



FLORIDA DEPARTMENT OF Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

November 4, 2022

Sent electronically to: khorne@darlingii.com

Mr. Kelly Horne, Vice President of Southeast Operations
Darling Ingredients, Inc.
5601 N. Macarthur Boulevard
Irving, TX 75038

SUBJECT: Department of Environmental Protection v. Darling Ingredients, Inc.
OGC File No. 22-2014
Facility ID No. FLA011341
Bradford County

Dear Mr. Horne:

Enclosed is a copy of the executed Consent Order to resolve Case Number 22-2014. The effective date of this Order is November 4, 2022, and all timeframes will be referenced from this date.

As a reminder, a Consent Order is a binding legal document and was voluntarily entered into by both parties.

If you have any questions concerning the Consent Order, please contact Paul Duff, at (904) 256-1625, or at Paul.Duff@FloridaDEP.gov. Your continued cooperation in the matter is greatly appreciated.

Sincerely,

A handwritten signature in blue ink that reads "James R. Maher".

James R. Maher, PE
Assistant Director

cc: FDEP-NED: Herndon Sims, Paul Duff, Monique Jordan, DEP_NED
FDEP-OGC: Corbari, Kelley
Jon Elrod jelrod@darlingii.com



FLORIDA DEPARTMENT OF Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Ron DeSantis
Governor

Jeanette Nuñez
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Shawn Hamilton
Secretary

October 26, 2022

Sent electronically to: khorne@darlingii.com

Mr. Kelly Horne, Vice President of Southeast Operations
Darling Ingredients, Inc.
5601 N. Macarthur Boulevard
Irving, TX 75038

SUBJECT: Department of Environmental Protection v. Darling Ingredients, Inc.
OGC File No. 22-2014
Facility ID No. FLA011341
Bradford County

Dear Mr. Horne:

Enclosed is the Consent Order to resolve the issues in the subject OGC File. Please review the Consent Order and, if you find it acceptable, sign and return the original document to this office within 14 days of receipt.

If you wish to modify the Consent Order, please respond to this office in writing within 14 days, explaining your concerns including any proposed changes.

If you have any questions concerning the Consent Order, please contact Paul Duff, at (904) 256-1625, or at Paul.Duff@FloridaDEP.gov. Your continued cooperation in the matter is greatly appreciated.

Sincerely,

A handwritten signature in blue ink that reads "James R. Maher".

James R. Maher, PE
Assistant Director

ec: FDEP-NED: Antonio Cruz, Herndon Sims, Paul Duff, Monique Jordan, DEP_NED
FDEP-OGC: Corbari, Kelley
cc: Jon Elrod jelrod@darlingii.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	NORTHEAST DISTRICT
)	
v.)	OGC FILE NO. 22-2014
)	
DARLING INGREDIENTS, INC.)	
_____)	

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and Darling Ingredients Inc. (Respondent) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (Fla. Stat.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (Fla. Admin. Code). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a person within the meaning of Section 403.031(5), Fla. Stat.
3. Respondent is the owner and is responsible for the operation of Darling Ingredients Inc, an industrial wastewater treatment facility (Facility). Respondent operates the Facility under Department Wastewater Permit No. FLA011341-008-IW8C-NR which was issued on June 1, 2018, with an effective date of August 19, 2018, and will expire on August 18, 2023 (Permit). The Facility is located at 11313 Southeast 52nd Avenue, in Bradford County, Starke, Florida 32091 (Property).
4. The Department finds that the following violations occurred:
 - a) Respondent exceeded the effluent permit limit for Total Recoverable Sodium and Flow between June 2018 and January 2019 as demonstrated in Tables 1 and 2 below. The permit exceedances in Table 1 and 2 are violations of Section 403.161(1)(b), Fla. Stat., Rule 62-620.610(1), Fla. Admin. Code, and Permit condition I.A.1.

