

**STATE OF FLORIDA
FISH AND WILDLIFE CONSERVATION COMMISSION**

LOGGERHEAD MARINELIFE CENTER, INC.

Petitioner,

vs.

FWC Case No. 14-0012

**CHRIS JOHNSON & FLORIDA FISH AND
WILDLIFE CONSERVATION COMMISSION**

Respondent.

CHRIS JOHNSON

Petitioner,

vs.

FWC Case No. 14-0026

**CHARLES MANIRE; LOGGERHEAD
MARINELIFE CENTER, INC.; AND
FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION**

Respondent.

FINAL ORDER

The Florida Fish and Wildlife Conservation Commission (“FWC” or “Commission”) hereby enters the following Final Order.

ISSUE AND SUMMARY

The Commission issued a permit to Chris Johnson to conduct leatherback turtle research through the Loggerhead Marinelifelife Center, Inc. (hereinafter “LMC”) in 2001 and has continuously reissued this permit. However, Chris Johnson’s employment with LMC was recently terminated. On January 22, 2014, the Commission issued Marine Turtle Permit #14-157A to Chris Johnson,

authorizing him to conduct leatherback turtle research on Palm Beach County beaches, effective January 1, 2014. On December 20, 2013, the Commission issued a permit to Sarah Hirsch, Data Manager for LMC, to conduct marine turtle research on Palm Beach County beaches, effective January 1, 2014. On May 27, 2014, the Commission issued Marine Turtle Permit #14-211 to Dr. Charles Manire, who works for LCM, to conduct a subset of the same activities that Chris Johnson's permit authorizes Chris Johnson to perform with leatherback turtles.

On February 12, 2014, LMC filed a Request for Enlargement of Time to File Petition. On February 28, 2014, LMC filed a Petition for a Formal Administrative Hearing, and on April 25, 2014, LMC filed an Amended Petition for Formal Administrative Proceeding (hereinafter "LMC Petition"), challenging the issuance of Marine Turtle Permit #14-157A to Chris Johnson. The LMC Petition states that the activities Chris Johnson proposes to conduct under his permit are not in the public interest as his activities would interfere with the research LMC conducts under contract with Palm Beach County, and would duplicate research that LMC employees have conducted for more than 20 years on the same beaches. The LMC Petition states that Chris Johnson has demonstrated no need for his research. The LMC Petition disputes that Chris Johnson has the necessary permits or concurrence from the appropriate park management units to conduct the research and claims that Chris Johnson submitted materially false information in his application for a permit. The LMC Petition states that following his termination by LMC, Chris Johnson misappropriated LMC's leatherback sea turtle data set to start his own organization, and that Section 379.2431, Florida Statutes, Chapter 68E-1, and Rule 68-1.010, Florida Administrative Code, require denial of the permit. LMC has filed a separate civil action against Chris Johnson alleging, among other things, the misappropriation of turtle data from LMC.

The Commission transferred the case to the Florida Division of Administrative Hearings (DOAH) on April 17, 2014, which was assigned DOAH Case No. 14-001651. The permittee, Chris Johnson, filed a Motion to Intervene in the case on April 29, 2014, and was granted party status on April 30, 2014.

On June 3, 2014, Chris Johnson filed a Petition for Formal Administrative Proceeding (hereinafter "Johnson Petition") challenging the issuance of Marine Turtle Permit #14-211 to Dr. Manire at LMC, The Johnson Petition primarily states that the application for this permit was an attempt to keep Chris Johnson from being able to conduct his research, that Dr. Manire's permit interferes with Chris Johnson's permit, that Dr. Manire does not have the requisite knowledge and skill to conduct the permitted activities, that the public's interest is best served by having Chris Johnson conduct the research and that Section 379.2431, Florida Statutes, and Rules 68E-1002(2), 68E-1.004(6) and (17), and Rule 68-1.010, Florida Administrative Code, require denial of the permit.

On June 12, 2014, the permittees, Dr. Charles Manire and LMC, filed a Petition to Intervene, and were granted party status on June 19, 2014. This case was transferred to DOAH and assigned DOAH Case No. 14-002806. On June 23, 2014, this case was consolidated with LMC v. Chris Johnson and FWC, DOAH Case No. 14-001651, which was pending before DOAH.

On July 22, 2014, Christopher Johnson filed a motion seeking sanctions, including attorney's fees. On September 8, 2014, LMC, stating that the administrative action is negatively impacting LMC's civil action and the turtle nesting season has passed, voluntarily dismissed its petition without prejudice, thereby withdrawing its challenge to the issuance of the permit to Chris Johnson. On September 8, 2014, Dr. Manire withdrew his application for a permit. As the substantive issues in the case were rendered moot by LMC's dismissal of its petition and Dr. Manire's withdrawal of his application, on September 11, 2014, DOAH relinquished jurisdiction over the permitting issues back to the Commission. However, DOAH retained jurisdiction over the issue of attorney's fees.

WHEREFORE, as LMC has voluntarily dismissed its Petition, thereby withdrawing its challenge to the issuance of Marine Turtle Permit #14-157 to Chris Johnson, the permit is hereby GRANTED. As LMC and Dr. Charles Manire have voluntarily withdrawn their application for the permit, the issuance of Marine Turtle Permit #14-211 to Dr. Charles Manire at LMC is hereby DENIED.

DONE AND ORDERED in Tallahassee, Leon County, Florida this 30 day of
September, 2014.



Eric Sutton
Assistant Executive Director
Florida Fish and Wildlife
Conservation Commission

Filed with The Agency Clerk
This 2nd day of ~~September~~, 2014
October

ATTEST: 
Agency Clerk



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above FINAL ORDER has been furnished by U.S. Mail to Rachael M. Bruce, 515 N. Flagler Dr Ste 1500, West Palm Beach, FL 33401-4327; Alfred Malefatto, Lewis Longman and Walker, P.A., 515 N. Flagler Dr Ste 1500, West Palm Beach, FL 33401-4327; Edwin A. Steinmeyer, Lewis Longman & Walker, 315 S. Calhoun St Ste 830, Tallahassee, FL 32301-1872; Frank Rainer, Broad and Cassel, PO Box 11300, Tallahassee, FL 32302-3300; and David Rosemberg, Broad and Cassel, 2 S Biscayne Blvd Ste 21, Miami, FL 33131-1800, on this 2nd day of ~~September~~, 2014.
October

Copies furnished to:

Ryan Smith Osborne (via email)
Florida Fish and Wildlife Conservation Commission Legal Office
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Tallahassee, FL. 32399

Michael Yaun (via email)
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for 
Carla J. Oglo
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NOTICE OF APPELLATE RIGHTS

The foregoing constitutes final agency action in this matter. Any party adversely affected has the right to seek judicial review of this Final Order pursuant to section 120.68 Florida Statutes, and rule 9.030(b)(1)(c) and 9.110, Florida Rules of Appellate Procedure. To initiate an appeal, a Notice of Appeal must be filed with the Florida Fish and Wildlife Conservation Commission, Office of the General Counsel, and the appropriate District Court of Appeal within thirty (30) days of the date of that this Final Order is filed with the Agency Clerk. The Notice filed with the District Court of Appeal must be accompanied by the appropriate filing fee required by law.