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NAS KEY WEST
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LETTER WITH ATTACHED NOTICE OF VIOLATION AND ORDERS FOR CORRECTIVE
ACTION NAS KEY WEST
8/5/1986
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL REGULATION

SOUTH FLORIDA
DISTRICT
2205 BAY STREET
FORT MYERS, FLORIDA 33901-2006



BOB GRAHAM
GOVERNOR
VICTORIA J. TECHINKEL
SECRETARY
PHILIP R. EDWARDS
DISTRICT MANAGER

August 5, 1986

CERTIFIED MAIL #P 581 181 903
RETURN RECEIPT REQUESTED

U.S. Naval Air Station, Key West
Herman Sweeting, Environmental Coordinator
Key West, FL 33040

Re: Monroe County - HW
U.S. Naval Air Station, Key West
OGC Case No. 86-0663

Dear Sir:

Enclosed is a Notice of Violation and Orders for Corrective Action for U.S. Naval Air Station, Key West.

Please note the time frames for corrective action and for formal or informal proceedings contained in the Notice.

Your cooperation in resolving this matter is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Langley Adair".

Langley Adair
Environmental Manager-DER

Attachment

LA/wlb

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT)
OF ENVIRONMENTAL REGULATION,)
Complainant,)
v.)
U. S. NAVAL AIR STATION,)
KEY WEST)
Respondent.)

IN THE OFFICE OF THE
SOUTH FLORIDA DISTRICT

OGC Case No.: 86-0663

NOTICE OF VIOLATION AND
ORDERS FOR CORRECTIVE ACTION

TO: Herman Sweeting, Environmental Coordinator
U. S. Naval Air Station, Key West
Key West, Florida 33040

Certified Mail Number P 581 181 903

Pursuant to the authority Section 403.121(2), Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Rule 17-103.110, the State of Florida Department of Environmental Regulation ("Department") gives notice to U. S. Naval Air Station, Key West ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, F.S.:

FINDINGS OF FACT

PARAGRAPHS APPLICABLE TO ALL COUNTS

1. The Department is the administrative agency of the State of Florida which has the authority to administer and enforce the provisions of Chapter 403, F.S., and rules promulgated thereunder in F.A.C. Title 17.
2. Respondent, U. S. Naval Air Station, Key West, is engaged in the business of operating an air station, which includes maintenance facilities that generate hazardous waste. A description of these facilities is given in the Hazardous Waste Inspection reports attached as Exhibit I.

3. Respondent, U. S. Naval Air Station, owns and operates the air station on Boca Chica Key, Monroe County, Florida. A map showing the location of this site is attached as Exhibit II.

4. Respondent is a hazardous waste treatment, storage, and disposal (TSD) facility which operates under the following Department permits: HT44-64657, expires February 2, 1987; HF44-64691, expires February 9, 1987; HT44-75604, expires April 16, 1987; and HC44-089617, expires June 13, 1987. However, Respondent is in violation of specific condition 12 of permit HT44-64657, which states that the containers must be kept in good condition and specific condition 1, which sets the maximum inventory of waste at 240 barrels of 55 gallon capacity.

COUNT I

5. Respondent has violated rules regarding hazardous waste management contained in F.A.C. Chapter 17-30 as set forth in the "Summary of Violations" section of Exhibit III.

COUNT II

6. Respondent's activities described in Count I have resulted in the spillage and unpermitted disposal of waste from paint stripping and painting operations at that section of the air base known as VAQ-33. This can reasonably be expected to cause contamination of groundwater in the surficial aquifer at this location.

COUNT III

7. The Department has incurred expenses to date while investigating this matter in an amount not less than \$ 151.90.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with

regard to the requirements of Chapter 403, Parts I and IV, F.S.; F.A.C. Chapter 17-30; 40 Code of Federal Regulations (C.F.R.) 260.10; and 40 C.F.R. Parts 261 through 266. Based on the foregoing facts the Department has made the following conclusions of law:

8. Respondent is a person within the meaning of Sections 403.031 and 403.703, F.S.

9. The provisions of 40 C.F.R. §260.10 and 40 C.F.R. Parts 261 through 266 are adopted by reference in F.A.C. Rules 17-30.02, 17-30.03, 17-30.16, 17-30.17, and 17-30.18.

10. Respondent's operation is a hazardous waste facility as defined in Section 403.703(22), F.S., F.A.C. Rule 17-30.02, and 40 C.F.R. §260.10.

11. The facts related in Count I and II constitute a violation of Section 403.727, F.S., which makes it a violation of the Florida Resource Recovery and Management Act for a hazardous waste generator, transporter, or facility owner or operator to fail to comply with the provisions of the Act or Department rules concerning hazardous waste management.

12. The facts related in Count II constitute a violation of Section 403.087, F.S., which provides that no stationary installation which will reasonably be expected to be a source of air or water pollution shall be operated or maintained without an appropriate Department permit.

13. The facts related in Count II constitute a violation of Section 403.708(1), F.S., which prohibits the placement or deposition of any solid waste in or on the land or waters located in the state except in a manner approved by the Department and Section 403.722, F.S., which prohibits the construction, operation or closure of a hazardous waste facility without a

permit.

14. The facts described in Counts I and II constitute a violation of Section 403.161(1)(b), F.S., which makes it a violation of Chapter 403, F.S., to violate or fail to comply with any rule, regulation, order, permit or certification adopted or issued by the Department pursuant to its lawful authority.

15. The costs and expenses related in Count III are reasonable costs and expenses incurred by the State while investigating this matter, which are recoverable pursuant to Section 403.141(1) F.S.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged in this Notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121, F.S., and F.A.C. Rule 17-103.110 (see Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's order pursuant to Sections 120.69 and 403.131, F.S.

Pursuant to the authority of Sections 403.061(8) and 403.121, F.S., and F.A.C. Rule 17-103.110, the Department proposes to adopt in its Final Order in this case the following specific corrective actions which will redress the alleged violations:

16. Respondent shall forthwith comply with all Department rules regarding hazardous waste management.

17. Within 45 days, Respondent shall submit to the Department a detailed itemized report describing and certifying compliance with paragraph 15 of this Notice.

18. Within 30 days, Respondent shall make payment to the Department for costs and expenses in the amount of \$151.90. Payment shall be made by certified check or money order payable to the "State of Florida Department of Environmental Regulation" and shall be sent to the South Florida District, 2269 Bay Street, Fort Myers, Florida 33901.

19. Respondent shall immediately cease all discharges from its facility to the ground and/or groundwater where such discharges are reasonably likely to cause a violation of water quality minimum criteria and standards as set forth in F.A.C. Chapter 17-3.

20. Respondent shall implement the study as set forth in the Preliminary Contamination Assessment Actions attached hereto as Exhibit IV in the manner and within the time frames specified therein.

