear Clerk:

Attached for filing are the following documents:

1. Agency Final Order
2. Petitioners' Exceptions to Recommended Order
3. Carl Ekblom's Response to Petitioner's Exceptions to the Recommended Order
4. DEP's Response to Elizabeth Padron's Exceptions to Recommended Order

If you have any questions, please do not hesitate to contact me at 245-2212 or lea.crandall@dep.state.fl.us.

Sincerely,

Lea Crandall

Lea Crandall
Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ELIZABETH PADRON,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**OGC CASE NO. 12-1556**
	)	**DOAH CASE NO. 12-3291**
CARL J. EKBLOM and DEPARTMENT OF ENVIRONMENTAL PROTECTION,	)	
	)	
Respondents.	)	
	)	

FINAL ORDER

An Administrative Law Judge ("ALJ") with the Division of Administrative Hearings ("DOAH"), on June 5, 2013, submitted a Recommended Order ("RO") to the Department of Environmental Protection ("DEP" or "Department") in the above captioned administrative proceeding. A copy of the RO is attached hereto as Exhibit A. The RO reflects that copies were sent to counsel for the Petitioner, Elizabeth Padron ("Petitioner") and counsel for the Respondents, Carl J. Ekblom ("Ekblom") and the Department. The Petitioner filed Exceptions to the Recommended Order on June 19, 2013. The Respondent Ekblom filed a response on June 26, 2013, and the Department filed a response on July 1, 2013. This matter is now on administrative review before the Secretary for final agency action.

BACKGROUND

The Department gave notice, on August 20, 2012, that Ekblom's application to install a boat lift on an existing dock in Islamorada was exempt from the Department's permitting requirements and did not require proprietary review. The Petitioner, who

owns the existing dock on the adjacent lot, filed a Petition for Administrative Hearing challenging the determination. The Department referred the matter to the DOAH, where an ALJ conducted the final hearing on March 5, 2013. A hearing transcript was filed at DOAH. The parties timely filed proposed recommended orders and the ALJ subsequently issued a Recommended Order on June 5, 2013.

SUMMARY OF THE RECOMMENDED ORDER

The ALJ recommended that the Department enter a final order approving its determination that Ekblom's application to install a boat lift was exempt from the Environmental Resource Permit ("ERP") requirements under rule 40E-4.051(3), Florida Administrative Code ("F.A.C.").[1] (RO ¶ 38 and page 17).

The ALJ found that Ekblom and the Petitioner own two pie-shaped lots that sit at the V-shaped western end of Plantation Lake in Islamorada. Plantation Lake is an artificial body of water on which several houses are located. Each of the two properties has a marginal dock running along the shoreline that meets to form an acute angle. A finger pier juts out from the vertex of the angle and runs along the border of the property line. (RO ¶ 2). The ALJ found that under an easement agreement, Ekblom used the north side of the finger pier to moor a 35 to 36-foot boat, installed a jet ski lift on the north side of the finger pier, and has never had a navigational incident or complaint. (RO ¶ 2 and endnote 2). The ALJ found that Ekblom proposed to install a four-post (or cradle) boat lift for a new boat on the north side of the finger pier, in a location selected to provide for straight ingress and egress. The ALJ found that the boat lift would not be

[1] In 1995, the Department adopted rule 40E-4.051 by reference in rule 62-330.200(4)(b), F.A.C. Thus, the rule as written in 1995 is the controlling provision in this case. *See* § 120.54(1)(i)1., Fla. Stat. (2012).

physically attached to the pier because a four-post lift is freestanding, as opposed to an elevator lift, which attaches to the side of a seawall or dock. (RO ¶¶ 4, 5).

The ALJ found that Ekblom will use the boat and lift for recreational, non-commercial purposes. The ALJ also found that the lift would not require more dredging and filling than necessary to install the pilings. (RO ¶¶ 16, 17, 33). The ALJ determined that the boat lift would not be a navigational hazard. (RO ¶¶ 19 – 28, 34). The ALJ concluded that a mere inconvenience does not rise to the level of a navigational hazard. (RO ¶ 34). In addition, the ALJ concluded that since the Department considers a boat lift to be an associated structure under rule 40E-4.051(3)(b), F.A.C., Ekblom's existing marginal dock and the jet ski lift would not preclude a determination that the new boat lift was exempt. (RO ¶¶ 29, 35, 38).

