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**FLORIDA DIVISION OF
CHESAPEAKE UTILITIES CORPORATION
DOCKET NO. 000108-GU
COMPOSITE EXHIBIT NO. WLP-1**

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Exhibit "A" - Current Resume of William L. Pence	A1-A5
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OR270003:1

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 000108-GU EXHIBIT NO. 5
COMPANY/ Pence
WITNESS: _____
DATE 10-16-00
DOCUMENT NUMBER-DATE
05946 MAY 15 8
FPSC-RECORDS/REPORTING

WILLIAM L. PENCE

Akerman, Senterfitt & Eidson, P.A.
255 South Orange Avenue
Post Office Box 231
Orlando, Florida 32802-0231
Telephone (407) 843-7860

EMPLOYMENT

September 1989 - Present: Shareholder; Section Administrator, Environmental Practice Group;
Akerman, Senterfitt & Eidson, P.A.; Orlando, Florida.

Representation of a variety of commercial, industrial and public entities, including utilities, fertilizer plants, developers, petroleum marketers, petroleum storage terminals and pipeline facilities, electrical components manufacturers, space industry contractors, agricultural producers, lending institutions, and municipalities with respect to: water pollution; solid and hazardous waste compliance; industrial wastewater and air permitting; CERCLA Title III compliance; defense of potentially responsible parties in CERCLA and Florida Department of Environmental Protection site cleanup actions; assessment and remediation of contaminated properties, including former manufactured gas plants, manufacturing and industrial facilities, agricultural sites, and petroleum-contaminated sites; environmental auditing; defense of RCRA enforcement actions; compliance and corrective actions concerning underground and aboveground petroleum storage tanks, bulk petroleum product terminals and pipeline facilities; and environmental risk management in connection with corporate and real estate sales and acquisitions and financing of such transactions.

February 1988 - September 1989: Partner; Environment & Energy Group;
Smith & Schnacke, L.P.A.; Orlando, Florida.

Environmental and administrative practice (see above).

November 1983 - February 1988: Associate; Baker & Hostetler; Orlando, Florida.

Emphasis on environmental enforcement and permitting matters (see above), commercial real estate, general corporate (including acquisitions and mergers of closely held corporations), and federal trial practice.

November 1979 - September 1982: Law Clerk; Honorable George C. Young, Chief Judge;
U.S. District Court, Middle District of Florida.

EDUCATION

London School of Economics and Political Science, LL.M. (International Law & International Business Transactions), September 1983.

Syracuse University College of Law, J.D. (Magna Cum Laude), May 1979. President's Award for Outstanding Contribution by Graduating Senior; Editor-in-Chief, Syracuse Journal of International Law and Commerce; Coordinator, International Conference on Deep Seabed Mining; Justinian Honorary Society.

Berry College; Mt. Berry, Georgia; B.A. (Cum Laude), May 1976.

PROFESSIONAL ACTIVITIES

Presentations:

Institute of Gas Technology, Environmental, Biotechnologies & Site Remediation Technologies, December 7-9, 1998, Orlando, Florida. Presenter: "Regulatory and Legal Considerations Impacting Site Remediation." Session Chair: "Enhanced In-Situ Treatment of Groundwater."

Florida Bar Association, 20th Annual Local Government Law in Florida, May 2 - 3, 1997, in Orlando, Florida. Topic: "Government Liability for Contaminated Properties: An Update of Statutory and Case Law."

Florida Bar Association, A Practical Guide to Environmental Litigation in Florida, February 23-24, 1996, in Fort Lauderdale, Florida. Topic: "Selected Statutory and Equitable Defenses: Sources and Case Law References."

Center for International Legal Studies, Waidring Conference on International Business Climate and Environmental Regulation, January 21-27, 1996, in Waidring, Austria. Topic: "CERCLA (Superfund): A Model for the World or Should the Mold be Broken?"

International Symposium and Trade Fair on the Clean-up of Manufactured Gas Plants, September 19-21, 1995, in Prague, Czech Republic. Moderator "Legal Issues" Panel; Presenter, Closing Comments: "Future Considerations for the Clean-up of Manufactured Gas Plants."

Florida Pest Control Association Convention & Exposition; July 13, 1995, in Orlando, Florida. Topic - "Potential Liability - Current & Past Operations."

Environmental Resources Expo '95; June 15, 1995, in Orlando, Florida. Topic - "Risk Assessment: Practical Remedial Tool or False Hope?"

The Florida Bar Real Property, Probate & Trust Law Section's Attorney/Trust Officer Liaison Conference; June 12, 1993, in Palm Beach, Florida. Topic - "Waste Makes Haste: Environmental Issues for Corporate Fiduciaries."

American Electroplaters and Surface Finishers Society, Orlando Branch Meeting; October 13, 1992, in Orlando, Florida. Topic - "Environmental Regulations, Penalties, and the Law as Related to the Plating Industry."

Florida Natural Gas Association Conference; September 17, 1992, in Clearwater Beach, Florida. Topic - "Gas Plant and Off-Site Contamination."

Fleet Finance In-House Training Program; May 2, 1991, in Atlanta, Georgia. Topic - "Environmental Due Diligence in Lending Decisions."

Wayne State University School of Law, Contemporary Environmental Law Seminar; April 12, 1991, in Detroit, Michigan. Topic - "Transactional Liability Under Current Environmental Laws."

Florida Bankers Association, Petroleum Contamination Seminar; March 28, 1991, in Orlando, Florida. Topic - "Defining Lender's Due Diligence in Connection with Petroleum-Contaminated Sites."

Westinghouse Environmental and Geotechnical Services, Inc. In-house Training Program for Environmental Evaluations; November 1, 1990, in Altamonte Springs, Florida. Topic - "Summary of Environmental Laws Impacting Real Estate."

CLE International Seminar on Hazardous Waste in Real Estate Transactions; October 25, 1990, in Tampa, Florida. Topic - "Due Diligence - Risk Avoidance."