21. In the event the Preliminary Assessment described in Exhibit IV reveals the presence of contaminants in the soil, sediment, surface water and/or ground water in violation of water quality standards minimum criteria set forth in F.A.C. Chapter 17-3; or reveals the presence of contaminants which may reasonably be expected to cause pollution of the surface and/or ground water of the State in excess of such standards or criteria, Respondent shall implement the corrective actions in the manner and within the time frames set forth in the document entitled "Corrective Actions for Ground Water Contamination Cases" attached as Exhibit V. Such time frames shall begin upon notification by the Department that the presence of contaminants has been confirmed and that such corrective actions are necessary. "Within 30 days from the effective date of the Order" as stated in paragraph 1.

of Exhibit IV shall mean 30 days from the date of the Department's notification of the need to implement the corrective actions.

22. Respondent shall install a sign with the legend "Danger - Unauthorized Personnel Keep Out" at each entrance to the active portion of the facility within thirty days.

23. Respondent shall within thirty days update the inspection plan to show the current inspection log, and shall immediately start recording the time of each inspection on the inspection logs.

24. Respondent shall within thirty days place no smoking signs wherever there is a hazard from ignitable or reactive waste.

25. Respondent shall within thirty days install an emergency communication system at the storage area.

26. Respondent shall within thirty days insure that all containers holding hazardous waste are in good condition, and properly marked and labeled, to include the date on which accumulation begins.

NOTICE OF RIGHTS

1. Respondent has the right to a formal administrative hearing pursuant to Section 120.57(1), F.S., if Respondent disputes issues of material fact raised by this Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or hearing officer's recommended order.

2. Respondent has the right to an informal administrative proceeding pursuant to Section 120.57(2), F.S., if Respondent

does not dispute issues of material fact raised by this Notice.

If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

3. Respondent may request an informal conference with the Department pursuant to F.A.C. Rule 17-103.090 in order to resolve this matter promptly and amicably. Respondent's rights will not be adjudicated at an informal conference, and the right to a formal hearing or informal proceeding will not be affected by requesting or participating in an informal conference.

4. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within 20 days of receipt of this Notice or within ten days of any timely requested informal conference held pursuant to paragraph 5. below. The petition must be in the form required by F.A.C. Chapter 17-103 and by F.A.C. Rule 28-5.201. A petition is filed when it is received by the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. A petition must specifically request a formal hearing or an informal proceeding, it must admit or deny each Finding of Fact of this Notice, and it must state any defenses upon which Respondent relies. If Respondent lacks knowledge of a particular allegation, Respondent must so state, and that statement will operate as a denial.

5. If Respondent desires an informal conference, Respondent must file a written "Request for Informal Conference" within ten days of receipt of this Notice. The request must be made to the person indicated on the last page of this Notice. The request is filed when it is received by the office of the person indicated

on the last page of this Notice. If no resolution of this matter results from the informal conference, Respondent has the right to file a petition for a formal hearing or informal proceeding within ten days of the date the conference is held.

6. Respondent will waive the right to a formal hearing or an informal proceeding if a petition is not filed with the Department within 20 days of receipt of this Notice or within ten days of the date of an informal conference if one is held. These time limits may be varied only by written consent of the Department.

7. The allegations of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to timely file a petition for a formal hearing or informal proceeding, pursuant to Section 403.121, F.S., and F.A.C. Rule 17-103.110. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice.

8. If Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 403.131, and 403.727, F.S. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$50,000 per day for each day that Respondent has failed to comply with the Final Order.

9. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with F.A.C. 17-103.110(3), upon such terms and conditions as may be mutually agreeable. In this regard, the Department has entered into an agreement with the United States Environmental Protection Agency ("EPA") regarding cases involving violations of hazardous waste

rules. The agreement obligates the Department either to seek civil penalties in such cases or to refer them to EPA to collect penalties. The agreement requires the penalties to be computed on the basis of the EPA Resource Conservation and Recovery Act Civil Penalty Policy dated May 8, 1984, a copy of which is available upon request from the Department. Any settlement between the Department and the Respondent concerning the violations set forth herein must include the payment of penalties consistent with this Policy. Should the parties not be able to settle this action, the Department may voluntarily dismiss this Notice and seek judicial imposition of penalties in circuit court, file a separate and independent action in court for imposition of civil penalties, or refer the violation to EPA.

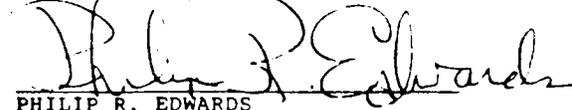
10. The Department is not barred by the issuance of this Notice from maintaining an independent action in circuit court with respect to the alleged violations. If such action is warranted, the Department may seek injunctive relief, damages, civil penalties of not more than \$50,000 per day, and all costs of litigation.

11. Copies of Department rules referenced in this Notice may be

examined at any Department Office or may be obtained by written request to the person listed on the last page of this Notice.

DATED this 4th day of August, 1986

STATE OF FLORIDA, DEPARTMENT
OF ENVIRONMENTAL REGULATION



PHILIP R. EDWARDS
District Manager
South Florida District
2269 Bay Street
Fort Myers, Florida 33901

Copies furnished to:
Office of General Counsel

A petition for hearing must be filed with:

Office of General Counsel
State of Florida Department
Of Environmental Regulation
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
Telephone: 904/488-9730

A request for an informal conference must be made to:

Philip R. Edwards
District Manager
South Florida District
2269 Bay Street
Fort Myers, Florida 33901
Telephone: 813/332-2667

EXHIBIT 1

DATE: MAY 08 1986

SUBJECT: Inspection at the U.S. Naval Air Station Key West

RECEIVED
MAY 07 1986
SOUTH DISTRICTFROM: Environmental Engineer, East Unit
Waste Compliance SectionTO: Allan Antley, Chief
Waste Compliance SectionTHRU: John C. Lank, Jr.
Chief, East Unit
Waste Compliance SectionI. Name and Location of FacilityU.S. Naval Air Station Key West (USNAS)
US Highway 1
Key West, Florida 33040
ID Number: FL6170022952II. Date of Inspection

April 15, 1986

III. Type of Facility and Applicable RegulationsGenerator
Container Storage
Thermal Treatment
40 CFR Parts 262 and 265IV. Responsible Official

Herman Sweeting, Environmental Coordinator

V. Inspection ParticipantsDavid Ellision, US ERA, Lead Inspector
Blanche Williams, FDER
Greg O'Connell, FDER
Herman Sweeting, USNASVI. Summary of Findings

On April 15, 1986, an inspection was conducted at the USNAS Key West by EPA and the State of Florida. The USNAS notified as a generator and as a treatment, storage and disposal facility for hazardous waste. The USNAS submitted a Part A application as being a treater and storer of hazardous waste.