Table 1: Total Recoverable Sodium Effluent Exceedances

<u>Monitoring Group</u>	<u>Date</u>	<u>Description</u>	<u>Result</u>	<u>Limit</u>	<u>Units</u>	<u>Statistical Base</u>
R-001	6/30/2018	Sodium, Total Recoverable	28,989	26,889	lb/yr	Annual Total
R-002	6/30/2018	Sodium, Total Recoverable	57,618	54,070	lb/yr	Annual Total
R-001	7/31/2018	Sodium, Total Recoverable	28,773	26,889	lb/yr	Annual Total
R-002	7/31/2018	Sodium, Total Recoverable	57,543	54,070	lb/yr	Annual Total
R-001	8/31/2018	Sodium, Total Recoverable	29,387	26,889	lb/yr	Annual Total
R-002	8/31/2018	Sodium, Total Recoverable	57,132	54,070	lb/yr	Annual Total
R-001	9/30/2018	Sodium, Total Recoverable	29,127	26,889	lb/yr	Annual Total
R-002	9/30/2018	Sodium, Total Recoverable	57,980	54,070	lb/yr	Annual Total
R-001	10/31/2018	Sodium, Total Recoverable	29,382	26,889	lb/yr	Annual Total
R-002	10/31/2018	Sodium, Total Recoverable	56,432	54,070	lb/yr	Annual Total
R-001	11/30/2018	Sodium, Total Recoverable	29,842	26,889	lb/yr	Annual Total
R-002	11/30/218	Sodium, Total Recoverable	56,012	54,070	lb/yr	Annual Total
R-001	12/31/2018	Sodium, Total Recoverable	29,975	26,889	lb/yr	Annual Total
R-001	1/31/2019	Sodium, Total Recoverable	27,928	26,889	lb/yr	Annual Total

Table 2: Flow Exceedances

<u>Monitoring Group</u>	<u>Date</u>	<u>Description</u>	<u>Result</u>	<u>Limit</u>	<u>Units</u>	<u>Statistical Base</u>
R-001	6/30/2018	Flow	0.208	0.1	MGD	Daily Max
R-002	6/30/2018	Flow	0.411	0.201	MGD	Daily Max
R-001	6/30/2018	Flow	0.041	0.03	MGD	Qtrly Avg
R-001	7/31/2018	Flow	0.034	0.03	MGD	Qtrly Avg
R-002	7/31/2018	Flow	0.061	0.06	MGD	Qtrly Avg

b) Respondent exceeded the groundwater permit limit for Total Recoverable Sodium between June 2018 and September 2022 as demonstrated in Table 3 below. The exceedances in Table 3 are violations of Section 403.161(1)(b), Fla. Stat., Rules 62-550.320(1), 62-620.610(1), Fla. Admin. Code, and Permit condition III.11.

Table 3: Total Recoverable Sodium Compliance Well Exceedances

<u>Monitoring Group</u>	<u>Date</u>	<u>Description</u>	<u>Result</u>	<u>Limit</u>	<u>Units</u>	<u>Statistical Base</u>
MWC-1R	6/30/2018	Sodium, Total Recoverable	180	160	mg/L	Maximum
MWC-1R	9/30/2018	Sodium, Total Recoverable	180	160	mg/L	Maximum
MWC-1R	12/31/2018	Sodium, Total Recoverable	170	160	mg/L	Maximum
MWC-1R	3/31/2019	Sodium, Total Recoverable	180	160	mg/L	Maximum
MWC-1R	6/30/2019	Sodium, Total Recoverable	190	160	mg/L	Maximum
MWC-1R	9/30/2019	Sodium, Total Recoverable	190	160	mg/L	Maximum

MWC-1R	12/31/2019	Sodium, Total Recoverable	190	160	mg/L	Maximum
MWC-1R	3/31/2020	Sodium, Total Recoverable	210	160	mg/L	Maximum
MWC-1R	6/30/2020	Sodium, Total Recoverable	190	160	mg/L	Maximum
MWC-1R	9/31/2020	Sodium, Total Recoverable	210	160	mg/L	Maximum
MWC-1R	12/31/2020	Sodium, Total Recoverable	260	160	mg/L	Maximum
MWC-1R	3/31/2021	Sodium, Total Recoverable	200	160	mg/L	Maximum
MWC-1R	6/31/2021	Sodium, Total Recoverable	210	160	mg/L	Maximum
MWC-1R	9/30/2021	Sodium, Total Recoverable	200	160	mg/L	Maximum
MWC-1R	12/31/2021	Sodium, Total Recoverable	210	160	mg/L	Maximum
MWC-1R	03/31/2022	Sodium, Total Recoverable	180	160	mg/L	Maximum
MWC-1R	06/30/2022	Sodium, Total Recoverable	200	160	mg/L	Maximum
MWC-1R	09/30/2022	Sodium, Total Recoverable	230	160	mg/L	Maximum