The Florida Bar's Tenth Annual Real Property, Probate & Trust Law Section Legislative Update and Recent Case Review Seminar; September 14, 1990, in Fort Lauderdale, Florida. Topic - "Environmental Audits in Real Estate Transactions: A Primer in Risk Avoidance."

National Business Institute, Inc. Seminar on Avoiding Environmental Liability in Florida; May 22, 1990, in Tampa, Florida, and May 23, 1990, in Orlando, Florida. Topic - "The Innocent Landowner Defense Under CERCLA: Ignorance is Not Bliss - Unless You've Investigated."

American Electroplaters and Surface Finishers Society, 11th Annual AESF/EPA Conference on Environmental Control for the Surface Finishing Industry; February 5, 1990, in Miami, Florida. Topic - "Proactive Management: Strategies to Minimize the Risk of Civil and Criminal Enforcement of Environmental Laws."

Florida Society of Environmental Analysts, Hazardous Waste Seminar; October 19, 1989, in Jacksonville, Florida. Topic - "Regulations and Liabilities with Respect to Hazardous Waste Disposal and Analytical Results."

Robert Morris Associates; December 1988, in Orlando, Florida. Topic - "Environmental Implications of Lender Liability in Real Estate Transactions."

Association of Real Estate Appraisers; September 1988, in Orlando, Florida. Topic - "The Role of Environmental Risk Assessments in Real Estate Transactions."

Executive Enterprises, Inc., General Environmental Regulation Course; August 1988, in Orlando, Florida. Topic - "RCRA Program for Underground Storage Tanks."

Tokyo Bar Association, People to People Citizen Ambassador Program; May 1988, in Tokyo, Japan. Topic - "The Role of Environmental Assessments/Audits in the Acquisition of American Businesses."

Orange County Bar Association, Real Estate Seminar; April 1988, in Orlando, Florida. Topic - "Environmental Impacts of Real Estate Transactions."

Superfund: How It May Affect You and Your Business Seminar, sponsored by Baker & Hostetler, CECOS International; April 1987, in Cleveland, Ohio. Topic - "Environmental Implications of Business Transactions."

Publications:

Author of Monthly "Regulatory Update" Column, Plating and Surface Finishing, Journal of the American Electroplaters and Surface Finishers Society, Inc., 1989-1990.

"Proactive Management: Strategies to Minimize the Risk of Civil and Criminal Enforcement of Environmental Laws," Proceedings of the 11th AESF/EPA Conference on Environmental Control for the Surface Finishing Industry, February 5-7, 1990.

ADMITTED

Supreme Court of Florida
United States Circuit Court of Appeals for the Eleventh Circuit
United States Court of Appeals for the Federal Circuit
United States District Court for the Middle District of Florida

MEMBER

Florida Bar Association

Environmental and Land Use Law Section, Florida Bar Association; Chairman,
Membership and Planning Committee (1988-89)

Orange County Bar Association

American Bar Association

Section of Natural Resources, Energy and Environmental Law, American Bar Association

Governor's Transition Task Force on the Environment (1990-91)

Florida Natural Gas Association

PROFESSIONAL DESIGNATION

Qualified in Environmental Law under The Florida Bar Designation Plan

August 1984

DRAFT

SURVEY OF TAR WASTE DISPOSAL AND
LOCATIONS OF TOWN GAS PRODUCERS

August 1984

"This document has not been peer and administratively reviewed
within EPA and is for internal use/distribution only"

**SURVEY OF TAR WASTE DISPOSAL AND
LOCATIONS OF TOWN GAS PRODUCERS**

**Radian Corporation
7655 Old Springhouse Road
McLean, Virginia 22102**

Contract No. 68-02-3137

EPA Project Officer: William J. Rhodes

**Advanced Processes Branch
Industrial Environmental Research Laboratory
Research Triangle Park, NC 27711**

Prepared for:

**Office of Environmental Engineering & Technology
Office of Research and Development
U. S. Environmental Protection Agency
Washington, D.C. 20450**

ABSTRACT

This report presents data compiled from available literature identifying plants that manufactured town gas from fossil fuels (e.g., coal, oil) and which existed in the U.S. during the 1890 to 1950 time period. The results are the first step of a preliminary study to investigate the fate and potential environmental impact of by-products (such as tar) from the manufactured gas industry. A list of gas manufacturing sites and company names was compiled by reviewing published gas statistics. It is estimated that more than 1,500 manufactured gas facilities existed between the years 1890 and 1950. In addition, available gas and by-product production data and gasifier/process information are reported.

Based on these data, a rough estimate for the total production of tar by the U.S. manufactured gas industry was developed. It is estimated that approximately 15 trillion cubic feet of gas was manufactured in the United States between the years 1881 and 1950, resulting in the production of 11 billion gallons of tar as a by-product. Of this total tar production, 8.4 billion gallons (76 percent) were estimated to be sold and the remainder, 2.6 billion gallons (24 percent), were assumed to be consumed at the plant site, sold (without reporting of sales to ongoing surveys), or discarded. The explanations and assumptions used in compiling the data as well as those used in developing the tar estimates are also discussed in this report. Excess quantities of other by-products, such as coke and ammonia, may have been disposed of also. However, this study focused on tar because it is considered the more potentially significant waste disposal problem.

