

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE  
NORTHEAST DISTRICT

Complainant,

OGC FILE NO. 03-1825-C

vs.

BOARD OF TRUSTEES OF THE  
UNIVERSITY OF FLORIDA

Respondent.

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department") and the Board of Trustees of the University of Florida ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department alleges, and the Respondent does not admit to, 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 Chapters 403 and 376, Florida Statutes (F.S.), and the rules promulgated thereunder, Title 62, Florida Administrative Code (F.A.C.). The Department has jurisdiction over the matters addressed in this Consent Order.
2. Respondent is a person within the meaning of Section 403.031(5), F.S.
3. Respondent is the lessee of property located in the eastern one-half of Section 11, Township 10 South, Range 19 East, Gainesville, Alachua County, Florida, and further identified as being located west of the intersection of Hull Road and S.W. 34<sup>th</sup> Street, Gainesville, Alachua

County, Florida, north latitude 29° 38.266' and west longitude 82° 22.424' (hereinafter the "Property"). Respondent operated unlined disposal pits/landfills on the Property from approximately 1964 to 1968. These disposal pits/landfills were used for the disposal of solid waste, as defined in Rule 62-701.200(113), F.A.C.

4. The groundwater underlying the site contains total dissolved solids of less than 10,000 mg/kg and is thus classified as Class G-II groundwater pursuant to Rule 62-520.410, F.A.C.

5. The Department's Sites Investigation Section has conducted an assessment of the site and has rendered Environmental Assessment Report Number 2003-04 (hereinafter the "Report"), enclosed as Exhibit "A." The assessment concludes that the operation of unlined disposal pits/landfills on the Property is the source of groundwater contamination on/in the Property, and groundwater contamination detected in monitoring wells on and adjacent to the site, including the monitoring wells designated as MW-1, MW-2, DEP9S, and DEP-9F. The operation of the unlined disposal pits/landfill on the property is the likely source of groundwater contamination on/in the property. These results warrant further action with respect to monitoring wells adjacent to the property.

6. In accordance with the Report, the following contaminants were detected in groundwater samples collected on and adjacent to the Property at concentrations in excess of Department groundwater standards and minimum criteria:

- |    |                     |  |
|----|---------------------|--|
| a. | Benzene             | 6.2ug/L (MW-1), 24ug/L (MW-2) & 8.1ug/L (DEP-9S) |
| b. | Arsenic             | 59ug/L (DEP9F)                                   |
| c. | Alpha Radionuclides | 23.4Pci/L (DEP-2S) & 37.5Pci/L (DEP-9S)          |

- d. Combined Radium 226/228      4.2Pci/L & 3.0Pci/L respectively (DEP-9S)
- e. Iron      43,000ug/L (DEP-9S), 35,100ug/L (DEP-10S), 634ug/L (MW-2), 694ug/L (MW-1), 1ug/L (DEP-3S)
- f. Manganese      572ug/L (DEP-10S) & 179ug/L (DEP-MW-2)

7. The Department alleges that the following violations occurred:

a. Respondent owns, and is maintaining, a stationary installation (closed disposal pits/landfills) which is reasonably expected to be a source of pollution in violation of Section 403.087, F.S. Respondent has no permit from the Department to maintain this stationary installation.

b. The disposal pits/landfills on the Property are the source of groundwater contamination in and around the Property, which exceed the Department's water quality standards and minimum criteria in violation of Rule 62-520.400, F.A.C.

c. Pursuant to Rule 62-520.300(6), F.A.C., the violation of any groundwater standard constitutes pollution as defined in Chapter 403, F.S. "Causing pollution" is a violation prohibited by Section 403.161(1), F.S.

Having reached resolution of this matter, and for the purpose of avoiding litigation and cost, the Department and Respondent mutually agree and it is,

**ORDERED:**

8. Respondent shall, upon the effective date of this Consent Order, implement risk-based corrective actions as set forth in Section 376.30701, F.S., in accordance with Exhibit "B."

9. Within 30 days of effective date of this Consent Order, Respondent shall pay the Department \$110,000 for costs and expenses incurred by the Department during ground water investigations on the property and for Department costs expected to be incurred during the life of

this Consent Order. Payment shall be made by cashier's check, money order, or funds transfer. The instrument shall be made payable to the Department of Environmental Protection and shall include thereon the OGC number assigned to this Consent Order and the notation "Water Quality Assurance Trust Fund." The payment shall be sent to the Department of Environmental Protection, Northeast District, 7825 Baymeadows Way, Suite B200, Jacksonville, Florida, 32256-7590.

10. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph eight (8) or Exhibit "B." A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, Northeast District, 7825 Baymeadows Way, Suite B200, Jacksonville, Florida, 32256-7590. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph nine (9) of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

11. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial or administrative imposition of damages or civil penalties, or additional enforcement action other than as provided for in Paragraph 19, for alleged violations outlined in this Consent Order; provided, however, should the Department conclude that cleanup of the contaminated area to the standards required by Section 376.30701, F.S., is not feasible; or should Respondent not completely implement a remedial or corrective action plan (however denominated) as approved by the Department; the Department expressly reserves its right to seek restitution from Respondent for environmental damages. Within 20 days of receipt of Department's written notification of its intent to seek said restitution, Respondent may pay the amount of the damages or may, if it so chooses, initiate negotiations with the Department regarding the monetary terms of restitution to the state. Respondent is aware that should a negotiated sum or other compensation or environmental damages not be agreed to by the Department and Respondent within 20 days of receipt of Department written notification of its intent to seek restitution, the Department may institute appropriate action, either administrative through a Notice of Violation, or judicial, in a court of competent jurisdiction through a civil complaint, to recover Department assessed environmental damages as provided by law.

12. With regard to any determination made by the Department regarding implementation of the requirements of this Consent Order or Exhibit B, if Respondent objects to the Department's determination, Respondent may file a petition for an administrative hearing pursuant to Sections 120.569 and 120.57, F.S. The petition must conform to the requirements of Rule 28-106.201, F.A.C., and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21

days after receipt of written notice from the Department of any determination Respondent wishes to challenge. Failure to file a petition within the 21 days shall constitute a waiver by Respondent of its right to request an administrative proceeding pursuant to Sections 120.569 and 120.57, F.S. The Department's determination, upon expiration of the 21-day period if no petition is filed, or the Department's Final Order as a result of the filing of a petition subsequent to any appeals of the Final Order, shall be incorporated by reference into this Consent Order and made a part of it. All other aspects of the Consent Order shall remain in full force and effect at all times. If Respondent seeks an administrative proceeding pursuant to this paragraph, the Department may file suit against Respondent to obtain judicial resolution of all the issues unresolved at the time of the request for administrative proceeding.

13. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, F.S., and waives that right upon signing this Consent Order.

14. Respondent shall publish the following notice in a newspaper of daily circulation in Alachua County, Florida. The notice shall be published one time only within fourteen (14) days after the effective date of the Consent Order at which time a copy of the notice shall be submitted to the Department.

**STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**NOTICE OF CONSENT ORDER**

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with the Board of Trustees of the University of Florida pursuant to Section 120.57(4), Florida Statutes. The Consent Order addresses groundwater contamination issues

detected on and around property leased by the University of Florida, located in the eastern one-half of Section 11, Township 10 South, Range 19 East, Gainesville, Alachua County, Florida and further identified as being located east of the intersection of Hull Road and S.W. 34<sup>th</sup> Street, Gainesville, Alachua County, Florida, north latitude 29° 38.266' and west longitude 82° 22.424'. 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, 7825 Baymeadows Way, Suite B200, Jacksonville, Florida, 32256-7590.

Persons whose substantial interests are affected by this Consent Order have a right to petition for an administrative hearing on the Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, 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 named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number for the Consent Order and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes

petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, F.A.C.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, F.S., or may choose to pursue mediation as an alternative remedy under Section 120.573, F.S., before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement



must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

(a) The names, addresses, and telephone numbers of any persons who may attend the mediation;

(b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;

(c) The agreed allocation of the costs and fees associated with the mediation;

(d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;

(e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;

(f) The name of each party's representative who shall have authority to settle or recommend settlement; and

(g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.

(h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, F.S., the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, F.S., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be

concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, F.S., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

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 Consent 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. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall 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 be a cause 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 orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in

writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and 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 for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

16. Nothing herein shall be construed to limit the authority of the Department to undertake any action against any Respondent in response to or to recover the costs of responding to conditions at or from the site that require Department action to abate an imminent hazard to the public health, welfare or the environment.

17. Respondent shall provide within a reasonable time at its expense a permanent safe drinking water supply meeting all drinking water standards set forth in Chapter 62-550, F.A.C., to replace any potable water well that is shown by chemical and hydrogeologic analyses to be contaminated by Respondent's operations.

18. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances, or permit conditions.

19. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), F.S.

20. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000 per day per violation, and criminal penalties.

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

22. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

23. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

24. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, "Water Quality Assurance Trust Fund." Payment shall be sent to the Department of Environmental Protection, Northeast District, 7825 Baymeadows Way, Suite B200, Jacksonville, Florida, 32256-7590.

25. 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 Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property or facility, (1) notify the Department of such sale or conveyance, (2) provide the name and address of the purchaser, or operator, or person(s) in control of the facility, and (3) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the facility, or the property upon which the facility is located shall not relieve Respondent of the obligations imposed in this Consent Order.

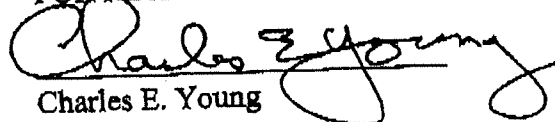
26. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities, which may arise under Florida law, nor is it a settlement of any violation, which may be prosecuted criminally or civilly under federal law.

27. Respondent shall use all reasonable efforts to obtain any necessary access for work to be performed in the implementation of this Consent Order. If necessary access cannot be obtained, or if obtained, is revoked by owners or entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within (5) business days of such refusal or revocation. The Department may at any time seek to obtain access as is necessary to implement the terms of this Consent Order. Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorneys fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain access as is necessary to implement the terms of this Consent Order. Respondent shall pay these sums to the Department or arrange a payment schedule with the Department within 30 days of written demand by the Department.

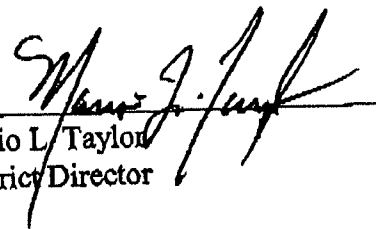
28. This Consent Order is a final order of the Department pursuant to Section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

10-21-03  
Date

FOR RESPONDENT:

  
Charles E. Young  
President

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
Mario L. Taylor  
District Director

DONE AND ORDERED this 22<sup>nd</sup> day of October, 2003, in Jacksonville, Duval County, Florida.

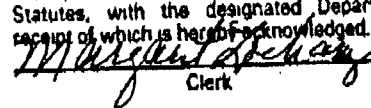
**FILING AND ACKNOWLEDGEMENT**  
FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.  
 10-22-03  
Clerk Date

EXHIBIT B

Respondent shall conduct a Site Assessment and submit a complete Site Assessment Plan (SAP) to the Department for approval within sixty (60) days of the execution date of this Order. Respondent shall submit a complete Site Assessment Report (SAR) to the Department for approval within two hundred and ten (210) days of approval of the SAP. The objectives of the Site Assessment shall be:

(a) To evaluate the current exposure and potential risk of exposure to humans and the environment, including multiple pathways of exposure. The physical, chemical, and biological characteristics of each contaminant and the individual site characteristics must be considered. The individual site characteristics include:

1. the current and projected use of the affected groundwater and surface water in the vicinity of the site;
2. the ownership and current and projected land use of the area affected by the contamination;
3. the exposed population;
4. the location of the plume;
5. the degree and extent of contamination;
6. the rate and direction of migration of the plume;

7. the apparent or potential rate of degradation of contaminants through natural attenuation; and

8. the potential for further migration in relation to the site's property boundary.

(b) To determine whether contamination is present and the types of contaminants present, and to determine the horizontal and vertical extent of contamination in every medium found to be contaminated.

(c) To determine or confirm the origin(s) of the source(s) of contamination, if technologically feasible;

(d) To establish the background concentrations;

(e) To establish the horizontal extent and thickness of free product, if technologically feasible;

(f) To determine whether source removal is warranted;

(g) To describe relevant geologic and hydrogeologic characteristics that influence migration and transport of contaminants of concern at the site;

(h) To determine by means of a well survey whether any municipal or public water supply wells are present within a 1/2 mile radius of the site, whether the site is located within the regulated wellhead protection zone of a municipal well field or public water supply well, and whether any private water supply wells (including potable,



irrigation and industrial) are present within a 1/4 mile radius of the site;

(i) To determine whether any surface water will be exposed to contamination that originates from the site and to identify any threatened or endangered flora or fauna;

(j) To report any off-site activities (for example, dewatering, active remediation, or flood control pumping) in the immediate vicinity of the site that may have an effect on the groundwater flow at the site; and

(k) To facilitate the selection of a remediation strategy for the site that is protective of human health and the environment, and considers the proposed development, identifies risks posed by the contamination based on the proposed development and describes how those risks will be managed.