The USNAS trains military personnel to be pilots and operates, supports and maintains Naval aircraft. Operations at the base include engine repairs, minor painting and stripping of parts and minor touch-up work to aircraft.

The hazardous waste generated by USNAS is stored in the hazardous waste storage building which has received a Temporary Operating Permit (T.O.P.). The T.O.P. expires on February 9, 1987. The hazardous waste storage area contained approximately 210 drums. The USNAS has received a Constructed Permit to construct a new storage facility to be completed by June 13, 1987. The base is currently taking bids on construction of the storage facility to be completed by December, 1986. All hazardous waste generated is stored in containers. The USNAS has five sites that generate hazardous waste and at times other areas. The five generator sites are Airframes Intermediate Maintenance Department (AIMD), Corrosion Control, Squadron VF-45, AIMD main area, VAQ-33 and Operations Maintenance Department (OMD). The following is a brief description of each generator:

AIMD Corrosion Control - The AIMD does stripping and painting of aircraft parts and support equipment. The stripping and painting is done in a tank then collected and placed into containers. Prior to June of 1984 stripping operations had occurred on a concrete pad and the waste was discharged to a culvert which led to a pond. Cleanup of this area was handled under a consent order by the state of Florida, but no groundwater data was collected. Two drums of hazardous waste were present.

Squadron VF - This squadron does minor touchup work on the aircraft. The waste generated is solvents and paint. Two drums of hazardous waste were present.

AIMD Main Area - AIMD does repairs on aircraft that includes working with hydraulics and electronics. Three drums of hazardous waste was stored in this area.

VAQ-33 - This squadron does maintenance and repairs of aircraft and minor stripping and painting operations. Six drums of hazardous waste were stored in this area.

OMD - The OMD works on helicopters and generates hazardous waste from cleaning operations, maintenance and painting operations. Four drums of hazardous waste were stored in this area.

The USNAS also has a Thermal Treatment, Temporary Operating Permit (T.O.P.), for hazardous waste. The Navy treats waste explosives at an island called Demolition Key. This area can only be reached by boat. An inspection of this area was not performed due to its location, but file review for this site was performed. Treatment of waste occurs at this site approximately six times a year. An inspection of two of the eight solid waste management units was conducted. An inspections of the fire training area and tank farm was conducted. A ninth site, the AIMD Corrosion Control

-3-

area of previous operation should be added to the solid waste management units under investigation unless DER determines that it is a regulated unit subject to post closure permitting.

Attached is a copy of the inspection checklist and pictures of the facility. The following is a list of noncompliance items noted during the inspection:

40 CFR 265.14(c) - Security

The facility must have a sign with the legend; "Danger - Unauthorized Personnel Keep Out," at each entrance to the active portion of the facility.

40 CFR 265.15(b)&(c) - General Inspection Requirements

The facility has failed to update the inspection plan to show the current inspection log. The inspection logs fail to show the time of inspection as required.

40 CFR 265.17(a) - General Requirements for Ignitable Reactive or Incompatible Wastes

The facility has failed to place no smoking signs wherever there is a hazard from ignitable or reactive waste.

40 CFR 265.15(c) - General Inspection Requirements

The facility has failed to correct problems at the VAQ-33 generator site as noted in the inspection logs.

40 CFR 265.31 - Maintenance and operation of Facility

The facility has failed to maintain and operate to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment. A spill of hazardous waste has occurred at VAQ-33 and there is possible containment of the soil (discoloration visible). It is evident the spill has occurred several times, due to the buildup around the drums.

40 CFR 265.32(b) - Required Equipment

The facility has failed to have a telephone or emergency communication system at the storage area in case of an emergency.

40 CFR 265.54 - Amendment of Contingency Plan

The facility has failed to amend the contingency plan to show changes that have occurred at the facility and to show changes in emergency coordinators.

40 CFR 265.171 - Condition of Containers

The facility has failed to transfer containers holding hazardous waste that are not in good condition to a container in good condition. One budging drum and one severally dented drum was located at the storage area, and one budging drum at VAQ-33.

40 CFR 265.174 - Inspections

The facility has failed to perform weekly inspections as required. No inspection were conducted from January 12, 1986 to February 3, 1986, when Mr. Sweeting was in training.

40 CFR 262.34(a)(2) - Accumulation Time

No dates were marked on one drum in the AIMD main area, one drum in the ODM area and on drums in the VAQ-33 area to show the date upon which each period of accumulation begins.

40 CFR 262.34(a)(3) - Accumulation Time

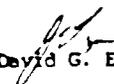
One drum in the OMD area was not clearly marked as hazardous waste.

VII. Conclusions and Recommendations

The facility has made major improvements from previous inspections, but still needs to correct several Class I violations. The facility has a current contract issued December 9, 1985 to make signs for the hazardous waste areas. The facility also plans on completing a new storage area and building storage areas at all generating sites by December 1986. These contracts the USNAS is currently working on may need to be placed in a consent order to bring them into compliance with several of the above violations.

The USNAS needs to include the AIMD Corrosion control site of previous stripping operations in their solid waste management units investigations, unless the state of Florida determines that it is a regulated unit subject to post closure permitting.

Several of the violations cited in this report are Class I violations, others are Class II violations, therefore an enforcement action should be taken in accordance with the Memorandum of Agreement and the Enforcement Response Policy. If Florida fails to take appropriate action, EPA must take action for these violations.


David G. Ellison

Attachment ..



Interoffice Memorandum

FOR ROUTING TO OTHER THAN THE ADDRESSEE			
To	_____	Let	_____
To	_____	Let	_____
To	_____	Let	_____
Date	_____	Date	_____

TO: File
THROUGH: Rick Stross *ral*
FROM: Anthony Fotovat *A.F.*
DATE: July 24, 1986
SUBJECT: RCRA Compliance Inspection of U.S. Naval Air Station
Key West

I. Name and Location of Facility

U.S. Naval Air Station Key West (USNAS)
U.S. Highway 1
Key West, Florida 33040
ID Number: FL6170022952

II. Date of Inspection

December 5, 1985

III. Type of Facility and Applicable Regulations

Generator
Container Storage
Thermal Treatment
40 CFR Parts 262 and 265

IV. Responsible Official

Herman Sweeting, Environmental Coordinator

V. Inspection Participants

Anthony Fotovat, FDER, Lead Inspector
Greg O'Connell, FDER

VI. Summary of Findings

On December 5, 1985, an inspection was conducted at the USNAS Key West by FDER.

The operations at the Naval Air Station Key West have not changed since the last RCRA inspection on August 7, 1985. The USNAS has notified the Department that it is a generator and a treatment, storage and disposal facility for hazardous waste.

The Naval Air Station Key West operates, supports and maintains Naval aircraft; and trains military personnel. The wastes stored in the hazardous waste storage building are generated by aircraft maintenance activities, public works, and transportation. The previous hazardous waste coordinator at the base, Ensign Joe Avolis has been replaced by Mr. Herman Sweeting.