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

5. Respondent shall comply with the following corrective actions within the stated time periods:

a) **Within 60 days of the effective date of this Order**, Respondent shall submit a compliance plan (Plan) to the Department to address the groundwater exceedances as identified in Table 3, above. The Plan shall detail the steps necessary to achieve compliance with the permit limits for Total Recoverable Sodium, including a physical inspection of the area around MWC-1R and groundwater modeling to determine natural attenuation of Total Recoverable Sodium in groundwater. Also include corrective actions taken to achieve compliance with the effluent exceedances noted in Tables 1 and 2. The Plan may involve modifications to the Facility, or modifications to the treatment process. The Department will review the Plan within thirty (30) days of receiving it from Respondent. Respondent must receive written notification of review and acceptance of the Plan from the Department (Notification) prior to implementation. If the Plan is deemed incomplete by the Department, or if the Department Requests Further Information (RFI), the Respondent shall provide this information in a written response within thirty (30) days of the RFI.

b) Within thirty (30) days of the date of Notification or the timeframe included within the accepted Plan, Respondent shall implement the Plan.

c) Any modifications to the Facility may require an application for revisions to the Permit. Any application for revisions to the Permit **shall be submitted within 90 days of the effective date of this Order**, if necessary, and meet all requirements of Chapter 62-620, Fla. Admin. Code, which include but are not limited to being prepared and sealed by a professional engineer registered in the State of Florida.

d) Respondent shall operate and maintain the Facility to meet the imposed Permit limits as required by the Permit and all applicable wastewater rules.

e) Respondent shall comply with the following interim groundwater monitor well limitation in compliance well MWC-1R in Table 4, below, and shall meet all other requirements set forth in the Facility's Permit:

Table 4- Interim Limit for Compliance Well MWC-1R

<u>Parameter</u>	<u>Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Total Recoverable Sodium	260 mg/L	Quarterly	Grab

If the Total Recoverable Sodium groundwater concentration in groundwater monitor well MWC-1R should exceed the interim groundwater monitor well limitation in Table 4, the

Department shall consider a request for an alternative interim limit for cause submitted by the Respondent.

f) If any other groundwater monitor well should exceed the Total Recoverable Sodium groundwater concentration limit as set forth in the Facility's Permit, the Department shall propose to modify this Order to include additional groundwater monitor wells within the zone of discharge.

g) Effluent analyses shall be reported monthly, and groundwater monitoring analyses shall be reported quarterly on either a paper Discharge Monitoring Report (DMR), DEP Form No. 62-620.910(10), Fla. Admin. Code, or electronically through the EzDMR Business Portal. If by paper DMR, Respondent shall mail or hand-deliver the DMRs to the Department of Environmental Protection, once each month, or quarter, depending on the type of results. The DMRs must be received by the Department no later than the 28th day following the end of the reporting period (e.g., an August report would be due no later than September 28th, or the quarterly January to March DMR would be due no later than April 28th, etc.).

6. Every quarter after the effective date of this Consent Order,

and continuing until all corrective actions have been completed, Respondent shall submit in writing to the Department a report containing information concerning the status and progress of projects being completed under this Order, information as to compliance or noncompliance with the applicable requirements of this Order including construction requirements and effluent limitations, any changes to the wastewater treatment processes, and sodium results in tabular form of the effluent and monitor wells. from the last five years, including the sodium application rates to the spray field, and any reasons for increasing trends in sodium, over application of sodium, and for noncompliance. These reports shall also include a projection of the work to be performed pursuant to this Order during the 12-month period which will follow the report. **Respondent shall submit the reports to the Department within 30 days of the end of each quarter.**

7. **No later than 1 year from the effective date of this Order,** Respondent's shall have completed all the required corrective actions in paragraph 5 and 6. If the Respondent has not returned to compliance with the Facility's Permit, the Department agrees to propose an extension to this order to address the ongoing exceedances and actions required to address them. .

