

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: September 14, 2010

☒ Consent ☐ Regular
☐ Ordinance ☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to authorize: **A)** the County Administrator or his designee to execute Sovereignty Submerged Lands Lease (No. 500341216) between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (LESSOR) and Palm Beach County (LESSEE) for 5,855 square feet of submerged lands at the Zeke's Marina portion of DuBois Park, from the date of the lease assignment to Palm Beach County through May 8, 2012; and **B)** the Director of the Parks and Recreation Department to serve as Liaison Agent with the State of Florida for this project.

Summary: On June 9, 2008, the County acquired the 1.10 acre property known as the Susan DuBois Kindt Estate that included Zeke's Marina for the expansion of DuBois Park. The acquisition included a State of Florida Sovereignty Submerged Lands Lease which was issued in the name of the seller. The County has applied to the State of Florida for a reassignment of the Lease to Palm Beach County. The new terms of the lease allow the County to construct and operate a 4-slip docking facility. The lease requires a \$569 processing fee, with no annual lease fee. The processing fee is budgeted by the Parks and Recreation Department under annual operating expenses. District 1 (AH)

Background and Justification: The Zeke's Marina property was acquired in part to expand public boater access to DuBois Park. On July 20, 2010, the BCC (R2010-1129) awarded Murphy Construction Company the construction contract for construction of an artificial reef and docking facilities at DuBois Park. The Submerged Lands Lease must be fully executed and recorded in public records before construction can begin on the Zeke's Marina portion of this project. Due to permitting delays, the Parks and Recreation Director is requesting authority to execute the Sovereignty Submerged Land Lease on behalf of the County in order to expedite the execution and recording of this document.

Attachment: Sovereignty Submerged Lands Lease No. 500341216

Recommended by: 
Department Director

8-20-10
Date

Approved by: 
Assistant County Administrator

8/30/10
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	569	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	569	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)	0				

Is Item Included in Current Budget? Yes X No
Budget Account No.: Fund 0001 Department 580 Unit 5110
Object 4401 Program N/A

B. Recommended Sources of Funds/Summary of Fiscal Impact:

FUND: General Fund
UNIT: Administration

Rent	0001-580-5110-4401	\$569
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C. Departmental Fiscal Review: ckopelakis

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

OFMB

B. Legal Sufficiency:

Anne Nelson 8/30/10
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 10/95
ADM FORM 01

This summary is not to be used as a basis for payment



CFN 20070384173
OR BK 22015 PG 1837
RECORDED 08/09/2007 14:48:05
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1837 - 1848; (12pgs)

This Instrument Prepared By:
Lisa Sparkman
Recurring Revenue Section
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Mail Station No. 125
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS LEASE

No. 500341216

PA No. _____

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of payment of the annual lease fees hereinafter provided and the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to Nancy Kindt Hernandez, Trustee of the Susan D. Kindt Trust created under agreement dated September 26, 2003, hereinafter referred to as the Lessee, the sovereignty lands described as follows:

A parcel of sovereignty submerged land in Section 31,
Township 40 South, Range 43 East, in Jupiter Inlet Cove,
Palm Beach County, containing 5,855 square feet, more or less,
as is more particularly described and shown on Attachment A,
dated January 15, 2007.

TO HAVE THE USE OF the hereinabove described premises for a period of five years from May 8, 2007, the effective date of this lease. The terms and conditions on and for which this lease is granted are as follows:

1. **USE OF PROPERTY:** The Lessee is hereby authorized to operate an existing 9-slip docking facility exclusively to be used for the mooring of commercial and recreational vessels in conjunction with an upland outboard motor repair shop, without fueling facilities, with sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or local authority, whichever entity applies the more stringent criteria, and without liveboards as defined in paragraph 29, as shown and conditioned in Attachment A. All of the foregoing subject to the remaining conditions of this Lease.

2. **LEASE FEES:** The Lessee hereby agrees to pay to the Lessor an initial annual lease fee of \$ 827.08 and 25 percent surcharge, plus sales tax pursuant to Section 212.031, Florida Statutes, if applicable, within 30 days of receipt of this fully executed lease. The annual fee for the remaining years of the lease shall be adjusted pursuant to provisions of Section 18-21.011, Florida Administrative Code. The Division of State Lands will notify the Lessee in writing of the amount and the due date of the annual payment. The lease fee shall be remitted annually to the Division of State Lands as the agent for the Lessor, beginning with the effective and due date of this lease, and each year thereafter until the term of this lease terminates or expires.