The USNAS has five sites that generate hazardous waste. The five generator sites are Air Frames Intermediate Maintenance Department (AIMD), Corrosion Control, Squadron VF-45, AIMD main area, VAQ-33 and Operations Maintenance Department (OMD).

Attached is a copy of the inspection checklist.

The following is a list of noncompliance items noted during the inspection:

40 CFR 262.32 - Marking

Hazardous waste containers not marked with the hazardous waste label.

40 CFR 262.34(a) - Accumulation time

On (AIMD), Corrosion Control site the generator has exceeded on-site 90 days limit.

40 CFR 262.34(a)(2) - Accumulation time

No accumulation date on containers.

40 CFR 262.34(a)(3) - Accumulation time

"Hazardous Waste" not marked on containers.

40 CFR 265.16 - Personnel Training

Classroom training sessions are required, laborers handling hazardous wastes have neither on-the-job nor classroom training.

40 CFR 265.31 - Maintenance and operation of facility

Solvent and oil contaminated soil is present at the corrosion control site.

40 CFR 265.173 - Management of Containers
Improper management of containers (no bungs).

40 CFR 265.174 - Inspections
No inspection log for corrosion control hazardous waste collection site.

40 CFR 264.13 - General Waste Analysis
Waste analyses plan not maintained at the facility.

40 CFR 264.112(a) - Closure Plan; Amendment of Plan
Closure Plan not available.

40 CFR 264.112(a)(2) - Closure Plan; Amendment of Plan
Maximum inventory of wastes exceed that at facility.
There were 383 drums (55 gal.) of hazardous waste stored on Hazardous Waste Storage area.

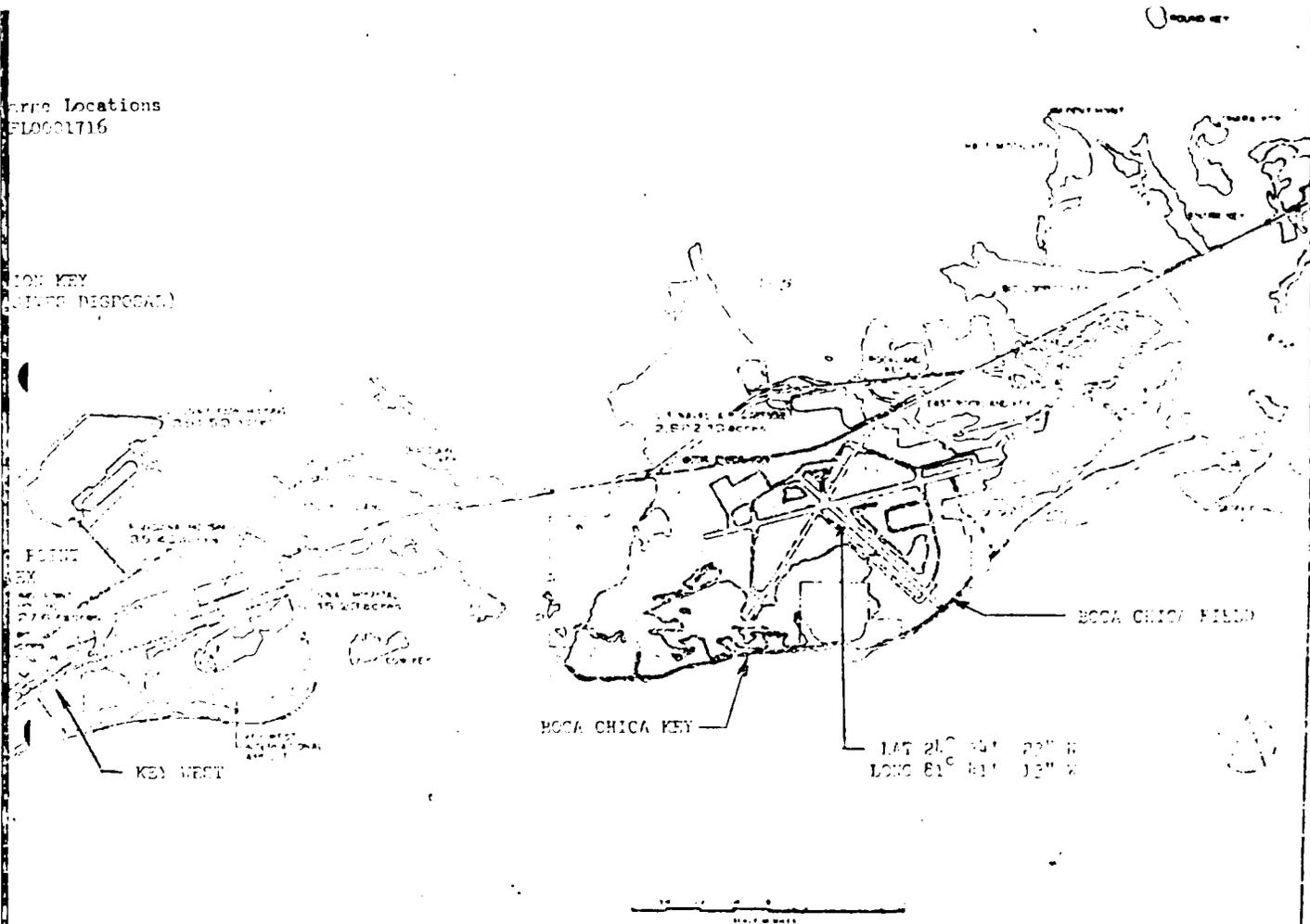
40 CFR 264.15 - General Inspection Requirements
No Hazardous Waste sign posted on Hazardous waste storage area.

40 CFR 264.15 - General Inspection Requirements
No equipment available to prevent fire, explosion or contamination of the environment at corrosion control site.