8. **Within 30 days of the effective date of this Order,** Respondent shall pay the Department \$ 8,500.00 in settlement of the regulatory matters addressed in this Order. This amount

includes \$ 8,000.00 for administrative penalties and \$ 500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

9. In lieu of making cash payment of the amount required under paragraph 8 (stipulated penalties) above, the Department, at its discretion, may allow Respondent to off-set this amount by implementing an in-kind project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the portion of the stipulated penalty amount for which the approved project off-sets. The Respondent shall request consideration of applying stipulated penalties toward an in-kind project within 15 days of notification by the Department that stipulated penalties are being assessed under paragraph 8. If acceptable, the Respondent shall comply with all the requirements and timeframes in Consent Order Exhibit A, entitled In-Kind Projects. If not acceptable, the Respondent will pay the stipulated penalties within 30 days of receipt of the Department's notification that applying the stipulated penalties to an in-kind project is not acceptable. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order.

10. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 for each time the Respondent fails to comply with any of the requirements of paragraph 5 and 6 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment and shall do so as further described in paragraph 10, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the administrative penalties agreed to in paragraph 8 of this Order.

11. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

12. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Wastewater Compliance Assurance Program, Department of Environmental Protection, Northeast District Office at 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida 32256.

13. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

14. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

15. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of

Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

16. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

17. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

18. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

19. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

20. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Fla. Stat., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, Fla. Stat.

21. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

22. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, Fla. Admin. Code. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), Fla. Stat.

23. This Consent Order is a final order of the Department pursuant to section 120.52(7), Fla. Stat., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for

Administrative Hearing is filed in accordance with Chapter 120, Fla. Stat. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

24. Respondent shall publish the following notice in a newspaper of daily circulation in Bradford County, Florida. The notice shall be published one time only **within 15 days of the effective date of the Order**. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection (Department) gives notice of agency action of entering into a Consent Order with DARLING INGREDIENTS INC. pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the effluent, groundwater, and flow exceedances at Darling Ingredients Inc., an industrial wastewater treatment facility. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Northeast District Office at 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida 32256.

Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of 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, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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 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 the petitioner contends warrant reversal or modification of the agency's proposed action;
- f) A statement of the specific rules or statutes 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 petitioner wishes the agency to take with respect to the agency's proposed action.

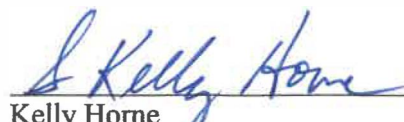
The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at 8800 Baymeadows Way W. Suite 100, Jacksonville, Florida 32256. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

25. Rules referenced in this Order are available at

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

26. The undersigned certifies that as managing member of Respondent corporation, he is authorized and empowered to negotiate, enter into and execute, in the name and on behalf of the Respondent, DARLING INGREDIENTS INC, any agreements, documents, instruments, certificates, including and without limitation, this Consent Order entered into between Respondent and the State of Florida Department of Environmental Protection.

FOR THE RESPONDENT: DARLING INGREDIENTS, INC.



Kelly Horne
Senior Vice President of Southeast Operations

10-31-2022
Date

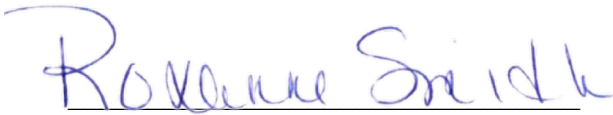
DONE AND ORDERED this 4th day of November 2022, in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Gregory J. Strong
District Director
Northeast District

Filed, on this date, pursuant to section 120.52, Fla. Stat., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

November 4, 2022

Date

Copies furnished to:

Lea Crandall, Agency Clerk, Mail Station 35 (executed copy only)

FDEP-NED: Jim Maher, Herndon Sims, Paul Duff, DEP_NED

Jennifer Walters, Herb Johnson, – FDEP Tallahassee (executed copy only)

FDEP-OGC: Kelley Corbari (executed copy only)