TABLE B-1: IDENTIFICATION OF TOWN GAS MANUFACTURING SITES - ALL PLANTS (1890-1950)

STATE: FLORIDA

NO.	CITY	GAS PRODUCER	YEAR	STATUS	GAS TYPE	GAS PRODUCTION RATE (MM cu.ft./YR)				GASIFIER/ PROCESS	*****BY-PRODUCTS*****				MISCELLANEOUS INFORMATION
						Coal	Water	Oil	Coke		Total	Coke	Tar	Ammonia	
1	Gainesville	GEL Co	1890	*	C	5				5					
			1900	*	C	3				3					
			1910	*	W		4			4	Su				
			1920	*	W		10			10					
			1930	*	W		28			28					
			1940	*	CW		30			30					
			1950	*	CW		136			136					
AVERAGES:					4	42		31							
2	Jacksonville B4	G&E Co	1890	*	W		20			20					
			1900	*	W		22			22					
			1910	*	W		130			130					
			1920	*	C,W	352	97			449		(23)	350	295	
			1930	*	C,W	236	367			603		12	218		
			1940	*	CW		476			476			904		
			1950	*	CW		925			925		1,076			
AVERAGES:					294	291		375		544	491	295			
3	Key West	GEL Co	1890	*	O			(10)							
			1900	O											
			1910	O											
			1920	*	W		71			71			(17)		
			1930	*	W		56			56					
			1940	*	CW		46			46					
			1950	N											
AVERAGES:						58		58							
4	Orlando	So Florida G Co	1890	*	W		(6)								
			1900	*	W		4			4					
			1910	*	C,W	3	3			6					
			1920	*	W		17			17					
			1930	*	W		169			169					
			1940	*	CW		230			230					
			1950	*	CW		492			492			500		
AVERAGES:					3	153		153			500				

TABLE B-1 IDENTIFICATION OF TOWN GAS MANUFACTURING SITES - ALL PLANTS (1890-1950)

STATE: FLORIDA

NO.	CITY	COMPANY	YEAR	STATUS	GAS TYPE	GAS PRODUCTION RATE (MM cu. ft./YR)				GASIFIER/ PROCESS	*****BY-PRODUCTS*****				MISCELLANEOUS INFORMATION
						Coal	Water	Oil	Coke		Total	Coke	Tar	Ammonia	
5	Palatka	* GLIFuel Co	1890	*	C	4				4					
			1900	*	C	3				3					
			1910	*	M			3			3	Lowe			
			1920	*	M			7			7	*			
			1930	*	M			11			11	*			
			1940	D											
			1950	D											
		AVERAGES:				4	7		6						
6	Pensacola	* G Co	1890	*	M			(15)							
			1900	*	M			17		17					
			1910	*	M			45		45					
			1920	*	M			86		86			19		
			1930	*	M			100		100			86		
			1940	N											
			1950	N											
		AVERAGES:					62		62		53				
7	Sanford	* LIFuel Co	1890	*	M			3		3					
			1900	*	M			3		3					
			1910	*	M			9		9					
			1920	*	M			7		7					
			1930	*	M			(10)							
			1940	*	CM			50		50					
			1950	*	CM			93		93					
		AVERAGES:					29		29						
8	St Augustine	* GAEL Co	1890	*	M			12		12					
			1900	*	M			17		17					
			1910	*	M			30		30					
			1920	*	M			45		45			13		
			1930	*	M			77		77					
			1940	*	CM			50		50					
			1950	*	CM			93		93					
		AVERAGES:					47		47		13				

TABLE B-1: IDENTIFICATION OF TOWN GAS MANUFACTURING SITES - ALL PLANTS (1890-1950)

STATE: FLORIDA

NO.	CITY	COMPANY	YEAR	STATUS	GAS TYPE	GAS PRODUCTION RATE (MM cu.ft./YR)					GASIFIER/ PROCESS	*****BY-PRODUCTS*****				MISCELLANEOUS INFORMATION	
						Coal	Water	Oil	Coke	Total		Coke	Tar	Ammonia	Other		
13	Miami	" G Co	1890														
			1900														
			1910	*	O				15		15	J-L					
			1920	*	O				80		80	"					
			1930	*	W			386			386						
			1940	*	W			540			540						
			1950	*	W			1,162			1,162						
			AVERAGES:					696		48		437					
14	Daytona	" Public Serv Co	1890														
			1900														
			1910														
			1920	*	W			26			26	Low					
			1930	O													
			1940	O													
			1950	-													
			AVERAGES:					26				26					
15	Lakeland	" G Co	1890														
			1900														
			1910														
			1920	*	W			13			13	Low					
			1930	*	W			64			64	"					
			1940	O													
			1950	O													
			AVERAGES:					39				39					
16	St Petersburg	" Municipal G Plant	1890														
			1900														
			1910														
			1920	*	W			55			55	Low		30			
			1930	*	W			277			277	"		150			
			1940	*	CW			376			376	"					
			1950	*	CW			786			786	"					
			AVERAGES:					374				374		90			

TABLE B-1: IDENTIFICATION OF TOWN GAS MANUFACTURING SITES - ALL PLANTS (1890-1950)

STATE: FLORIDA

NO.	CITY	YEAR	STATUS	GAS TYPE	GAS PRODUCTION RATE (MM cu. ft./YR)				GASIFIER/ PROCESS	*****BY-PRODUCTS*****				MISCELLANEOUS INFORMATION	
					Coal	Water	Oil	Coke		Total	Coke	Tar	Ammonia		Other
17	Bradenton			Southern GIE Corp		1890									
						1900									
						1910									
						1920									
						1930 *	W		42		42				
						1940 *	CW		65		65				
						1950 *	W		77		77				
						AVERAGES:			61		61				
18	Clearwater B 8			Municipal G Dept		1890									
						1900									
						1910									
						1920									
						1930 *	W		(11)			Tenney			
						1940 *	CW		90		90	"			
						1950 *	W		180		180	"			
						AVERAGES:			135		135				
19	Fort Lauderdale			G Co		1890									
						1900									
						1910									
						1920									
						1930 *	W		8		8				
						1940 0									
						1950 0									
						AVERAGES:			8		8				
20	Fort Myers			Commission of City of "		1890									
						1900									
						1910									
						1920									
						1930 *	W		(10)						
						1940 *	W		40		40				
						1950 *	W		90		90				
						AVERAGES:			65		65				

TABLE B-1: IDENTIFICATION OF TOWN GAS MANUFACTURING SITES - ALL PLANTS (1890-1950)