3. **WET SLIP RENTAL CERTIFICATION/SUPPLEMENTAL PAYMENT:** (A) The Lessee shall provide upon request by the Lessor any and all information in a certified form needed to calculate the lease fee specified in paragraph two (2) above, including the income, as defined in subsection 18-21.003(26), Florida Administrative Code, derived directly or indirectly from the use of sovereignty submerged lands on an annual basis. When six percent (6%) of said annual income exceeds the base fee or minimum annual fee established pursuant to Rule 18-21.011, Florida Administrative Code, for any lease year during the term of this lease, the Lessor shall send the Lessee a supplemental invoice for the difference in the amounts for that lease year. (B) The instrument or agreement used by the Lessee to transfer or assign the right to use a wet slip at the leased docking facility to a third party shall include a provision that clearly notifies the wet slip renter/user/holder that if the wet slip renter/user/holder subsequently transfers his right to use said wet slip to another party, the instrument or agreement used to transfer said wet slip shall contain a provision that requires six percent (6%) of the annual gross income derived from said instrument or agreement for the use of said wet slip be paid to the Lessee who, upon receipt, shall report and transmit said amount to the Lessor. The instrument or agreement used by the Lessee to transfer a wet slip shall also include a provision that clearly notifies the wet slip renter/user/holder that no interest in said wet slip may be further transferred unless a substantially similar provision to the one contained in the preceding sentence is placed in each succeeding instrument or agreement used to transfer said wet slip to each new wet slip renter/user/holder.

4. **LATE FEE ASSESSMENTS:** The Lessee shall pay a late charge equal to interest at the rate of twelve percent (12%) per annum from the due date until paid on any lease fees due hereunder which are not paid within 30 days of their due dates.

5. **EXAMINATION OF LESSEE'S RECORDS:** For purposes of this lease, the Lessor is hereby specifically authorized and empowered to examine, for the term of this lease including any extensions thereto plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.

6. **MAINTENANCE OF LESSEE'S RECORDS:** The Lessee shall maintain separate accounting records for: (i) the gross revenue derived directly from the use of the leased premises, (ii) the gross revenue derived indirectly from the use of the leased premises, and (iii) all other gross revenue derived from the Lessee's operations on the riparian upland property. The Lessee shall secure, maintain and keep all records for the entire term of this lease plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease verification purposes by the Lessor.

7. **AGREEMENT TO EXTENT OF USE:** This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein. The Lessee shall not change or add to the approved use of the leased premises as defined herein (e.g., from commercial to multi-family residential, from temporary mooring to rental of wet slips, from rental of wet slips to contractual agreement with third party for docking of cruise ships, from rental of recreational pleasure craft to rental or temporary mooring of charter/tour boats, from loading/offloading commercial to rental of wet slips, etc.), shall not change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit, or shall not change the type of use of the riparian uplands without first obtaining a regulatory permit/modified permit, if applicable, and the Lessor's written authorization in the form of a modified lease, the payment of additional fees, if applicable, and, if applicable, the removal of any structures which may no longer qualify for authorization under the modified lease.

8. **PROPERTY RIGHTS:** The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor. The Lessee is prohibited from including, or making any claim that purports to include, said lands described or the Lessee's leasehold interest in said lands into any form of private ownership, including but not limited to any form of condominium or cooperative ownership. The Lessee is further prohibited from making any claim, including any advertisement, that said land, or the use thereof, may be purchased, sold, or re-sold.

9. **INTEREST IN RIPARIAN UPLAND PROPERTY:** During the term of this lease, the Lessee shall maintain a leasehold or fee simple title interest in the riparian upland property and if such interest is terminated, the lease may be terminated at the option of the Lessor. Prior to sale and/or termination of the Lessee's leasehold or fee simple title interest in the upland property, Lessee shall inform any potential buyer or transferee of the Lessee's upland property interest of the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the Lessor to effect an assignment of this lease, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.

10. ASSIGNMENT OF LEASE: This lease shall not be assigned or otherwise transferred without prior written consent of the Lessor or its duly authorized agent. Such assignment or other transfer shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

11. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Lessee shall investigate all claims of every nature arising out of this lease at its expense, and shall indemnify, defend and save and hold harmless the Lessor and the State of Florida from all claims, actions, lawsuits and demands arising out of this lease.

12. VENUE: Lessee waives venue as to any litigation arising from matters relating to this lease and any such litigation between Lessor and Lessee shall be initiated and maintained only in Leon County, Florida.

13. NOTICES/COMPLIANCE/TERMINATION: The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, its successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein, or fails or refuses to comply with the provisions and conditions herein set forth within 20 days of receipt of the Lessor's notice to correct, this lease may be terminated by the Lessor upon thirty (30) days written notice to Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All costs and attorneys' fees incurred by the Lessor to enforce the provisions of this lease shall be paid by the Lessee. All notices required to be given to the Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Nancy Kindt Hernandez, Trustee of
the Susan D. Kindt Trust
C/o Agustin A. Hernandez
2639 W. Edgewater Drive
Palm Beach Gardens, FL 33410

The Lessee shall notify the Lessor by certified mail of any change to this address at least ten (10) days before the change is effective.

14. TAXES AND ASSESSMENTS: The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease.

15. NUISANCES OR ILLEGAL OPERATIONS: The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

16. MAINTENANCE OF FACILITY/RIGHT TO INSPECT: The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. No dock or pier shall be constructed in any manner that would cause harm to wildlife. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.