STANDARDS OF REVIEW OF DOAH RECOMMENDED ORDERS

Section 120.57(1)(l), Florida Statutes, prescribes that an agency reviewing a recommended order may not reject or modify the findings of fact of an ALJ, "unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based on competent substantial evidence." § 120.57(1)(l), Fla. Stat. (2012); *Charlotte Cty. v. IMC Phosphates Co.*, 18 So.3d 1089 (Fla. 2d DCA 2009); *Wills v. Fla. Elections Comm'n*, 955 So.2d 61 (Fla. 1st DCA 2007). A reviewing agency may not reweigh the evidence presented at a DOAH final hearing, attempt to resolve conflicts therein, or judge the credibility of witnesses. *See, e.g., Rogers v. Dep't of Health,* 920 So.2d 27, 30 (Fla. 1st DCA 2005); *Belleau v. Dep't of Envtl. Prot.*, 695 So.2d 1305, 1307 (Fla. 1st DCA 1997); *Dunham v. Highlands Cty. Sch. Bd.,* 652 So.2d 894 (Fla. 2d DCA 1995). If there is competent substantial evidence to

support an administrative law judge's findings of fact, it is irrelevant that there may also be competent substantial evidence supporting a contrary finding. *See, e.g., Arand Construction Co. v. Dyer,* 592 So.2d 276, 280 (Fla. 1st DCA 1991); *Conshor, Inc. v. Roberts,* 498 So.2d 622 (Fla. 1st DCA 1986).

The ALJ's decision to accept the testimony of one expert witness over that of another expert is an evidentiary ruling that cannot be altered by a reviewing agency, absent a complete lack of any competent substantial evidence of record supporting this decision. *See, e.g., Peace River/Manasota Regional Water Supply Authority v. IMC Phosphates Co.,* 18 So.3d 1079, 1088 (Fla. 2d DCA 2009); *Collier Med. Ctr. V. State, Dep't of HRS*, 462 So.2d 83, 85 (Fla. 1st DCA 1985); *Fla. Chapter of Sierra Club v. Orlando Utils. Comm'n*, 436 So.2d 383, 389 (Fla. 5th DCA 1983).

Section 120.57(1)(l), Florida Statutes, authorizes an agency to reject or modify an ALJ's conclusions of law and interpretations of administrative rules "over which it has substantive jurisdiction." *See Barfield v. Dep't of Health,* 805 So.2d 1008 (Fla. 1st DCA 2001); *L.B. Bryan & Co. v. Sch. Bd. of Broward Cty.*, 746 So.2d 1194 (Fla. 1st DCA 1999); *Deep Lagoon Boat Club, Ltd. v. Sheridan*, 784 So.2d 1140 (Fla. 2d DCA 2001). If an ALJ improperly labels a conclusion of law as a finding of fact, the label should be disregarded and the item treated as though it were actually a conclusion of law. *See, e.g., Battaglia Properties v. Fla. Land and Water Adjudicatory Comm'n*, 629 So.2d 161, 168 (Fla. 5th DCA 1994). Neither should the agency label what is essentially an ultimate factual determination as a "conclusion of law," however, in order to modify or overturn what it may view as an unfavorable finding of fact. *See, e.g., Stokes v. State, Bd. of Prof'l Eng'rs*, 952 So.2d 1224 (Fla. 1st DCA 2007).