The SAR shall summarize all tasks that were completed and summarize the results obtained. All maps shall indicate the North direction, be drawn to scale, and include a graphical representation of the scale used.

The Department shall review the SAR and determine whether it has adequately met the objectives specified above. In the event that additional information is necessary for the Department to evaluate the SAR or if the SAR does not adequately address the objectives set forth

above, the Department will make a written request to the Respondent for the information. The Respondent shall provide all requested revisions in writing to the Department within thirty (30) days from receipt of said request, unless the requested information requires additional time for a response, in which case the Respondent shall submit in writing to the Department, within thirty (30) days of the Department's request, for Department approval, a reasonable schedule for completing the work needed to provide the requested information.

If the Department determines upon review of the SAR or the SAR Addendum that the SAR still does not adequately address the objectives above, or that the next proposed action is not acceptable, the Department may choose to:

(a) Draft specific items to be conducted to complete activities necessary to finalize the SAR and notify the Respondent in writing that approval of the SAR is being granted contingent upon those specific items being conducted and those results incorporated into the SAR.

(b) Resolve the issues through correspondence, telephone discussions, and/or meetings.

(c) Notify the Respondent that Respondent has failed to meet the stated objectives for the document, in which

case the Department may do any or all of the following:  
take legal action to enforce compliance with the Order;  
file suit to recover damages and civil penalties; or  
complete the corrective actions outlined herein and recover  
the costs of completion from the Respondent.

If Respondent seeks to establish alternative clean-up  
levels pursuant to Sections 376.30701(2)(g)3. and (i)3.,  
F.S., it shall perform a risk assessment and submit a Risk  
Assessment Report containing all information the Department  
deems necessary to demonstrate that the alternative cleanup  
target levels are protective as required by those sections.  
A Risk Assessment Report (RAR) shall be developed and  
submitted to the Department within sixty (60) days of  
approval of the SAR.

If the Department determines upon review of the RAR  
that the RAR still does not adequately address the  
objectives above, or that the next proposed action is not  
acceptable, the Department may choose to:

(a) Draft specific items to be conducted to complete  
activities necessary to finalize the RAR and notify the  
Respondent in writing that approval of the SAR is being  
granted contingent upon those specific items being  
conducted and those results incorporated into the RAR.

(b) Resolve the issues through correspondence, telephone discussions, and/or meetings.

(c) Notify the Respondent that Respondent has failed to meet the stated objectives for the document, in which case the Department may do any or all of the following: take legal action to enforce compliance with the Order; file suit to recover damages and civil penalties; or complete the corrective actions outlined herein and recover the costs of completion from the Respondent.

If conditions at a site do not satisfy the criteria for issuance of a Site Rehabilitation Completion Order, pursuant to Section 376.30701, F.S., the Respondent shall prepare and submit two copies of a Remedial Action Plan (RAP) to the department within ninety (90) days after approval of the SAR, or within ninety (90) days after approval of the RAR if one is timely requested. The objective of the active remediation shall be to meet the applicable criteria for issuance of a Site Rehabilitation Completion Order. The Remedial Action Plan must provide a design that addresses cleanup of all soil, sediment, groundwater, or surface water found to be contaminated.

The Remedial Action Plan shall:

(a) Summarize the Site Assessment Report conclusions and any additional data obtained since its publication;

(b) If groundwater contamination is present, include results from a round of groundwater sampling and analyses from a number of monitoring wells adequate to determine the highest concentrations of contaminants, to verify the horizontal and vertical extent of the plume, and to provide design data for the Remedial Action Plan. Any such round of sampling and analyses must have been recently done, no more than two hundred and seventy (270) days prior to submittal of the Remedial Action Plan. If the results from the confirmatory round of sampling contradict earlier results, then the applicable site assessment tasks specified for the SAR, shall be performed;

(c) Explain the rationale for the active remediation method selected, which shall include at a minimum:

1. results from any pilot studies or bench tests; and

2. results of an evaluation of remedial alternatives, and a discussion of why other remedial alternatives considered were rejected, based on the following criteria:

- a. long-term and short-term human health and environmental impacts;

b. implementability, which may include ease of construction, site access, and necessity for permits;

c. operation and maintenance requirements;

d. reliability;

e. feasibility;

f. estimated time required to achieve cleanup; and

g. cost-effectiveness of installation, operation and maintenance, when compared to other site remediation alternatives;

(d) Include an evaluation of the production of breakdown contaminants or by-products resulting from bioremediation, oxidation, or other natural processes, as applicable;

(e) Summarize the operational details of the equipment to be used during active remediation.