17. NON-DISCRIMINATION: The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease or upon lands adjacent to and used as an adjunct of the leased area. During the lease term, the Lessee shall post and maintain the placard furnished to the Lessee by the Lessor in a prominent and visible location on the leased premises or adjacent business office of the Lessee. It shall be the responsibility of the Lessee to post the placard in a manner which will provide protection from the elements, and, in the event that said placard becomes illegible at any time during the term of this lease (including any extensions thereof), to notify the Lessor in writing, so that a replacement may be provided.

18. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

19. PERMISSION GRANTED: Upon expiration or cancellation of this lease all permission granted hereunder shall cease and terminate.

20. RENEWAL PROVISIONS: Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that Lessee is in full compliance with the terms of this lease, the Lessee may apply in writing for a renewal. Such application for renewal must be received by Lessor no sooner than 120 days and no later than 30 days prior to the expiration date of the original or current term hereof. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. If the Lessee fails to timely apply for a renewal, or in the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense. The obligation to remove all structures authorized herein upon termination of this lease shall constitute an affirmative covenant upon the riparian upland property more specifically described in Attachment B, which shall run with the title to said riparian upland property, and shall be binding upon Lessee and Lessee's successors in title or successors in interest.

21. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 13 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to the Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

22. REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY: Any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on state lands shall be paid by Lessee and any unpaid costs and expenses shall constitute a lien upon the interest of the Lessee in its riparian upland property enforceable in summary proceedings as provided by law.

23. RECORDATION OF LEASE: The Lessee, at its own expense, shall record this fully executed lease in its entirety in the public records of the county within which the lease site is located within fourteen (14) days after receipt, and shall provide to the Lessor within ten (10) days following the recordation a copy of the recorded lease in its entirety which contains the O.R. Book and pages at which the lease is recorded.

24. RIPARIAN RIGHTS/FINAL ADJUDICATION: In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease agreement and shall be grounds for immediate termination of this lease agreement at the option of the Lessor.

25. AMENDMENTS/MODIFICATIONS: This lease is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease must be in writing, must be accepted, acknowledged and executed by the Lessee and Lessor, and must comply with the rules and statutes in existence at the time of the execution of the modification or amendment. Notwithstanding the provisions of this paragraph, if mooring is authorized by this lease, the Lessee may install boatlifts within the leased premises without formal modification of the lease provided that (a) the Lessee obtains any state or local regulatory permit that may be required; and (b) the location or size of the lift does not increase the mooring capacity of the facility.

26. ADVERTISEMENT/SIGNS/NON-WATER DEPENDENT ACTIVITIES/ADDITIONAL

ACTIVITIES/MINOR STRUCTURAL REPAIRS: No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises. No restaurant or dining activities are to occur within the leased premises. The Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Lessor. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Lessor. Unless specifically authorized in writing by the Lessor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This condition does not apply to minor structural repairs required to maintain the authorized structures in a good state of repair in the interests of public health, safety or welfare; provided, however, that such activities shall not exceed the activities authorized by this lease.

27. ACOE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Lessee shall obtain the U.S. Army Corps of Engineers (ACOE) permit if it is required by the ACOE. Any modifications to the construction and/or activities authorized herein that may be required by the ACOE shall require consideration by and the prior written approval of the Lessor prior to the commencement of construction and/or any activities on sovereignty, submerged lands.

28. COMPLIANCE WITH FLORIDA LAWS: On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida Statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the leased premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.

29. LIVEBOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.

30. GAMBLING VESSELS: During the term of this lease and any renewals, extensions, modifications or assignments thereof, Lessee shall prohibit the operation of or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere," where the ships leave and return to the state of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships. ←

WITNESSES:

Kathy C. Griffin
Original Signature
Kathy C. Griffin
Print/Type Name of Witness
Mary K. Thurmond
Original Signature
Mary K. Thurmond
Print/Type Name of Witness

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA

BY: Jeffery M. Gentry (SEAL)
Jeffery M. Gentry, Operations and Management Consultant
Manager, Bureau of Public Land Administration,
Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the Board
of Trustees of the Internal Improvement Trust Fund of the State
of Florida

STATE OF FLORIDA
COUNTY OF LEON

"LESSOR"

The foregoing instrument was acknowledged before me this 12th day of July, 2007, by
Jeffery M. Gentry, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State
Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the
Internal Improvement Trust Fund of the State of Florida. He is personally known to me.

APPROVED AS TO FORM AND LEGALITY:

Sam L. Hulse
DEP Attorney

Kathy C. Griffin
Notary Public, State of Florida
Kathy C. Griffin
Printed, Typed or Stamped Name

My Commission Expires: Kathy C. Griffin
My Commission DD263367
Expires October 30, 2007
Commission/Serial No. _____

WITNESSES:

Nancy Kindt
Original Signature
Beenish Santanaya
Typed/Printed Name of Witness

←
Original Signature of Nancy Kindt Hernandez, Trustee of the
Susan D. Kindt Trust created under agreement dated September
26, 2003

"LESSEE"

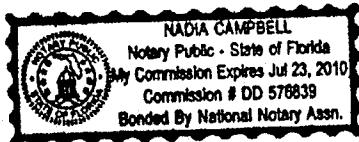
Original Signature _____
Julie Gumi
Typed/Printed Name of Witness Julie Gumi
STATE OF Florida
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 25 day of June, 2007, by
Nancy Kindt Hernandez, Trustee of the Susan D. Kindt Trust created under agreement dated September 26, 2003, who is
personally known to me or who has produced FLDL, as identification.