Considerable deference should be accorded to agency interpretations of statutes and rules within their regulatory jurisdiction, and such agency interpretations should not be overturned unless "clearly erroneous." *See, e.g., Falk v. Beard*, 614 So.2d 1086, 1089 (Fla. 1993); *Dep't of Envtl. Regulation v. Goldring*, 477 So.2d 532, 534 (Fla. 1985). Furthermore, agency interpretations of statutes and rules within their regulatory jurisdiction do not have to be the only reasonable interpretations. It is enough if such agency interpretations are "permissible" ones. *See, e.g., Suddath Van Lines, Inc. v. Dep't of Envtl. Prot.*, 668 So.2d 209, 212 (Fla. 1st DCA 1996). The Department is charged with enforcing and interpreting chapters 373 and 403 of the Florida Statutes. Thus, chapters 373 and 403 of the Florida Statutes, and the rules promulgated thereunder, are within the Department's regulatory jurisdiction and expertise. *See Dep't of Envtl. Regulation v. Goldring*, 477 So.2d 532, 534 (Fla. 1985).

RULINGS ON EXCEPTIONS

In reviewing a recommended order and any written exceptions, the agency's final order "shall include an explicit ruling on each exception." *See* § 120.57(1)(k), Fla. Stat. (2012). The agency need not rule on an exception, however, that "does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." *Id.*

A party that files no exceptions to certain findings of fact "has thereby expressed its agreement with, or at least waived any objection to, those findings of fact." *Envtl. Coalition of Fla., Inc. v. Broward Cty.*, 586 So.2d 1212, 1213 (Fla. 1st DCA 1991); *see also Colonnade Medical Ctr., Inc. v. State of Fla., Agency for Health Care Admin.*, 847

So.2d 540, 542 (Fla. 4th DCA 2003). An agency head reviewing a recommended order is free to modify or reject any erroneous conclusions of law over which the agency has substantive jurisdiction, however, even when exceptions are not filed. *See* § 120.57(1)(l), Fla. Stat. (2012); *Barfield v. Dep't of Health,* 805 So.2d 1008 (Fla. 1st DCA 2001); *Fla. Public Employee Council, 79 v. Daniels*, 646 So.2d 813, 816 (Fla. 1st DCA 1994).

PETITIONER'S EXCEPTIONS

Exception Nos. 1 and 3 – paragraphs 10 and 35.

The Petitioner takes exception to paragraph 10 where the ALJ explained the Department's interpretation of the word "attached" as used in the rule 40E-4.051(3)(b), F.A.C., and found that it was "a more reasonable and logical interpretation of the rule than the narrow one advocated by Padron." (RO ¶ 10). The Petitioner also takes exception to the ALJ's conclusion in paragraph 35 that the rule "does not prohibit the cradle lift solely because it is not physically attached to the finger pier." (RO ¶ 35). The Petitioner argues that the ALJ's interpretation of the word "attached" "erroneously disregards the plain and clearly defined meaning of the word . . . commonly used in construction to mean 'physically attached' . . ." *See* Petitioner's Exceptions at page 5. The Petitioner also argues that the rule's definition of "activities associated with a dock" only includes structures that are physically attached, such that Ekblom's proposed boat lift associated with the finger pier does not qualify as exempt "by the plain language of the Rule." *See* Petitioner's Exceptions at pages 7-8.

In paragraph 32 of the RO the ALJ stated that:

> 32. Section 403.813(1)(b) provides that a permit is not required under chapter 373 for "activities associated" with

the installation of private docks, provided they meet certain conditions. Rule 40E-4.051(3)(b) implements this statutory exemption in relevant part as follows:

> (b) . . . To qualify for this exemption, any such dock and associated structure:
>
> 1. Shall be used for recreational, non-commercial activities;
>
> 2. Shall be constructed or held in place by pilings, including floating docks, so as not to involve filling or dredging other that [sic] necessary to install the pilings;
>
> 3. Shall not substantially impede the flow of water or create a navigational hazard; and
>
> 4. . . . Activities associated with a private dock shall include the construction of structures attached to the pier which are only suitable for the mooring or storage of boats (i.e., boatlifts). . . .

In paragraph 10 the ALJ found that:

> 10. The project drawings do not depict the boat lift as physically attached to the finger pier. About half of the exemptions Ms. Hitchins reviews are for elevator lifts, which attach to a dock, and the other half are for cradle lifts, which do not need to be physically attached to the dock. Both types of structures may be exempt, as the Department interprets the word "attached" in rule 40E-4.051(3)(b) to mean either physically attached or in close proximity and associated with a docking facility. "Close proximity" means a close step, or a reasonable step, or some sort of means of access, such as a boarding platform or access walkway. It does not include needing to run and jump on the vessel or needing to swim to the vessel. This is a more reasonable and logical interpretation of the rule than the narrow one advocated by Padron. Ms. Hitchins determined from the project drawings that the lift was in close proximity to the finger pier and met the requirements of the rule.