STATE: FLORIDA

NO.	CITY		YEAR	STATUS	GAS TYPE	GAS PRODUCTION RATE (MM cu. ft./YR)				GASIFIER/ PROCESS	*****BY-PRODUCTS*****				MISCELLANEOUS INFORMATION	
						Coal	Water	Oil	Coke		Total	Coke	Tar	Ammonia		Other
21	Miami Beach	B Co of "	1890													
			1900													
			1910													
			1920													
			1930 *	W			(15)									
			1940 *	CW			389				389					
			1950 *	CW			1,372				1,372					
	AVERAGES:				881				881							
22	West Palm Beach	B9 Florida Public Util Co	1890													
			1900													
			1910													
			1920													
			1930 *	W			177				177			50		
			1940 *	W			264				264					
			1950 *	W			535				535					
	AVERAGES:				325				325			50				
23	Winter Haven	" BL Co	1890													
			1900													
			1910													
			1920													
			1930 P													
			1940 *	CW			49				49					
			1950 *	CW			120				120					
	AVERAGES:				85				85							

*discussed
with GUS*

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SEP 28 1987

NORTHEAST DISTRICT
GAINESVILLE BRANCH

JAS

March 25, 1986

Mr. Lee Romig
Electric Gas Department
101 East Gaines Street
Tallahassee, FL 32301-8153

Dear Lee:

Attached is a list showing the current assessment status of Town Gas sites in Florida.

We initially thought that a walkover inspection would be sufficient to identify those sites needing contamination assessment. However, work at the Ft. Lauderdale site indicated ground water impact without a visual presence of coal tar or its constituents. As a result, a preliminary contamination assessment will need to be completed for each site. We recommend that each property owner prepare a Preliminary Contamination Assessment Plan (PCAP) to sample site soil, ground water and surface water in accordance with the attached guidance. This should be coordinated with DER in Tallahassee.

Sincerely,

Joe P. Kulakowski
Bureau of Operations

ZPK/cs

Attachment

cc: Bill Suzick

blind copies to District Managers
w/ attachments

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DER DISTRICT OFFICE

SEP 28 1987

<u>Location</u>	<u>Walk-over Insd.</u>	<u>(PCAP)*</u>	<u>Comments</u>
<u>NW DISTRICT</u>			
Pensacola (Municipal)	Yes	NO	No visible problem
Tallahassee (Municipal)	Yes	NO	No visible problem; known as Cascades Park
<u>NE DISTRICT</u>			
Jacksonville (Peoples/ Container Corp.)	Yes	Yes	Coal tar present onsite CAP's being prepared
Gainesville (Gainesville Gas Co./Poole Roofing Co.)	NO	NO	
Palatka (Municipal)	NO	NO	Location not known
St. Augustine (Municipal)	NO	NO	Location not known
<u>SW DISTRICT</u>			
Tampa (Peoples)	NO	NO	Coal tar was snipped offsite
Lakeland (Peoples)	NO	NO	Field & parking lot
St. Petersburg (Peoples- site owned by City)	NO	NO	Coal tar may have been barge offsite; stacks constructed on site
Bradenton (Southern Co.)	NO	NO	
Clearwater (Municipal)	NO	NO	Coal tar sold & decom- posed by bacteria. A 25 parking lot
Hinter Haven (Central Florida Gas)	NO	NO	Adjacent to lake

ST. JOHNS RIVER DISTRICT

Orlando (Peoples)	NO	NO	
Sanford (FL Public Utilities)	NO	NO	Office & parking lot
Deale (Gulf Natural Gas Corp.)	NO	NO	Up for sale
Deland (FL Public Utilities)	NO	NO	
Daytona Power & Light	NO	NO	

SOUTH FLORIDA DISTRICT

Key West	NO	NO	Location not known
Ft. Myers (Municipal)	YES	NO	No visible problem

SE FLORIDA DISTRICT

Miami (Peoples)	NO	NO	
Ft. Lauderdale (Peoples)	YES	YES	Soil & groundwater sampling by ERM; no visible problem, low concentrations of coal tar constituents in groundwater.
Miami Beach (Peoples)	YES	YES	CAP has been prepared, has not been approved by DER and DERM
West Palm Beach (FL Public Utilities)	NO	NO	Office & parking lot

PCAP - Preliminary Contamination Assessment Plan

DER CERTIFIED MAIL NO. _____

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION)	IN THE OFFICE OF THE SOUTHWEST DISTRICT
Complainant,)	
vs.)	
CENTRAL FLORIDA GAS COMPANY, a division of Chesapeake Utilities Corporation)	OGC CASE NO: 88-1292
AND)	
JAMES R. LOWE)	
Respondents.)	

CONSENT ORDER

This Consent Order is made and entered into between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION ("Department"), CENTRAL FLORIDA GAS COMPANY, a division of Chesapeake Utilities Corporation, and JAMES R. LOWE ("Respondents"). The Department finds and the parties agree:

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, Florida Statutes ("F.S."), and rules promulgated thereunder, Florida Administrative Code ("F.A.C.") Chapter 17. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent, Central Florida Gas Company, is a division of Chesapeake Utilities Corporation, a Delaware corporation, and is a person within the meaning of Sections 403.031(5) and 403.703(3), F.S.

3. Respondent, James R. Lowe, is a resident of Winter Haven, Florida, and is a person within the meaning of Sections 403.031(5) and 403.703(3), F.S. James R. Lowe is a party to this Consent Order for the limited purpose of providing Respondent, Central Florida Gas Company, access to the Lowe Parcel (as described below) for the purpose of complying with Central Florida Gas Company's obligations hereunder, and to receive the benefit of the release provided by Paragraph 22 below.

4. Respondent, Central Florida Gas Company, is the owner of a parcel of real estate located at 1705 Seventh Street, S.W., Winter Haven, Florida ("CFG Parcel"). Respondent, James R. Lowe, is the owner of a parcel of real estate located adjacent to the CFG Parcel, which at one time was owned by Respondent, Central Florida Gas Company ("Lowe Parcel"). The CFG Parcel and Lowe Parcel are hereinafter jointly referred to as the Facility. The Facility is further described as located in Section 32, Township 28 South, Range 26 East.