AS Nancy Kindt
My Commission Expires:

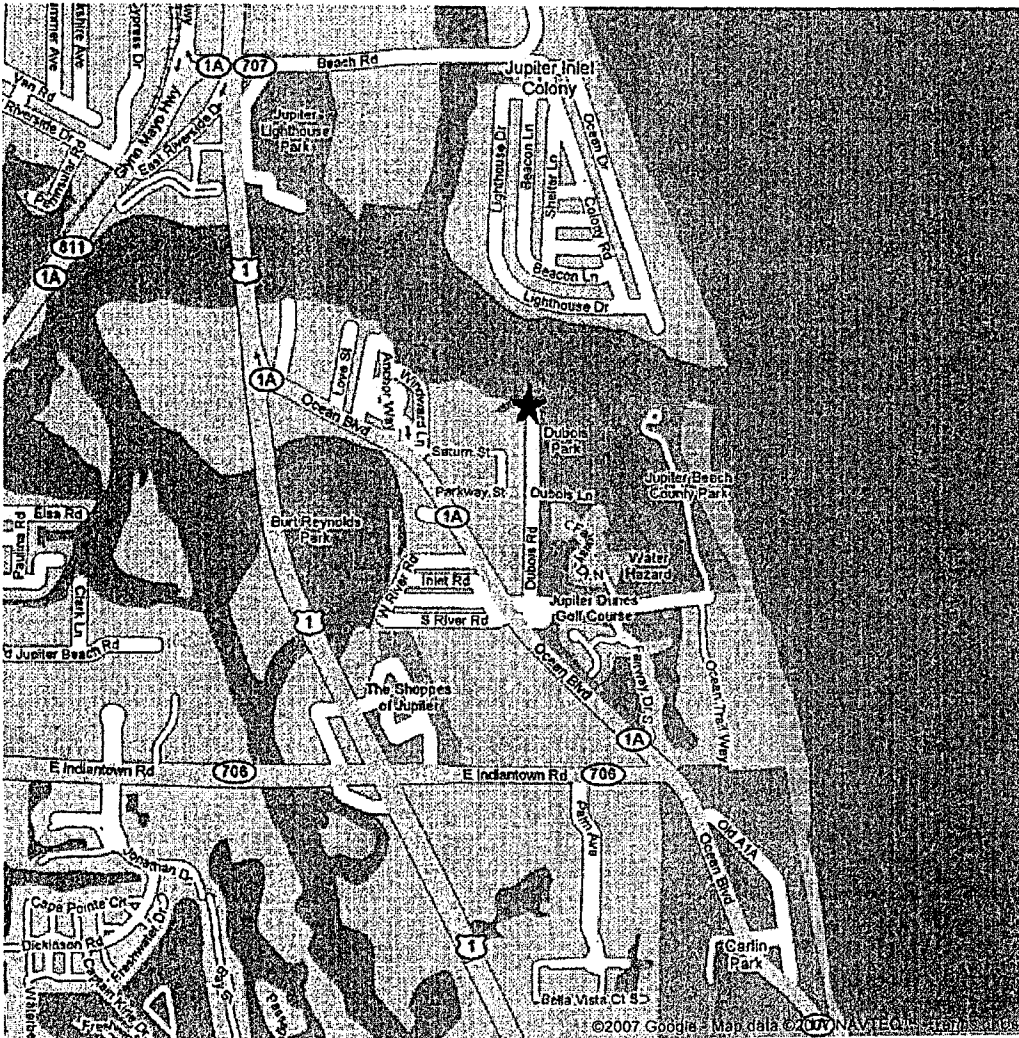
Nadia Campbell
Notary Signature
Notary Public, State of Florida
Nadia Campbell
Printed, Typed or Stamped Name

Commission/Serial No. DD 576839





Notes 18069 Dubois Road, Jupiter,
Florida



Location Address
18069 Dubois Drive
Jupiter, Florida 33478

<http://maps.google.com/maps?ie=UTF8&oe=UTF-8&hl=en&z=15&ll=26.940397,-80.076...> 4/30/2007