EXHIBIT 11

Area Locations
FLOG01716

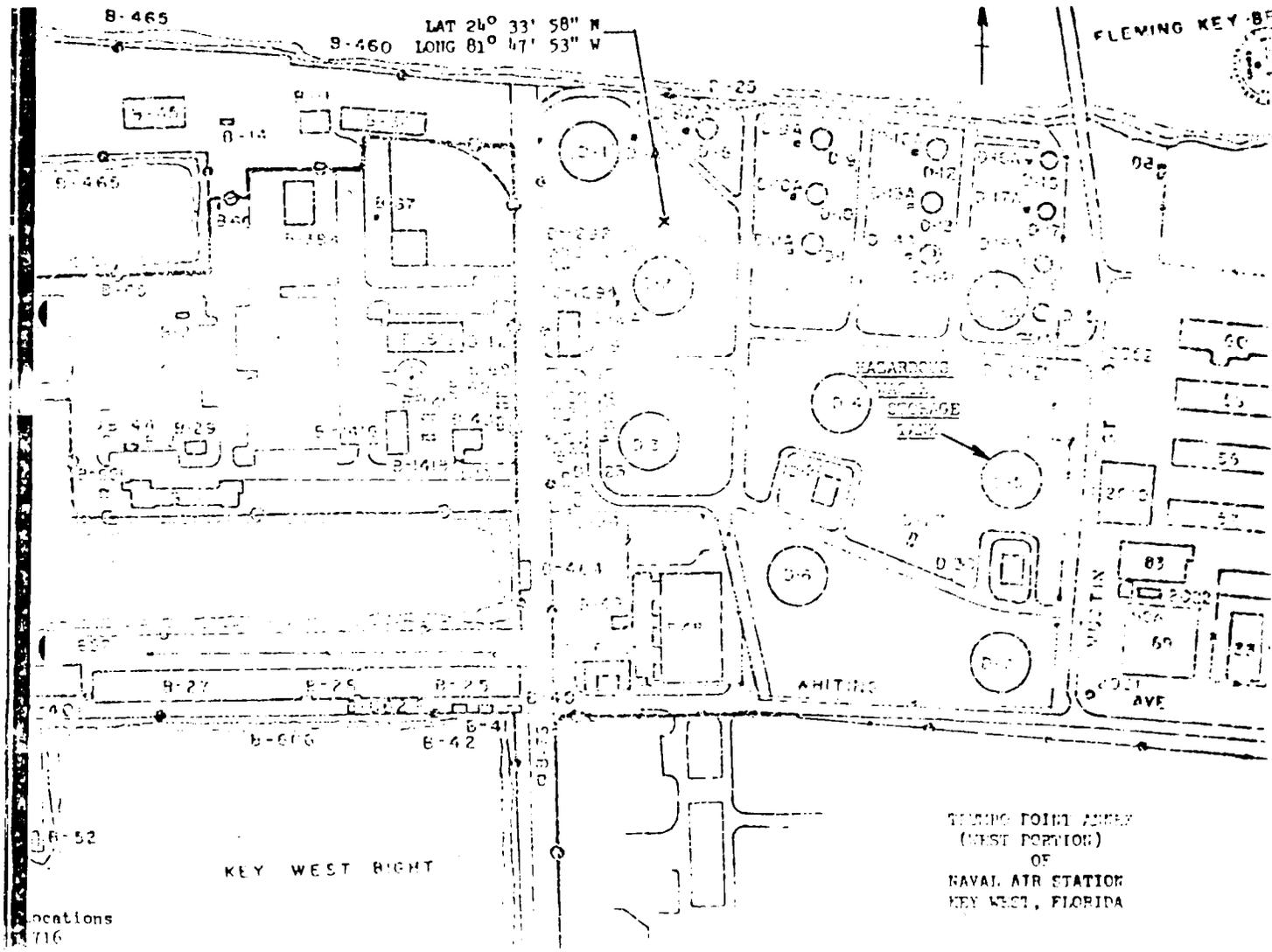
KEY KEY
(WASTE DISPOSAL)



 **WEST**

**NAVAL AIR STATION
KEY WEST, FLORIDA**

**REAL ESTATE
MAP**



Locations
716

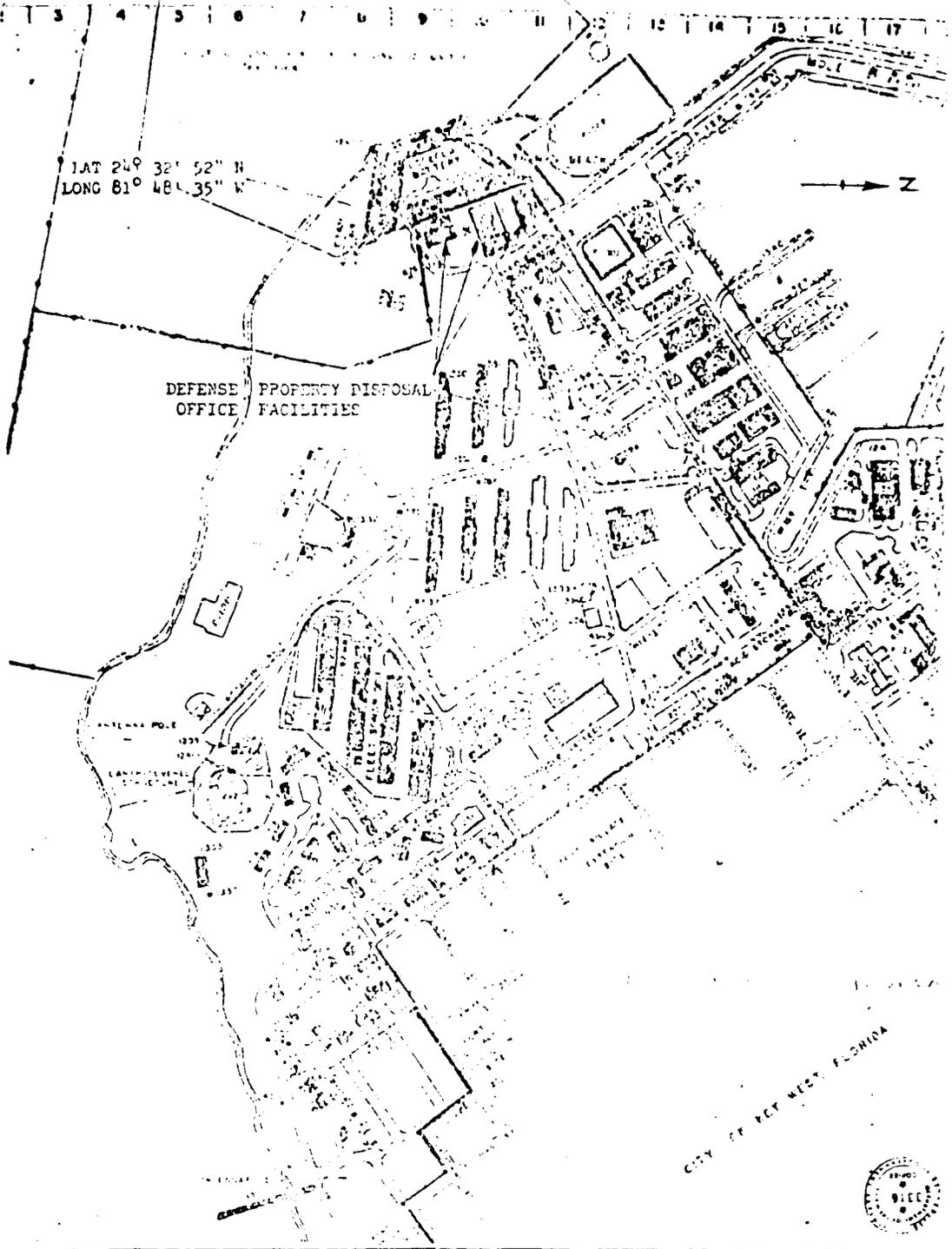
KEY WEST RIGHT

WEST PORTION
OF
NAVAL AIR STATION
KEY WEST, FLORIDA

1 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17

LAT 24° 32' 52" N
LONG 81° 48' 35" W

DEFENSE PROPERTY DISPOSAL
OFFICE FACILITIES



CITY OF KEY WEST, FLORIDA





EXHIBIT III

40 CFR 265.54 - Amendment of Contingency Plan
FAC 17-30.18(2)

The facility has failed to amend the contingency plan to show changes that have occurred at the facility and to show changes in emergency coordinators.