5. Prior to 1953, Respondent, Central Florida Gas Company, conducted a coal gas manufacturing operation at the Facility. The coal gas manufacturing process was ceased in 1953. Aboveground holding tanks were dismantled in 1986.

6. Coal tar by-products were generated by Respondent, Central Florida Gas Company, through its past coal gas manufacturing operations. Respondent, Central Florida Gas Company, maintains that its past coal gas manufacturing operation was not a coking operation. The parties agree that wastes generated by Respondent, Central Florida Gas Company, if they were not generated by a coking operation, are not listed hazardous wastes, specifically K087 ("decanter tank tar sludge from coking operations"), pursuant to Chapter 40, Code of Federal Regulations Part 261 (40 CFR 261).

7. The major constituents of concern with respect to coal tar by-products, as evidenced by results of studies conducted at other former coal gas manufacturing sites throughout the country, include, but are not limited to, polynuclear aromatic hydrocarbons, phenolic compounds, heavy metals, and cyanide.

8. Respondents deny that any actual or threatened releases requiring removal or remedial action are occurring or have occurred at the Facility, and deny any liability for any activities at, or circumstances presented at or by, conditions at the Facility. However, in order to avoid difficult, prolonged, and complicated litigation regarding these issues, the parties recognize that the public interest is best served by this voluntary agreement to determine whether soil or groundwater quality impacts have occurred at the Facility as a result of the prior coal gas manufacturing operations.

9. This Consent Order shall not be considered an admission by Respondents of any violation of or liability under any applicable federal, state or local laws and regulations or under any federal or state common law, nor shall it be used as evidence in any administrative proceeding or proceeding at law, except an action involving the terms or implementation of this Order, or as otherwise provided herein.

10. Respondents submitted a Contamination Assessment Plan ("CAP") to the Department on December 6, 1988, for review and approval.

11. A site specific Quality Assurance Project Plan ("QAPP") was submitted to the Department on December 6, 1988, for review and approval.

12. The Department has reviewed the QAPP, and finds that it adequately meets the necessary objectives of a quality assurance project plan. Department approval of the QAPP was issued on August 31, 1989.

THEREFORE, having reached a resolution of this matter pursuant to F.A.C. Rule 17-103.110(3), Respondents and the Department mutually agree and it is

ORDERED:

13. Respondent, Central Florida Gas Company, shall implement the corrective actions as set forth in the document entitled "Corrective Actions for Ground Water Contamination Cases," attached hereto as Exhibit I, within the time frames set forth therein.

14. Respondent Central Florida Gas Company's obligation to implement the corrective actions set forth in Exhibit I shall be limited to conditions present on or under the CFG Parcel and to off-site conditions resulting solely from the acts of Respondent Central Florida Gas Company as a result of its ownership or use of the CFG Parcel. Respondent shall have the burden of establishing that the off-site conditions do not result solely from the acts of Respondent Central Florida Gas Company.

15. Respondents waive their right to an administrative hearing on the terms and conditions of this Consent Order under Section 120.57, F.S., and their right to appeal this Consent Order pursuant to Section 120.68, F.S., except as herein provided.

16. With regard to any final agency action made or taken by the Department pursuant to this Consent Order, Respondents may request an informal conference to resolve the disputed final agency action within ten (10) days from the final agency action. The Department may grant or deny such request. No agency action will be final for the purposes of invoking the jurisdiction of Section 120.57, F.S., until such time as the Department notifies the Respondents in writing that the informal conference has been completed or that the request for informal conference has been denied. If the parties cannot resolve the disputed final agency action in this manner, Respondents may file a petition for a formal or informal administrative proceeding if they contest the aforementioned determination, pursuant to Section 120.57, F.S.,

and F.A.C. Chapters 17-103 and 28-5. The petition must conform with the requirements of F.A.C. Rule 28-5.201, and must be received by the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within fourteen (14) days of receipt of the notice. Failure to file a petition within this time period shall constitute a waiver by Respondents of their right to request an administrative proceeding under Section 120.57, F.S. The Department's determination, upon expiration of the fourteen (14) day time period if no petition is filed, or the Department's Final Order as a result of the filing of a petition, 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 Respondents seek an administrative proceeding pursuant to this paragraph, the Department may file suit against Respondents in lieu of or in addition to holding the administrative proceeding to obtain judicial resolution of all the issues unresolved at the time of the request for administrative proceeding. In the event that the Department files such suit pursuant to this paragraph, Respondents reserve all of their rights and defenses to challenge or respond to such suit as is appropriate.

17. Respondent, Central Florida Gas Company, shall publish, at its expense, the following notice within fourteen (14) days of the effective date of this Consent Order, in the legal advertising section of a newspaper of general circulation in Polk

County. Respondent, Central Florida Gas Company, shall provide proof of publication to the Department within twenty-one (21) days of the effective date of this Consent Order.

State of Florida Department of Environmental Regulation
Notice of Proposed Agency Action

The Department of Environmental Regulation gives notice of agency action of entering into a Consent Order with Central Florida Gas Company ("Company"), 1015 Sixth Street, NW, Winter Haven, Florida, pursuant to Rule 17-103.110(3), Florida Administrative Code. The Consent Order provides for the performance of a contamination assessment to determine whether environmental impacts have resulted from the Company's prior operation of a coal gas manufacturing plant in Winter Haven, Florida. 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 Regulation, 4520 Oak Fair Blvd., Tampa, Florida 33610-7347.

Persons whose substantial interests are affected by the above proposed agency action have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative determination (hearing) on the proposed action. The petition must conform to the requirements of Chapters 17-103 and 28-5, Florida Administrative Code, and must be filed (received) with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399, within fourteen (14) days of publication of this notice. Failure to file a petition within the fourteen (14) days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, Florida Statutes.