ATTACHMENT A
PAGE 7 OF 12 PAGES
SSL NO. 500341216

LEASE AREA DESCRIPTION

PAGE 1 OF 3

SUBMERGED LAND LEASE LEGAL

A PARCEL OF SUBMERGED LAND LYING IN GOVERNMENT LOT 7, SECTION 31, TOWNSHIP 40 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT A POINT ON A LINE 75 FEET WEST OF AND PARALLEL THE EAST LINE OF SAID GOVERNMENT LOT 7, SAID POINT ALSO BEING 803.75 FEET NORTH OF THE SOUTH LINE OF SAID GOVERNMENT LOT 7; THENCE SOUTH 00 DEGREES 26 MINUTES 07 SECONDS EAST ALONG SAID PARALLEL LINE A DISTANCE OF 4.54 FEET TO A POINT ON THE MEAN HIGH WATER LINE AND ELEVATION 1.46 NATIONAL GEODETIC VERTICAL DATUM (N.G.V.D. 1929); THENCE ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING FOUR COURSES, NORTH 57 DEGREES 33 MINUTES 52 SECONDS EAST, A DISTANCE OF 6.76 FEET; THENCE NORTH 43 DEGREES 31 MINUTES 02 SECONDS EAST, A DISTANCE OF 4.92 FEET; THENCE NORTH 38 DEGREES 59 MINUTES 41 SECONDS EAST, A DISTANCE OF 9.80 FEET; THENCE NORTH 38 DEGREES 55 MINUTES 58 SECONDS EAST, A DISTANCE OF 19.33 FEET TO A POINT OF INTERSECTION WITH THE SOUTH FACE OF A SEAWALL; THENCE ALONG SAID SEAWALL FOR THE FOLLOWING FOUR COURSES, NORTH 61 DEGREES 25 MINUTES 44 SECONDS WEST, A DISTANCE OF 9.92 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 14 SECONDS EAST, A DISTANCE OF 28.49 FEET; THENCE NORTH 34 DEGREES 46 MINUTES 13 SECONDS EAST, A DISTANCE OF 30.07 FEET; THENCE 58 DEGREES 31 MINUTES 37 SECONDS EAST, A DISTANCE OF 43.33 FEET TO A POINT 1.28 FEET WEST OF SAID EAST LINE OF GOVERNMENT LOT 7, SECTION 31; THENCE NORTH 63 DEGREES 47 MINUTES 40 SECONDS WEST, LEAVING SAID SEAWALL AND ALONG HEREIN DEFINED NORTHERLY RIPARIAN LINE, A DISTANCE OF 67.22 FEET; THENCE SOUTH 26 DEGREES 12 MINUTES 20 SECONDS WEST, LEAVING SAID RIPARIAN LINE A DISTANCE OF 100.38 FEET TO THE HEREIN DEFINED SOUTHERLY RIPARIAN LINE; THENCE SOUTH 34 DEGREES 53 MINUTES 31 SECONDS EAST, ALONG SAID SOUTHERLY RIPARIAN LINE A DISTANCE OF 55.45 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 5855 SQUARE FEET MORE OR LESS.

AS SHOWN ON THE ATTACHED SKETCH LABELED AS EXHIBITS "A & B" AND DATED SEPTEMBER 14, 2006, LOCATED IMMEDIATELY WATERWARD OF THAT UPLAND PROPERTY WITH THE FOLLOWING DESCRIPTION:

PARCEL 1

TAKE A POINT WHICH IS THE SOUTHEAST CORNER OF GOVERNMENT 7, SECTION 31, TOWNSHIP 40 SOUTH, RANGE 43 EAST, THENCE RUN NORTH ALONG THE EAST LINE OF SAID LOT 7, A DISTANCE OF 290 FEET TO A POINT OF BEGINNING; THENCE RUN NORTH ALONG THE EAST LINE OF SAID LOT 7, A DISTANCE OF 100 FEET; THENCE RUN WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 7 A DISTANCE OF 150 FEET MORE OR LESS TO THE EAST LINE OF THE LAND CONVEYED TO A. J. HODGSON BY DEED RECORDED IN DEED BOOK 102, PAGE 449, PALM BEACH COUNTY RECORDS; THENCE RUN SOUTH ALONG SAID HODGSONS EAST LINE A DISTANCE OF 100 FEET; THENCE RUN EAST PARALLEL WITH THE SOUTH LINE OF SAID LOT 7, A DISTANCE OF 150 FEET MORE OR LESS TO THE POINT OF BEGINNING.

TOGETHER WITH PARCEL '2, AS DESCRIBED AS

ALL THAT PORTION OF LAND LYING IN GOVERNMENT LOT 7, SECTION 31, TOWNSHIP 40 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA;

BEING ALL THAT LAND LYING NORTH OF THE SOUTH 390 FEET OF THE EASTERLY 75 FEET OF SAID GOVERNMENT LOT 7.