40 CFR 265.171 - Condition of Containers
FAC 17-30.18(2)

The facility has failed to transfer containers holding hazardous waste that are not in good condition to a container in good condition. One bulging drum and one severely dented drum was located at the storage area, and one bulging drum at VAQ-33.

40 CFR 265.174 - Inspections
FAC 17-30.18(2)

The facility has failed to perform weekly inspections as required. No inspections were conducted from January 12, 1986 to February 3, 1986, when Mr. Sweeting was in training.

40 CFR 262.34(a)(2) - Accumulation Time
FAC 17-30.16

No dates were marked on one drum in the AIMD main area, one drum in the ODM area and on drums in the VAQ-33 area to show the date upon which each period of accumulation begins.

40 CFR 262.34(a)(3) - Accumulation Time
FAC 17-30.16

One drum in the OMD area was not clearly marked as hazardous waste.

40 CFR 265.14(c) - Security
FAC 17-30.18(2)

The facility must have a sign with the legend; "Danger - Unauthorized Personnel Keep Out", at each entrance to the active portion of the facility.

40 CFR 265.15(b) & (c) - General Inspection Requirements
FAC 17-30.18(2)

The facility has failed to update the inspection plan to show the current inspection log. The inspection logs fail to show the time of inspection as required.

40 CFR 265.17(a) - General Requirements for Ignitable Reactive or Incompatible Wastes
FAC 17-30.18(2)

The facility has failed to place no smoking signs wherever there is a hazard from ignitable or reactive waste.

40 CFR 265.15(c) - General Inspection Requirements
FAC 17-30.18(2)

The facility has failed to correct problems at the VAQ-33 generator site as noted in the inspection logs.

40 CFR 265.31 - Maintenance and Operation of Facility
FAC 17-30.18(2)

The facility has failed to maintain and operate to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or environment. A spill of hazardous waste has occurred at VAQ-33 and there is possible contamination of the soil (discoloration visible). It is evident the spill has occurred several times, due to the buildup around the drums.

40 CFR 265.32(b) - Required Equipment
FAC 17-30.18(2)

The facility has failed to have a telephone or emergency communication system at the storage area in case of an emergency.

FAC 17-30.28 - Permit Conditions

More than 240 55-gallon drums of hazardous waste has been accumulated, in violation of specific condition 1 of permit HT44-64657.



EXHIBIT IV

PRELIMINARY CONTAMINATION ASSESSMENT ACTIONS

1. Within 30 days of the effective date of the Order incorporating these preliminary contamination assessment actions, Respondent shall submit a Preliminary Contamination Assessment Plan ("PCAP") to the Department. The PCAP shall describe the tasks that Respondent proposes to perform in order to determine whether the soil, sediment, surface water or ground water are contaminated at Respondent's facility; and, if so, whether such contamination has resulted in a violation of the water quality standards and minimum criteria established in Florida Administrative Code Chapter 17-3. The PCAP shall include a time schedule for each task so that all tasks can be completed and a Preliminary Contamination Assessment Report ("PCAR") can be submitted to the Department within 90 days of the effective date of the Order.

2. The PCAP shall contain proposals for sampling and analysis for all of the following contaminants:

- a. priority pollutant metals;
- b. priority pollutant organic chemicals using EPA methods 624 and 625;
- c. all organic chemicals with peaks greater than five micrograms per liter (ug/l) using EPA methods 624 and 625;
- d. pesticides.

The number of contaminants to be analyzed may be reduced if Respondent can demonstrate to the Department's satisfaction that the contaminants proposed to be deleted from the list cannot be attributed to any activities that have taken place at Respondent's facility. The Department shall submit written notification to the Respondent if the number can be reduced.

3. The Department shall review the PCAP and provide Respondent with a written response to the proposal. Respondent shall not implement the PCAP until Respondent receives written notification from the Department that the PCAP has been approved.

4. Prior to the commencement of the PCAP or other sampling and analysis undertaken by or on behalf of Respondent, Respondent

shall submit to the Department for its approval a Quality Assurance/Quality Control (QA/QC) Plan. The QA/QC Plan shall be prepared in accordance with the requirements set forth in the document titled "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans, QAMS-005/80, December 29, 1980" prepared for the U.S. Environmental Protection Agency. A copy of the document is available upon request from the Department. A QA/QC Plan is required for all persons collecting or analyzing samples. The Department reserves the right to reject all results submitted by Respondent prior to QA/QC Plan approval.

5. Upon completion of the PCAP, Respondent shall submit a written Preliminary Contamination Assessment Report ("PCAR") to the Department. The PCAR shall:

- a. summarize and analyze all "PCAP" tasks;
- b. compare analytical data collected with surface and ground water quality standards and criteria set forth in Florida Administrative Code Chapter 17-3;
- c. identify, to the extent possible, the source(s), extent, and concentrations of contaminants, and the existence of any imminent hazards.

6. The Department shall review the PCAR and determine whether it is adequate to meet the objectives of the PCAP. In the event that additional information is necessary to evaluate the PCAR, the Department shall make a written request and Respondent shall provide all requested information within 20 days of receipt of said request.

7. Respondent shall provide written notification to the Department at least ten days prior to the installation or sampling of any monitoring wells, and shall allow Department personnel the opportunity to observe installation and sampling and to take split samples. All necessary approvals must be obtained from the water management district before any wells are installed. Raw data shall be exchanged between Respondent and the Department as soon as the data is available.

8. If the Department's review of the PCAR indicates that the soil, sediments, surface water or groundwater is contaminated, or if the Department rejects the PCAP or PCAR for not meeting the objectives of analyzing or reporting on the analysis of the contaminants that are the subject of the assessment, the Department reserves the right to do any or all of the following:

a. seek further administrative relief through the filing of a Notice of Violation or entry of a Consent Order which requires Respondent to conduct further assessment and clean-up at its facility;

b. file suit for injunctive relief, civil penalties, damages and expenses, or

c. perform the necessary corrective actions at Respondent's facility and recover the costs of such actions from Respondent.