The ALJ's findings in paragraph 10 are based on competent substantial evidence in the form of the Department's expert testimony regarding her practice when reviewing proposed exempt boat lifts. (T. pp. 155-156, 175-176).

The ALJ's acceptance, in paragraph 10, of the Department's interpretation and application of the rule and in the related conclusion of law paragraph 35, is a reasonable interpretation of rule 40E-4.051(3)(b), F.A.C., and section 403.813(1), Florida Statutes. Although the Petitioner argues that the Department must apply the plain meaning of the word "attached," the arguments in her exceptions highlight the fact that there are multiple meanings in different dictionaries for the word "attached." *See* Petitioner's Exceptions at pages 7-8. The ALJ's interpretation, in paragraph 35, using the *American Heritage Dictionary's*[2] definition of "to connect as an adjunct or associated part," is a reasonable one. *See, e.g., Suddath Van Lines, Inc. v. Dep't of Envtl. Prot.,* 668 So.2d 209, 212 (Fla. 1st DCA 1996)("If an agency's interpretation of a rule is one of several permissible interpretations, the agency's interpretation must be upheld despite the existence of other reasonable alternatives."). In addition, as the ALJ concluded in paragraph 35, the Department's interpretation is reasonable and logical, otherwise "cradle lifts would not be exempt from permitting requirements, while elevator lifts would, leading to an unreasonable and absurd result." *See, e.g., Pershing Industries, Inc. v. Dep't of Banking and Finance,* 591 So.2d 991, 993 (Fla. 1st DCA 1991)(reflecting that an agency's construction of its governing statutes and rules will be upheld unless clearly erroneous).

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[2] *American Heritage Dictionary* (2d College ed., 1991).

Therefore, based on the foregoing reasons, the Petitioner's Exception Nos. 1 and 3 are denied.

Exception No. 2 – paragraph 25.

The Petitioner takes exception to the first sentence in paragraph 25 of the RO, where the ALJ found that "[t]he mere fact that the lift may preclude access to the north side of the finger pier does not make it a navigational hazard." (RO ¶ 25). The Petitioner asserts that the finding should be treated as a conclusion of law, which conclusion contradicts "the finding" in *Rosenblum v. Zimmet* that a proposed dock's "impediment to navigation to and from the south side of the existing dock would not be a mere inconvenience." *See Rosenblum v. Zimmet,* Case No. 06-2859 (Fla. DOAH October 23, 2007; Fla. DEP December 11, 2007).

Contrary to the Petitioner's assertion, the first sentence in paragraph 25 is a factual finding supported by competent substantial record evidence including the testimony of Ekblom's navigation expert. (T. pp. 25-27, 35-36, 81, 106-111, 136, 158-161; Padron Ex. 2). The ALJ's "finding" in *Rosenblum* was also a factual finding based on the record of that case and did not establish a new legal standard. *Id. See also Stokes v. State, Bd. of Prof'l Eng'rs*, 952 So.2d 1224 (Fla. 1st DCA 2007)(reflecting that a reviewing agency should not label what is essentially an ultimate factual determination as a "conclusion of law," in order to modify or overturn what it may view as an unfavorable finding of fact).

Therefore, based on the foregoing, the Petitioner's Exception No. 2 is denied.

Exception No. 4 – paragraph 37.

The Petitioner takes exception to paragraph 37 of the RO, where the ALJ concluded that the *Rosenblum* case is clearly distinguishable from the present case. The Petitioner argues that because the ALJ in *Rosenblum* found that the proposed construction would impede navigation to one side of the adjacent property owner's finger pier, the project constituted a navigational hazard. The Petitioner argues that this "holding" must be applied in the instant case. *See* Petitioner's Exceptions at pages 8-9.