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 proposed agency action. Persons whose substantial interests will be affected by any decision of the Department have the right to intervene in the proceeding. A petition for intervention must be filed pursuant to Model Rule 28-5.207, Florida Administrative Code, at least five (5) days before the final hearing and be filed with the Hearing Officer if

one has been assigned at the Division of Administrative Hearings, Department of Administration, 2009 Apalachee Parkway, Tallahassee, Florida 32399-1550. If no Hearing Officer has been assigned, the petition is to be filed with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such person has to an administrative determination (hearing) under Section 120.57, Florida Statutes.

18. Respondent, James R. Lowe, shall allow authorized representatives of Respondent, Central Florida Gas Company, access to the Lowe Parcel for the purpose of conducting the scope of work specified in the CAP, and for otherwise enabling Respondent, Central Florida Gas Company, to perform its obligations under this Consent Order.

19. Respondent, James R. Lowe, shall allow authorized representatives of the Department access to the Lowe Parcel at reasonable times for the purpose of determining compliance with this Consent Order, and the rules and regulations of the Department.

20. Entry of this Consent Order does not relieve Respondents of the obligation to comply with applicable federal, state or local laws, regulations or ordinances.

21. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit future violations of applicable statutes, or the rules promulgated thereunder not covered by the terms of this Consent Order.

22. The Department, for and in consideration of the complete and timely performance by Respondents of the obligations agreed

to in this Consent Order, hereby waives its right to seek judicial imposition of damages, civil or criminal penalties, as well as its right to recover legal and/or administrative costs incurred by the State of Florida concerning the issues involved in this Consent Order.

23. Nothing contained herein shall affect any right, claim or course of action that Respondents may have against each other or against parties not subject to this Consent Order.

24. 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.

25. Nothing herein shall be construed to limit the authority of the Department to undertake any action against the Respondents in response to or to recover the costs of responding to conditions at or from the site which may present an imminent hazard to public health, welfare, or the environment if:

A. The conditions were previously unknown to or undetected by the Department;

B. The conditions result from the implementation of the requirements of this Consent Order;

C. Other previously unknown facts arise or are discovered after entry of this Consent Order.

26 All reports, plans, and data required by this Consent Order are to be submitted in triplicate to the Department and should be sent to the Enforcement Manager, Department of Environmental Regulation, 4520 Oak Fair Blvd., Tampa, Florida 33610-7347.

27. All written determinations or other submittals required by this Consent Order to be submitted by the Department to Respondents shall be sent to William L. Pence, Akerman, Senterfitt & Eidson, P. O. Box 231, Orlando, Florida 32802-0231, Counsel for Respondents.

28. No modification of the terms and conditions of this Consent Order shall be effective until reduced to writing and executed by both Respondents and the Department.

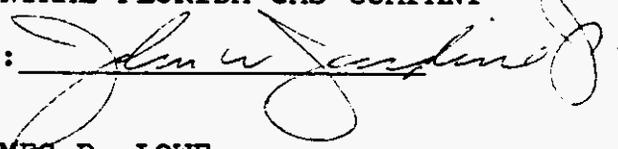
29. This Consent Order is the final agency action of the Department pursuant to Section 120.69, F.S., and F.A.C. Rule 17-103.110(3), and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

1/8/90
Date

1/9/90
Date

FOR THE RESPONDENTS:

CENTRAL FLORIDA GAS COMPANY

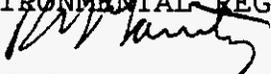
By: 

JAMES R. LOWE

By: James R. Lowe
JAMES R. LOWE

DONE AND ORDERED, this 5 day of Feb., 1990, at
Tampa, Hillsborough County, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION


Richard D. Garrity, Ph.D.
Deputy Assistant Secretary
Southwest Florida District
4520 Oak Fair Boulevard
Tampa, Florida 33610-7347

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to §120.52,
Florida Statutes, with the designated Depart-
ment Clerk, receipt of which is hereby
acknowledged.


CLERK

Feb. 5, 1990
DATE

Copies Furnished to:

Office of General Counsel
Department of Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32301

William L. Pence, Esq.
Akerman, Senterfitt & Eidson
Post Office Box 231
Orlando, Florida 32802-0231

Exhibit I

CORRECTIVE ACTIONS FOR GROUND WATER CONTAMINATION CASES

1. Within 60 days of the effective date of the Order incorporating these contamination assessment actions, Respondent shall submit to the Department a detailed written Contamination Assessment Plan ("CAP"). If the Respondent has conducted a Preliminary Contamination Assessment, the Respondent shall submit to the Department a detailed written CAP within 60 days of receipt of notice from the Department that a CAP is required. The purpose of the CAP shall be to propose methods for collection of information necessary to meet the objectives of the contamination assessment.

A. The objectives of the Contamination Assessment shall be to:

- (1) Establish the aerial and vertical extent of soil, sediment, surface water and ground water 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 ground water; 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;

(5) Determine the amount of product lost, and the time period over which it was lost (if applicable);

(6) If leaking storage tanks may be the source of the contamination, determine the structural integrity of all aboveground and underground storage systems (including integral piping) which exist at the site (if applicable);

(7) Establish the vertical and horizontal extent of free product (if applicable);

(8) Describe pertinent geologic and hydrogeologic characteristics of affected and potentially affected hydrogeologic zones;

(9) Describe geologic and hydrogeologic characteristics of the site which influence migration and transport of contaminants; and

(10) Provide a site history including description of facility operations, as applicable.

B. The CAP shall specify tasks, which are necessary to achieve 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 or wells to determine the horizontal and vertical directions of the ground water flow;

(2) Use of electromagnetic conductivity (EM) and other geophysical methods or vapor analyzers 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 well points or monitoring wells to sample ground water in affected areas and to determine the vertical and horizontal extent of the ground water plume;

(5) Sampling of public and private wells;

(6) Sampling of surface water and sediments;

(7) Sampling of air for airborne contaminants;

(8) Analysis of soils and drum and tank residues for hazardous waste determination and contaminant characterization;

(9) Use of geophysical equipment such as vapor analyzers, magnetometers, ground penetrating radar, or metal detectors to detect tanks, lines, etc;

(10) Determination of the horizontal and vertical extent of soil contamination;

(11) Use of soil and well borings to determine pertinent site-specific geologic and hydrogeologic characteristics of affected and potentially affected hydrogeologic zones such as aquifers, confining beds, and unsaturated zones; and

(12) Use of geophysical methods, pump tests and slug tests to determine geologic and hydrogeologic characteristics of affected and potentially affected hydrogeologic zones.