EXHIBIT V

CORRECTIVE ACTIONS FOR GROUNDWATER CONTAMINATION CASES

1. Within 60 days of receipt of notice from the Department that Corrective Actions for groundwater contamination must be taken, Respondent shall submit to the Department a detailed written Contamination Assessment Plan ("CAP").

A. The objectives of the CAP shall be to:

- (1) Establish the areal and vertical extent of soil, sediment, surface water and groundwater contamination;
- (2) Determine or confirm the contaminant source(s); mechanisms of contaminant transport; rate and direction of contaminant movement in the air, soils, surface water and groundwater; and rate and direction of ground water flow;
- (3) Provide a complete characterization of the contamination plume(s);
- (4) Determine whether interim remedial measures are necessary to abate any imminent hazard.

B. The CAP shall contain tasks, the purposes of which are to arrive at the objectives described in subparagraph 1.A. above. The CAP shall include a reasonable time schedule for completing each task. The tasks may include but are not limited to the following:

- (1) Use of piezometers to determine the horizontal and vertical directions of the groundwater flow;
- (2) Use of electromagnetic conductivity (EM) and other geophysical methods to trace extent of ground water contamination;
- (3) Use of fracture trace analysis to discover linear zones in which discrete flow could take place;
- (4) Use of sand point or monitoring wells to sample areas of contaminated groundwater and to determine the vertical and horizontal extent of the groundwater plume;

(5) Sampling of private wells;
(6) Sampling of surface water and sediments;
(7) Sampling of air for airborne contaminants;
(8) Soil sampling surveys using grid systems;
geophysical equipment such as EM, magnetometers, and metal detectors to detect drums, tanks, etc; vapor analyzers; and Extraction Procedure (EP) toxicity testing;

(9) Analysis of soils and drum residues for hazardous waste determination and waste characterization.

C. The CAP shall include a quality assurance/quality control plan ("QA/QC Plan"), which shall apply to all sampling and analysis required by this Consent Order. The QA/QC Plan shall be prepared in accordance with the requirements set forth in the document titled "DER Guidelines for Preparing Quality Assurance Plans, DER-QA-001/85" prepared for the U.S. Environmental Protection Agency. A copy of the document is available upon request from the Department. A QA/QC Plan is required for all persons collecting or analyzing samples. The Department reserves the right to reject all results submitted by Respondent prior to QA/QC Plan approval.

2. The Department shall review the CAP and provide the Respondent with a written response to the proposal. Respondent shall not implement the CAP until Respondent receives written notification from the Department that the CAP has been approved.

3. In the event that additional information is necessary for the Department to evaluate the CAP, the Department shall make a written request to Respondent for the information, and Respondent shall provide all requested information in writing to the Department within 20 days from receipt of said request unless the requested information requires additional field work in which case the Respondent shall submit to the Department a written schedule for completing the field work needed to provide the requested information.

4. In the event that the Department determines that the CAP submitted by Respondent does not adequately address the objectives

of the CAP as set forth in subparagraph 1.A. above, the Department will notify the Respondent in writing of the CAP's deficiencies. Respondent shall then have 30 days from the Department's notification to resubmit a modified CAP addressing the deficiencies noted by the Department.

5. If the Department determines upon review of the resubmitted CAP that the CAP still does not adequately address the objectives of the CAP as set forth in subparagraph 1.A. above, the Department, at its option, may choose either to:

A. Draft specific modifications to the CAP and notify Respondent in writing that the Department's modifications shall be incorporated in the CAP; or

B. Notify Respondent that Respondent has failed to comply with paragraph four above, in which case the Department may do any or all of the following: take legal action to enforce compliance with the Consent Order, file suit to recover damages and civil penalties, or complete the corrective actions outlined herein and recover the costs of completion from Respondent.

6. Once a CAP has been approved by the Department, it shall become effective and made a part of this Consent Order and shall be implemented within ten days of the Department's notification to Respondent that the CAP has been approved. The CAP shall incorporate all required modifications to the CAP identified by the Department.

7. Within 45 days of completion of the tasks in the CAP, Respondent shall submit a written contamination assessment report ("CAR") to the Department. The CAR shall:

A. Summarize and analyze all CAP tasks;

B. Discuss the CAP objectives outlined in subparagraph 1.A.; and

C. Specify conclusions regarding CAP objectives outlined in subparagraph 1.A.

8. The Department shall review the CAR and determine whether it has adequately met the objectives specified in subparagraph 1.A. In the event that additional information is

necessary to evaluate the CAR, the Department shall make a written request and Respondent shall provide all requested information within 20 days of receipt of said request unless the requested information requires additional field work in which case the Respondent shall submit in writing to the Department a reasonable schedule for completing the field work needed to provide the requested information.

9. If the Department determines from review of the CAR that there is a need for a Feasibility Study ("FS"), Respondent shall submit to the Department for its review a Feasibility Study Plan ("FSP"). The FSP shall be submitted within 30 days of receipt by Respondent of the Department's determination that a FS for a particular site is necessary. The purpose of the FS is to develop and evaluate all alternatives in order to identify the most cost effective and environmentally sound remedial action for the site. The FSP shall provide an outline of the elements to be included in the FS and shall explain how Respondent plans to address each of the elements. The FSP shall provide a detailed description of the technical approach Respondent shall use to address each task to be conducted during the FS. At a minimum, the FSP shall address the following task elements:

A. The objectives of the remedial action, as required by Department rules and state and federal statutes: e.g., to prevent groundwater contamination; to remove, contain or render harmless the contamination source; to clean-up to the water quality criteria and minimum standards in Florida Administrative Code Chapter 17-3; etc.;

B. Risk assessment, which shall include consideration of the toxicity, transport mechanisms, persistence in the environment, and impacts on human health and the environment of the substances associated with the site;

C. Methods to quantify contaminant movement off-site, to identify impact zones, and to identify and quantify hazardous zones;

D. Development of criteria for evaluation of remedial alternatives for the site, to include at a minimum environmental protection, environmental effects, implementability, capital costs, operations and maintenance costs, present worth, safety requirements during implementation, reliability, operation and maintenance requirements, feasibility, time required to achieve clean-up, and legal consideration of the alternatives;

E. Identification and review of pertinent treatment, containment, removal and disposal technologies;

F. Screening of technologies to detect the most appropriate technologies and to eliminate those clearly not feasible or appropriate;

G. Pilot tests or bench tests to evaluate the alternatives, if necessary;

H. Review and selection of potential remedial alternatives using criteria established in tasks D through G above;

I. Selection of the best remedial alternative; and

J. A reasonable timetable for completion of the tasks.

10. The Department shall review the FSP and provide Respondent with a response to the proposal. Respondent shall not implement the FS tasks until Respondent receives written notification from the Department that the FSP has been approved.

11. In the event that additional information is necessary for the Department to evaluate the FSP, the Department shall make a written request, and Respondent shall provide all requested information in writing to the Department within 20 days from receipt of said request.