REVISION:
1-15-2007

LF. DATUM INFO & CERT

DRAWING NO. 06-1051

CERTIFIED TO:

BOARD OF TRUSTEES OF THE
INTERNAL IMPROVEMENT FUND
STATE OF FLORIDA


RONALD E. STOTLER OF
PROFESSIONAL SURVEYOR AND MAPPER
CERTIFICATE NO. 5026
STATE OF FLORIDA

Special Purpose Survey SUBMERGED LAND LEASE
JOHN R. DuBOIS MARINA & Prepared For: SUSAN D. KINDT TRUST
RONALD E. STOTLER, P.L.S. PROFESSIONAL LAND SURVEYOR FLORIDA LICENSE #5026 450 S. OLD DIXIE HWY., SUITE 9 JUPITER, FLORIDA 33458 PHONE 561-746-8745 FAX 561-746-9632 E-MAIL flandsurveyor@bellsouth.net

ATTACHMENT A

PAGE 8 OF 12 PAGES

SSLL NO. 500341216

EXHIBIT "B"

DUBOIS
COUNTY PARK
MAN MADE PENINSULA

NAVIGATION CHANEL

UPLAND
Boundary Survey
JOHN R. DuBOIS MARINA &
SUSAN D. KINDT TRUST

NOTES:

- 1) THERE ARE NO FUELING AND/OR SEWAGE PUMPOUT FACILITIES
- 2) THERE ARE NO SWIMMING AREAS WITHIN 250 FEET.
- 3) NO SWIMMING IN CHANNEL
- 4) PROPOSED LEASE AREA ADJACENT TO FISHING AREA
- 5) DOCK IS LIMITED TO PLEASURE CRAFT'S UNDER 45 FEET IN LENGTH.

NOTE: 1. THIS SURVEY COMPLES WITH CHAPTER 61017-8, FLORIDA ADMINISTRATION CODE.

2. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN MADE BY THIS OFFICE.
3. THIS SURVEY IS NOT VALID UNLESS EMBOSSED WITH SURVEYORS SEAL.
4. WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS.
5. LANDWARD BOUNDARY LEGAL DESCRIPTION SUPPLIED BY CLIENT.
6. ELEVATIONS HEREON BASED ON N.G.V.D.(1929)
NATIONAL GEODETIC VERTICAL DATUM
7. BEARINGS HEREON BASED ON EAST LINE OF GOVERNMENT LOT 7,
AND ALL OTHER BEARINGS ARE RELATIVE THERETO.

Ronald E. Stotler
RONALD E. STOTLER
PROFESSIONAL SURVEYOR AND MAPPER
CERTIFICATE NO. 5026
STATE OF FLORIDA

DRAWING NO. 06-1051

RONALD E. STOTLER, P.L.S.
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE #5026
450 S. OLD DIXIE HWY., SUITE 9
JUPITER, FLORIDA 33458
PHONE 561-746-8745
FAX 561-746-9632
E-MAIL flandsurveyor@bellsouth.net

SCALE 1" = 100'