(f) If groundwater contamination is present:

1. include a list of contaminants to be monitored in the recovery well(s) and in the effluent from the treatment system (based on the type of treatment employed and disposition of the effluent), the designation of recovery well(s) to be sampled, and a proposal for their sampling;

2. include a list of contaminants to be monitored, the designation of a representative number of monitoring wells and surface water bodies to be sampled, and a proposal for their sampling frequency adequate to monitor the cleanup progress during active remediation, and the description of the methodology proposed to evaluate the effectiveness and efficiency of the remediation system. The designated wells shall include at least one well located at the downgradient edge of the plume and one well in the area of maximum groundwater contamination or directly adjacent to it if the area of highest groundwater contamination is inaccessible (for example, under a structure);

3. include a list of contaminants to be monitored and the designation of a representative number of previously contaminated monitoring wells that shall be sampled once a year in order to redefine the plume and fully evaluate the effectiveness and efficiency of the remediation system; and

4. include the designation of a representative number of monitoring wells, piezometers, and staff gauge locations to collect water-level data each time groundwater samples are collected;

(g) Provide the details of any proposed treatment or disposition of contaminated soil or sediment. If contaminated soil exists at the site and active remediation does not include treatment or removal of such soil, the Remedial Action Plan shall include a proposal to implement an institutional control or both an institutional and an engineering control.

In the event that additional information is necessary for the Department to evaluate the RAP, or if the RAP does not adequately address the objectives and requirements set forth above, the Department will make a written request to the Respondent for the information. The Respondent shall provide all requested revisions in writing to the Department within forty five (45) days from receipt of said request, unless the requested information requires additional time for a response, in which case the Respondent shall submit in writing to the Department, within forty five (45) days of the Department's request, a reasonable schedule for completing the work needed to provide the requested information.

If the Department determines upon review of the resubmitted RAP that the RAP adequately addresses the objectives set forth above, then the Department shall approve the RAP. If the Department determines that the RAP



still does not adequately address the requirements of the RAP, the Department may choose to:

(a) Draft specific items to be conducted to complete activities necessary to finalize the RAP and notify the Respondent in writing that approval of the RAP is being granted contingent upon those specific items being conducted and those results incorporated into the RAP.

(b) Resolve the issues through correspondence, telephone discussions, and/or meetings.

(c) Notify the Respondent that Respondent has failed to meet the stated objectives for the document, in which case the Department may do any or all of the following: take legal action to enforce compliance with the Order; file suit to recover damages and civil penalties; or complete the corrective actions outlined herein and recover the costs of completion from the Respondent.

During implementation of the Remedial Action Plan, status reports of remedial action shall be submitted by the Respondent to the Department on a quarterly basis. The Remedial Action Status Report shall contain the following information, as applicable:

(a) A summary of the data;

(b) A summary of the estimated mass of contaminants recovered in all phases, including non-aqueous free

product, dissolved and vapor phases, by all on-site remediation equipment, and a comparison to the original estimate of mass of contaminants on-site;

(c) One or more scaled site maps showing groundwater flow direction(s), and the current degree and extent of the contamination;

(d) Conclusions as to the effectiveness of the active remediation for the specified period covered in the status report; and

(e) Recommendations to continue the operation of the treatment system(s) or to modify the site rehabilitation.

If contamination has migrated into any media beyond the property boundary of the source site (i.e., the location from which the contamination is migrating), then the Respondent shall notify the Department within seven calendar days. This notification shall include a proposed notification letter, and a list of affected real property owners and local governments to be notified. Within seven days of Departmental approval of the notification letter and list, the Respondent shall send the approved notice by certified or registered mail to the approved list of affected real property owners and local governments.

**APPLICABILITY 62-780, F.A.C.** The Department is presently developing a rule, Chapter 62-780, F.A.C., to

implement §376.30701, F.S. Upon adoption, Respondent shall apply the provisions of that rule in lieu of paragraphs above of this Exhibit, provided that such provisions are not inconsistent with work already performed or approved.