Contrary to the Petitioner's argument and as discussed above, the finding of navigational hazard in *Rosenblum*, and in the instant case were factual determinations based on the evidence submitted in each case. In paragraphs 36 and 37 the ALJ compared the facts of the *Rosenblum* case and the instant case. The ALJ determined that they were not the same. Further, as discussed in the ruling on the Petitioner's Exception No. 9 below, the ALJ's findings of fact on navigation in this case are supported by competent substantial record evidence. *See* § 120.57(1)(l), Fla. Stat. (2012).

Therefore, based on the foregoing reasons, the Petitioner's Exception No. 4 is denied.

Exception No. 5 – Endnote 2 on page 18.

The Petitioner takes exception to Endnote 2 on page 18, where the ALJ states that proof of ownership or access to a dock is not required in order to qualify for an exemption to construct a boat lift. The Petitioner asserts that a structure cannot be

associated with a dock if the person applying does not own or have right to access such dock. *See* Petitioner's Exceptions at page 9.

To the extent that the ALJ's statement is a conclusion of law, there is no reason for the Department to modify or reject it. Exempted activities are exempt from the need to obtain a permit from the Department. The exemption in this case arises under section 403. 813(1)(b), Florida Statutes, and does not contain an ownership requirement.[3] The Department does not have the authority to impose additional criteria for an exemption, other than those contained in the statute. *See, e.g., River Trails, Ltd. v. Dep't of Envtl. Regulation,* 1985 WL 26140 (Fla. Dept. Env. Reg. 1985).

Therefore, based on the foregoing reasons, the Petitioner's Exception No. 5 is denied.

Exception No. 6 – paragraphs 2 and 25.

The Petitioner takes exception to those portions of paragraphs 2 and 25, where the ALJ found that Ekblom moored a 35 to 36-foot long boat with a beam of about 12 feet, six inches, for the past twelve years without incident or complaint. (RO ¶¶ 2, 25). The Petitioner argues that contrary testimony from Ekblom showed that, at most, his boat was docked six months out of the year. *See* Petitioner's Exceptions at pages 10-11.

Contrary to the Petitioner's argument, competent substantial record evidence supports the ALJ's findings. (T. pp. 21-23). Notably, the ALJ did not find that Ekblom moored his boat every day on the north side of the finger pier. Rather, the time frame of

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[3] If Plantation Lake was not an artificial body of water, such that sovereign submerged bottom lands were involved, then ownership would be an issue under the proprietary rules. *See* Fla. Admin. Code R. 18-21.004.

twelve years is supported by the record. (T. pp. 21 -23). If there is competent substantial evidence to support the ALJ's findings of fact, it is irrelevant that there may also be competent substantial evidence supporting a contrary finding. *See, e.g., Arand Construction Co. v. Dyer,* 592 So.2d 276, 280 (Fla. 1st DCA 1991); *Conshor, Inc. v. Roberts,* 498 So.2d 622 (Fla. 1st DCA 1986); *see also* § 120.57(1)(l), Fla. Stat. (2012).

Therefore, based on the foregoing reasons, the Petitioner's Exception No. 6 is denied.

Exception No. 7 – paragraphs 5 and 26.

The Petitioner takes exception to those portions of paragraphs 5 and 26, where the ALJ found that the 13,000-pound cradle lift was approximately 12 feet, six inches, center to center, by 12 feet, six inches, out to out; and that the specifications Dr. Lin used for the lift were too large. The Petitioner asserts that these findings contradict the evidence and testimony. *See* Petitioner's Exceptions at pages 11-12.

Contrary to the Petitioner's assertion the record evidence established that Ekblom selected a 13,000-pound cradle lift that is approximately 12 feet, six inches, center to center, by 12 feet, six inches, out to out. (T. pp. 22-23, 24, 74-75, 83-84, 164, 227). In addition, the record evidence established that the specifications utilized by Dr. Lin were too large. (T. pp. 75, 202). There is competent substantial evidence in the record to support the ALJ's findings, therefore, the Petitioner's Exception No. 7 is denied.