0 50 100

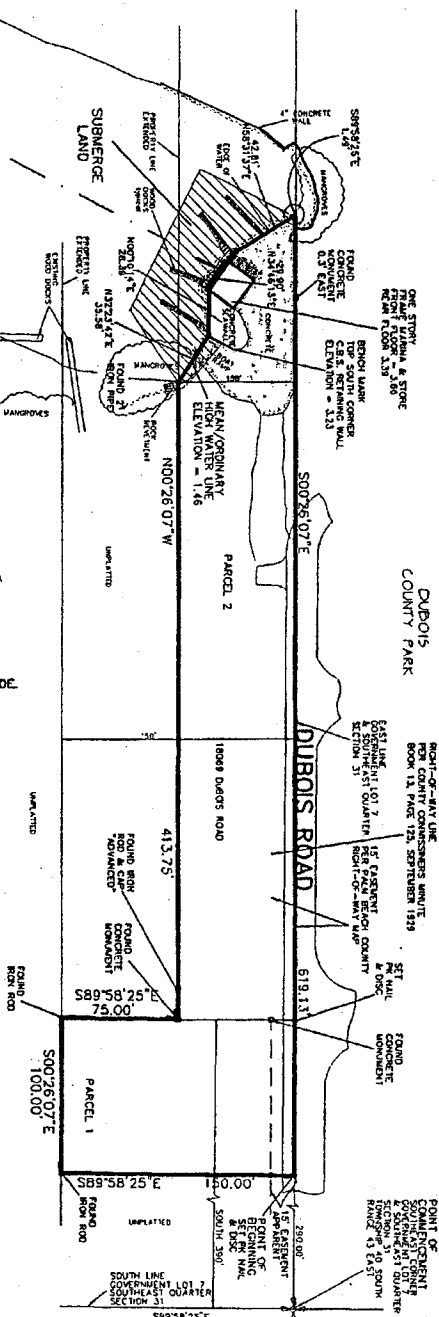


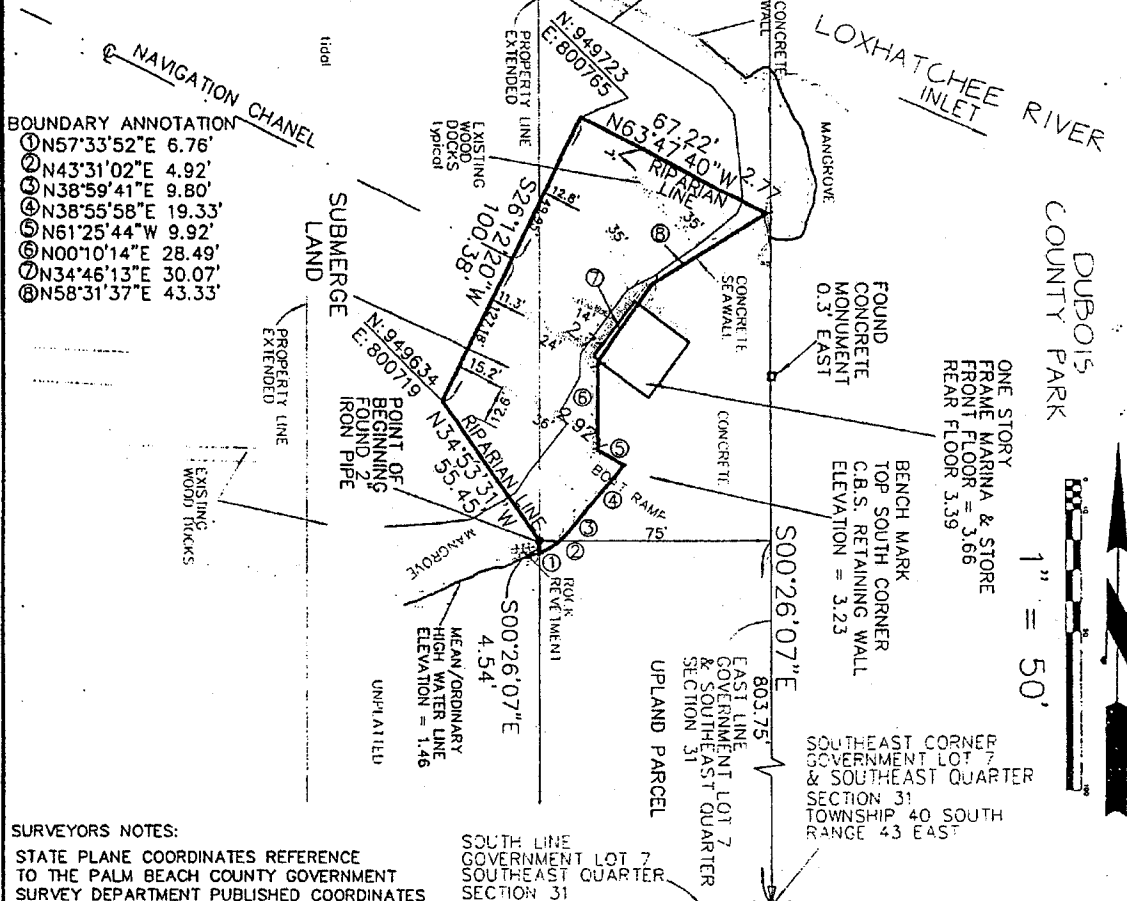
EXHIBIT "A"

DUBOIS
COUNTY PARK
MAN MADE PENINSULA

LEGEND: PAGE 2 OF 3

⊕ = CENTERLINE
+ = ELEVATIONS
= COORDINATES

- BOUNDARY ANNOTATION
- ① N57°33'52"E 6.76'
 - ② N43°31'02"E 4.92'
 - ③ N38°59'41"E 9.80'
 - ④ N38°55'58"E 19.33'
 - ⑤ N61°25'44"W 9.92'
 - ⑥ N00°10'14"E 28.49'
 - ⑦ N34°46'13"E 30.07'
 - ⑧ N58°31'37"E 43.33'



SURVEYORS NOTES:

STATE PLANE COORDINATES REFERENCE
TO THE PALM BEACH COUNTY GOVERNMENT
SURVEY DEPARTMENT PUBLISHED COORDINATES
NORTH AMERICAN DATUM 1983, ADJUSTED 1990.

A TRANSLATION ROTATION 01°12'42" NORTHEASTERLY
FROM LEGALS OF DESCRIBED LOTS HAS BEEN INTERPOLATED
FOR THIS DRAWING TO COINCIDE WITH STATE PLAN COORDINATES.

ELEVATIONS HEREON BASED ON
NATIONAL GEODETIC VERTICAL DATUM 1929
BEARINGS HEREON BASED ON EAST LINE
OF GOVERNMENT LOT 7, AND ALL
OTHER BEARINGS ARE RELATIVE THERETO.