12. In the event that the Department determines that the FSP submitted by Respondent does not adequately address the objectives in paragraph nine, the Department will notify Respondent in writing of the FSP's deficiencies. Respondent shall then have 20 days from the Department's notification to submit a modified FSP addressing the deficiencies noted by the Department.

13. If the Department determines upon review of the resubmitted FSP that the FSP still is not adequate, the Department, at its option, may choose either to:

A. Draft specific modifications to the FSP and notify Respondent in writing that the Department's modifications shall be incorporated in the FSP; or

B. Notify Respondent that Respondent has failed to comply with paragraph 12 above, in which case the Department may do any or all of the following: take legal action to enforce compliance with the Consent Order, file suit to recover damages and civil penalties, or complete the corrective actions outlined herein and recover the costs of completion from Respondent.

14. Once the FSP, with modifications, if any, has been approved by the Department, it shall become effective and made a part of this Consent Order and shall be implemented by Respondent within ten days of the Department's notification to Respondent that the FSP has been approved.

15. Within 45 days of completing the FS, Respondent shall submit an FS Report to the Department. The FS Report shall:

A. Summarize and analyze all FS tasks results; and

B. Propose a conceptual remedial action plan based on the selection process carried out in the FS.

16. The Department shall review the FS Report and determine whether it has adequately met the remedial action objectives. In the event that additional information is necessary to evaluate the FS report, the Department shall make a written request and Respondent shall provide all requested information within 20 days from receipt of said request.

17. Within 45 days of receipt of written approval of the FS Report from the Department or within 30 days of the Department's determination pursuant to paragraph nine above that no FS is necessary, Respondent shall submit to the Department a detailed Remedial Action Plan ("RAP"). The RAP shall include:

A. Design and construction details for the remedial alternative selected;

B. Operational details of the remedial action;
C. QA/QC and safety plans; and
D. Proposed methodology for evaluation of the site status after the remedial action is complete to verify accomplishment of the goals of the RAP.

18. Remedial tasks shall be designed to achieve the clean up of the contaminated areas to levels that meet the water quality standards and criteria established by the Department, or such other levels as may be set forth in the FS Report, if done.

19. The Department shall review the proposed RAP and provide Respondent with a written response to the proposal. Respondent shall not implement the RAP until Respondent receives written notification from the Department that the RAP has been approved.

20. In the event that additional information is necessary for the Department to evaluate the RAP, the Department shall make a written request to Respondent for the information, and Respondent shall provide all requested information in writing to the Department within 20 days from receipt of said request unless the requested information required additional field work in which case the Respondent shall submit in writing to the Department a reasonable schedule for completing the field work needed to provide the requested information.

21. In the event that the Department determines that the RAP submitted by the Respondent does not adequately address the objectives set forth in paragraphs 17 and 18, the Department will notify the Respondent in writing of the RAP's deficiencies. The Respondent shall then have 20 days from the Department's notification to resubmit a modified RAP addressing the deficiencies noted by the Department.

22. If the Department determines upon review of the resubmitted RAP that the RAP still does not adequately address the objectives of the RAP, the Department, at its option, may choose to either:

A. Draft specific modifications to the RAP and notify the Respondent in writing that the Department's modifications shall be incorporated in the RAP; or

B. Notify the Respondent that Respondent has failed to comply with the paragraph 21 above, in which case the Department may do any or all of the following: take legal action to enforce compliance with the Consent Order, file suit to recover damages and civil penalties, or complete the corrective actions outlined herein and recover the costs of completion from Respondent.

23. Once a RAP has been approved by the Department, it shall become effective and made a part of this Consent Order and shall be implemented within ten days of the Department's notification to the Respondent that the RAP has been approved. The RAP shall incorporate all required modifications to the RAP identified by the Department.

24. On the first working day of each month, after beginning implementation of a CAP, FSP or RAP, Respondent shall submit written progress reports to the Department. These progress reports shall describe the status of each required CAP, FSP and RAP task. The reports shall be submitted until planned tasks have been completed to the satisfaction of the Department.

25. Respondent shall provide written notification to the Department at least ten days prior to installing monitoring or recovery wells, and shall allow Department personnel the opportunity to observe the location and installation of the wells. All necessary approvals must be obtained from the water management district before Respondent installs the wells.

26. Respondent shall provide written notification to the Department at least ten days prior to any sampling, and shall allow Department personnel the opportunity to observe sampling or to take split samples. Raw data shall be exchanged between the Respondent and the Department as soon as the data is available.

27. If any event occurs which causes delay or the reasonable likelihood of delay in the achievement of the requirements of these Corrective Actions, Respondent shall have the burden of

proving that the delay was or will be caused by circumstances beyond the reasonable control of Respondent, and could not have been or can not be overcome by due diligence. Upon occurrence of the event Respondent shall promptly notify the Department orally and shall, within seven calendar days, notify the Department in writing of the anticipated length and cause of delay, the measures taken or to be taken to prevent or minimize the delay, and the time table 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 delay resulting from such circumstances. Such agreement shall be confirmed by letter from the Department accepting or if necessary modifying the extension request. Respondent shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this paragraph shall constitute a waiver of Respondent's right to request an extension of time to complete the requirements of these Corrective Actions. Increased costs of performance of any of the activities set forth in these Corrective Actions or changed economic circumstances shall not be considered circumstances beyond the control of Respondent.

28. Respondent shall immediately notify the Department of any problems encountered by Respondent which require modification of any task in the approved CAP, FSP or RAP, and obtain Department approval prior to implementing any such modified tasks.

29. All sampling and analysis required under these Corrective Actions shall be accomplished pursuant to the following procedures:

A. All sampling shall be done in the manner consistent with Standard Operation Procedures and Quality Assurance Manual, August 1980, U.S. Environmental Protection Agency, Region IV, and Supplement "A" thereto, June, 1981, FDER;

B. All laboratory data submitted shall contain a complete explanation of quality control procedures used to

guarantee the reliability and accuracy of analytical data, and those laboratory procedures used shall be those approved by the Department. The test methods to be used in analyzing any parameters shall be the EPA approved test methods for the specific parameter to be analyzed unless otherwise notified by the Department;

C. All field testing, sample collection and preservation, and laboratory testing, including quality control procedures, shall be in accordance with the QA/QC plan approved by the Department.

30. Should the Department conclude that clean up of the contaminated area to levels meeting the standards and criteria set forth in Chapter 17-3, Florida Administrative Code, is not feasible; or should Respondent not completely implement the RAP as approved by the Department; the Department may seek restitution from Respondent for environmental damages resulting from pollution of the groundwater as a result of Respondent's actions. Within 20 days of receipt of Department 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 for environmental damages not be agreed to by the Department and Respondent within 20 days of receipt of Department 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 pursuant to Section 403.141, Florida Statutes.