Exception No. 8 – paragraphs 6 and 19.

The Petitioner takes exception to those portions of paragraphs 6 and 19, where the ALJ found that the boat will be placed adjacent to the finger pier, approximately two

feet inside of Ekblom's property line, moored bow-in; and that it would be in the same position on the lift as if Ekblom tied it to the finger pier. The Petitioner contends that these findings of fact are explicitly contradicted by the evidence presented at trial. *See* Petitioner's Exceptions at page 13.

Contrary to the Petitioner's contention the ALJ's findings are supported by competent substantial record evidence. (T. pp. 78, 81, 89). The Department is not permitted to reweigh the evidence or to resolve conflicts in the evidence or interpret the evidence anew. *See, e.g., Rogers v. Dep't of Health,* 920 So.2d 27, 30 (Fla. 1st DCA 2005). There is competent substantial evidence in the record to support the ALJ's findings, therefore, the Petitioner's Exception No. 8 is denied. *See Arand Construction Co. v. Dyer,* 592 So.2d 276, 280 (Fla. 1st DCA 1991).

Exception No. 9 – paragraphs 37, 25, 26, 28 and 34.

The Petitioner takes exception to "any and all findings that the proposed boat lift will not impede navigation, nor create a navigational hazard," including portions of paragraphs 25, 26, 28, 34, and 37. The Petitioner asserts that the exact location of the proposed boat lift was not presented at the hearing and that these findings in paragraphs 25, 26, 28, 34 and 37, are dependent on the location of the lift. *See* Petitioner's Exceptions at pages 14-15.

Contrary to the Petitioner's assertion the ALJ's findings in paragraphs 25, 26, 28, 34, and 37, that the proposed boat lift will not create a navigational hazard are supported by competent substantial record evidence. (T. pp. 25-27, 81, 106-111, 158-161; Padron Ex. 2). The Department is not authorized to reweigh the evidence, to resolve conflicts in the evidence, or judge the credibility of witnesses. *See, e.g., Rogers*

v. Dep't of Health, 920 So.2d 27, 30 (Fla. 1st DCA 2005). There is competent substantial evidence in the record to support the ALJ's findings, therefore, the Petitioner's Exception No. 9 is denied. *See Arand Construction Co. v. Dyer,* 592 So.2d 276, 280 (Fla. 1st DCA 1991).

Exception No. 10 – Endnote 2 on page 18.

The Petitioner takes exception to endnote 2 on page 18, where the ALJ stated that for purposes of deciding the case, he assumed that Ekblom had access to Padron's dock. The Petitioner argues that the ALJ lacks authority to make any determination as to an individual's real property rights in regards to a specific property. *See* Petitioner's Exceptions at pages 16-17.

As discussed above in the ruling on the Petitioner's Exception No. 5, the ALJ's endnote 2 is not relevant to whether the proposed boat lift meets the criteria for an exemption. In the instant case the ALJ did not determine the parties' real property interests in order to apply the exemption criteria. Therefore, based on the foregoing reasons, the Petitioner's Exception No. 10 is denied.

CONCLUSION

Having considered the applicable law in light of the rulings on the Petitioner's Exceptions, and being otherwise duly advised, it is

ORDERED that:

A. The Recommended Order (Exhibit A) is adopted in its entirety and incorporated herein by reference.

B. The Respondent Ekblom's application to install a boat lift at an existing dock in a man-made body of water in Islamorada is exempt from the need for an Environmental Resource Permit (DEP File No. 44-0313280-001).

JUDICIAL REVIEW

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 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 this Final Order is filed with the clerk of the Department.

DONE AND ORDERED this 29th day of August, 2013, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

HERSCHEL T. VINYARD JR.
Secretary

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

FILED ON THIS DATE PURSUANT TO § 120.52, FLORIDA STATUTES, WITH THE DESIGNATED DEPARTMENT CLERK, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.

Deputy CLERK Sophie Kriss 8/29/13 DATE

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing Final Order has been sent by e-mail to:

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and by electronic filing to:

Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

this 29th day of August, 2013.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

FRANCINE M. FFOLKES
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