DATE OF LAST FIELD VISIT
NOVEMBER 5, 2006

SUBMERGE LAND Boundary Survey

JOHN R. DuBOIS MARINA &
SUSAN D. KINDT TRUST ref: 06-093

Date Of Survey

SEPTEMBER 14, 2006

Drawing Number

06-1051

RONALD E. STOTLER, P.L.S.
PROFESSIONAL LAND SURVEYOR

FLORIDA LICENSE #5026
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E-MAIL rlandsurveyor@bellsouth.net

RONALD E. STOTLER
PROFESSIONAL SURVEYOR AND MAPPER
CERTIFICATE NO. 5026
STATE OF FLORIDA

Prepared by and return to:
WILL CALL BOX 80
ROBERT D. JONES, ESQ.
FUCHS AND JONES, P.A.
590 Royal Palm Beach Boulevard
Royal Palm Beach, Florida 33411
Telephone: (561) 793-0600
P.C.# 00-43-40-31-00-007-0070

RECEIVED

FEB 08 2007

DEPT OF ENV PROTECTION
WEST PALM BEACH

10/01/2003 12:41:51 20030589805
OR BK 15937 PG 0185
Palm Beach County, Florida
AMT 10.00
Doc Stamp 0.70

FEE SIMPLE DEED

THIS INDENTURE is made this 26th day of September, 2003, between SUSAN D. KINDT, a widow and survivor of that certain joint tenancy created by deed recorded August 28, 1992 in Official Record Book 7374, page 721, Public Records of Palm Beach County, Florida, of the County of Palm Beach, State of Florida, hereinafter called Grantor, and NANCY KINDT HERNANDEZ, TRUSTEE OF THE SUSAN D. KINDT TRUST CREATED UNDER AGREEMENT DATED September 26, 2003, hereinafter called Grantee, whose address is 2639 West Edgewater Drive, Palm Beach Gardens, Florida 33410

WITNESSETH, that Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, receipt whereof is hereby acknowledged, grants, bargains, sells and conveys unto the Grantee, her successors and assigns, all that certain land in Palm Beach County, Florida, more particularly described as follows:

The east 75 feet of the east 150 feet of Government Lot 7, Section 31, Township 40 South, Range 43 east, less the south 390 feet thereof.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

Full power and authority is granted by this Deed to the Grantee, her successors and assigns, to protect, conserve, sell, lease, encumber or otherwise manage and dispose of the real property or any part of it.

In no case shall any party dealing with the Grantee, her successors and assigns, in relation to the real estate be obliged: (a) to see to the application of any funds paid or advanced on the premises; (b) to see that the terms of the trust agreement have been complied with; (c) to inquire into the necessity or expediency of any act of the Grantee; or (d) to inquire into the terms of the trust agreement.

Every deed or other instrument executed by the Grantee, her successors and assigns, in relation to the real estate shall be conclusive evidence in favor of every person relying upon or claiming under such instrument that: (a) at the time of its delivery the trust agreement was in full force and effect; (b) the instrument was executed in accordance with the terms, conditions and limitations contained in the trust agreement and is binding upon all beneficiaries under the trust agreement; (c) the Grantee was duly authorized and empowered to execute and deliver every such instrument; and (d) if the instrument is executed by a successor or successors in trust, the successor or successors in trust have been appointed properly and vested with all the title, estate, rights, powers, duties and obligations of the predecessor or predecessors in trust.

Any contract, obligation or indebtedness incurred or entered into by the Grantee, their successors and assigns, in connection with the real estate may be entered into by them in their own name as Trustee of an express trust and not individually. The Grantee, her successors and assigns, shall have no obligation whatsoever with respect to any such contract, obligation or indebtedness except only as far as the trust property and funds in the actual possession of the Grantee, her successors and assigns shall be applicable to its payment and discharge, and all persons and corporations whomsoever shall be charged with notice of this condition from the date of the filing for record of this Deed.

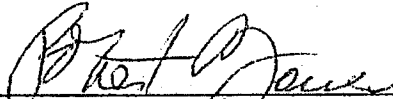
The interest of the beneficiaries under the said trust agreement shall be deemed personal property only.

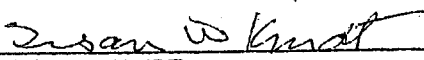
This conveyance is made for the purpose of conveying the property herein described to a trust established by the Grantor. The sole consideration for this Deed is \$10.00. Grantor shall pay all mortgages, if any, now encumbering the property conveyed hereby, and shall be and remain solely responsible therefore. This undertaking is solely for the benefit of the Grantee, their

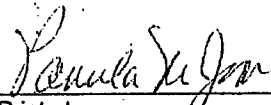
successors and assigns, and not for the benefit of any third parties.

IN WITNESS WHEREOF, the Grantor has set their hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:


Printed Name: ROBERT D. JONES

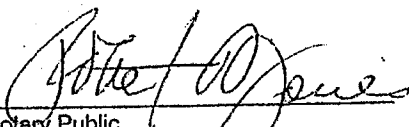
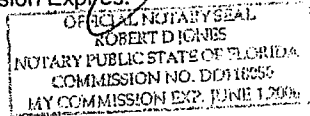

SUSAN D. KINDT
Grantor's address:
18055 DuBois Road
Jupiter, Florida 33477-4504


Printed Name: PAMELA M. JONES

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing was acknowledged before me by SUSAN D. KINDT, who is personally known to me or who have produced _____ as identification and who did (did not) take an oath.

26th IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this day of September, 2003.


Notary Public
My Commission Expires:


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FEB 08 2007

DEPT of ENV PROTECTION
WEST PALM BEACH