C. The CAP shall provide detailed information as to how proposed tasks are to be carried out. The CAP shall include, as applicable, the following information:

- (1) Proposed sampling locations and rationale for their placement;
- (2) A description of methods and equipment to be used to identify and quantify soil or sediment contamination;
- (3) A description of water sampling methods;
- (4) Parameters to be analyzed for analytical methods to be used, and detection limits of these methods;
- (5) Proposed piezometers and well construction details including methods and materials, well installation depths and screened intervals, well development procedures;
- (6) A description of methods proposed to determine aquifer properties (e.g., pump tests, slug tests, permeability tests, computer modeling);
- (7) A description of geophysical methods proposed for the project;
- (8) Details of any other assessment methodology proposed for the site;
- (9) A description of any survey to identify and sample public or private wells which are or may be affected by the contaminant plume;
- (10) A description of the regional geology and hydrogeology of the area surrounding the site;

(11) A description of site features (both natural and man-made) pertinent to the assessment;

(12) A description of methods and equipment to be used to determine the site specific geology and hydrogeology; and

(13) Details, including disposal or treatment methods, of any immediate remedial actions proposed for the site such as product recovery, soil removal or treatment.

D. The CAP shall contain as a separate document a Quality Assurance Project Plan ("QAPP"), which shall apply to all sampling and analysis required by this Consent Order. The QAPP 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, January 30, 1986." A copy of the document is available upon request from the Department. A QAPP is required for all persons collecting or analyzing samples. The Department reserves the right to reject all results generated by Respondent prior to QAPP approval or which are not in accordance with the Department approved QAPP.

2. The Department shall review the CAP and provide the Respondent with a written response to the proposal. Any action taken by Respondent with regard to the implementation of the CAP prior to the Respondent receiving written notification from the Department that the CAP has been approved shall be at Respondent's risk.

3. In the event that additional information is necessary for the Department to evaluate the CAP, the Department shall make a written request to the Respondent for the information, and within 20 days from receipt of said request, Respondent shall provide all requested information in writing to the Department unless the requested information requires additional field work in which case the Respondent shall submit to the Department within 14 days of receipt of said request, 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 Contamination Assessment 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 submit 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 modification shall be incorporated in the CAP; or

B. Notify Respondent in writing 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 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 Order and shall be implemented within ten days of the Department's written notification to Respondent that the CAP has been approved. The CAP shall incorporate all required modifications to the proposed CAP identified by the Department. Within 10 working days of completion of the CAP tasks, Respondent shall provide written notice to the Department that the CAP tasks have been completed.

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 all tasks which were implemented pursuant to the CAP; and

B. Specify results and conclusions regarding the Contamination Assessment 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 to the Respondent for the information. Within 20 days of receipt of said request, Respondent shall provide all requested information unless the requested information requires additional field work in which case the Respondent shall submit, within 14 days of said request, to the Department a reasonable written schedule for completing the field work needed to provide the requested information. The Department shall provide written approval of the CAR once all of the CAP objectives and tasks have been satisfactorily completed.

9. The Department, at its option, may determine from review of the CAR and other relevant information, the Site Rehabilitation Levels (SRLs) to which the contamination shall be remediated or may require the Respondent to implement the risk assessment process to develop such SRLs for the site. The SRLs for water as determined by the Department shall be based on Chapter 17-3, F.A.C. standards and the Department's numerical interpretation of the Chapter 17-3, F.A.C. minimum criteria. The Department may also require that a risk assessment be completed to define SRLs for soils or sediments that are sufficiently contaminated to present a risk to the public health, the environment or the public welfare. If the Department does choose to provide SRLs to the Respondent and does not choose to require a risk assessment and the Respondent agrees to remediate the site to those SRLs, the Respondent shall implement the Feasibility

Study, if required by the Department as set forth in paragraph 13, or submit the Remedial Action Plan (RAP) as set forth in paragraph 18.

10. After completion and Department approval of the CAR, the Respondent shall prepare and submit to the Department a Risk Assessment/Justification (RAJ) if the Department requires the task, or if the Respondent wishes to develop SRLs other than those determined by the Department or if the Respondent intends to justify a no-action proposal for the site. The RAJ which includes a risk assessment and a detailed justification of any alternative SRLs or no action proposal shall be submitted within 90 days from receipt of the Department's written approval of the CAR and determination of the SRLs for the site, or within 90 days of the Department's written approval of the CAR and notice that a RAJ is required, or within 90 days of the Department's written approval of the CAR. Unless otherwise approved by the Department, the subject document shall address the following task elements, divided into the following five major headings:

A. Exposure Assessment - The purpose of the Exposure Assessment is to identify routes by which receptors may be exposed to contaminants and to determine contaminant levels to which receptors may be exposed. The Exposure Agreement should:

(1) Identify the contaminants found at the site and their concentrations as well as their extent and locations;

(2) Identify possible transport pathways;

(3) Identify potential exposure routes.

(4) Identify potential receptors for each exposure route; and

(5) Estimate or calculate expected contaminant levels to which actual or potential receptors may be exposed.

B. Toxicity Assessment - The purpose of the Toxicity Assessment is to define the applicable human health and environmental criteria for contaminants found at the site. The criteria should be defined for all potential exposure routes identified in the Exposure Assessment. DER standards shall be the criteria for consultants and exposure routes to which the standards apply. Criteria for constituents and exposure routes for which DER standards are not established shall be based upon criteria such as Recommended Maximum Contaminant Levels (RMCLs), Maximum Contaminant Levels, Average Daily Intake values (ADIs), Unit Cancer Risk values (UCRs), organoleptic threshold levels, Ambient Water Quality Criteria for Protection of Human Health and for Protection of Aquatic Life, and other relevant criteria as applicable. If there are no appropriate criteria available for the contaminants and exposure routes of concern, or the criteria are in an inappropriate format, the Respondent shall develop the criteria using equations and current scientific literature acceptable to toxicological experts. Criteria for the following exposure routes shall be defined or developed as applicable:

(1) Potable water exposure route - develop criteria for ingestion, dermal contact, inhalation of vapors and mists, utilizing applicable health criteria such as Recommended Maximum Contaminant Level (RMCLs), Maximum levels, Average Daily Intake values (ADIs), Unit center Risk values (UCRs), organoleptic threshold levels, and other relevant criteria as applicable.

(2) Non-potable domestic water usage exposure route - develop criteria for dermal contact, inhalation of vapors and mists, ingestion of food crops irrigated with such water, lawn watering, ingestion by pets and livestock, and other related exposure.

(3) Soil exposure route - develop criteria for ingestion, dermal contact, inhalation, ingestion by humans or animals of food crops grown in contaminated soils.

(4) Non potable surface water exposure - develop criteria for prevention of adverse effects on human health (e.g. dermal contact effects on humans utilizing the resource for recreational purposes) or the environment (e.g. toxic effects of the contaminants on aquatic or marine biota, bio-accumulative effects in the food chain, other adverse effects that may affect the designated use of the resource as well as the associated biota).

(5) Air exposure route - develop criteria for exposure to the contaminants in their unaffected state.

C. Risk Characterization - The purpose of the Risk Characterization is to utilize the results of the Exposure Assessment and the Toxicity Assessment to characterize cumulative risks to the affected population and the environment from contaminants found at the site. Based on contaminant levels presently found at the site, a risk and impact evaluation will be performed which considers, but is not limited to:

(1) Risks to human health and safety from the contamination including:

- (a) carcinogenic risk, and
- (b) non-carcinogenic risk.

(2) Effects on the public welfare of exposure to the contamination which may include but not be limited to adverse affects on actually and potentially used water resources.

(3) Environmental risks in areas which are or will be ultimately affected by the contamination including;

- (a) other aquifers;
- (b) surface waters;
- (c) wetlands;
- (d) sensitive wildlife habitats; and
- (e) sensitive areas including, but not limited to, National Parks, National Wildlife Refuges, National Forests, State Parks, State Recreation Areas, State Preserves.

D. Justification for alternative Site Rehabilitation Levels (SRLs) or no action proposal. The purpose of this section

is to provide justification on a case-by-case basis for a no action proposal or for alternative SRLs that vary from Chapter 17-3, F.A.C. standards and minimum criteria for from any SRLs determined by the Department at which remedial action shall be deed completed. Factors to be evaluated shall be, at a minimum:

(1) The present and future uses of the affected aquifer and adjacent surface waters with particular consideration of the probability that the contamination is substantially affecting or will migrate to and substantially affect a public or private source of potable water;

(2) Potential for further degradation of the affected aquifer or degradation of other connected aquifers;

(3) The technical feasibility of achieving the SRLs based on a review of reasonably available technology;

(4) Individual site characteristics, including natural rehabilitative processes; and

(5) The results of the risk assessment. Applicable contaminant transport models must be employed to document that human health and environment risks from alternative and less stringent SRLs are acceptable.

11. The Department shall review the Risk Assessment/Justification document and determine whether it has adequately addressed the risk assessment task elements. the Department shall review the justification section and determine whether the Department approves or disapproves the alternative SRLs or the no action proposal.

12. In the event that additional information is necessary to evaluate any portion of the Risk Assessment/Justification document, the Department shall make a written request and Respondent shall provide all requested information within 20 days of receipt of said request. If the Department does not approve the no action proposal of the alternative SRLs, the Respondent shall use the SRLs as determined by the Department. If the Department and Respondent agree to the remediation levels, either the SRLs determined by the Department or the alternative SRLs, the Respondent shall implement the Feasibility Study, if required by the Department as set forth in paragraph 13, or submit the Remedial Action Plan (RAP) as set forth in paragraph 18.

13. The Department shall also determine from review of the CAR and other relevant information whether the Respondent should prepare and submit a Feasibility Study (FS) to the Department. The FS will be required in complex cases to evaluate technologies and remedial alternatives, particularly if multiple contaminant classes are represented or multiple media are contaminated. The purpose of the FS is to evaluate remedial technologies and remedial alternatives in order to identify the most environmentally sound and effective remedial action to achieve clean up of the site to SRLs or alternative SRLs (if approved). The FS shall be completed within 60 days of written notice that a FS is required, unless the Respondent plans to submit a RAJ pursuant to paragraph 10. The FS shall include the following tasks:

(A) Identify and review pertinent treatment, contaminant, removal and disposal technologies;

(B) Screen technologies to determine the most appropriate technologies;

(C) Review and select potential remedial alternatives using the following criteria:

(1) long and short term environmental effects;

(2) implementability;

(3) capital costs;

(4) operation and maintenance costs;

(5) operation and maintenance requirements;

(6) reliability;

(7) feasibility;

(8) time required to achieve clean-up; and

(9) potential legal barriers to implementation of any of the alternatives.

(D) Identify the need for and conduct pilot tests or bench tests to evaluate alternatives, if necessary;

(E) Select the most appropriate remedial alternative;

(F) Develop soil cleanup criteria such that the contaminated soils will not produce a leachate which contains contaminants in excess of the SRLs or alternative SRLs (if approved).

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

A. Summarize all FS task results; and

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

15. The Department shall review the FS Report for adequacy and shall determine whether the Department agrees with the proposed remedial action. 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 of receipt of said request.

16. If the Department does not approve of the proposed remedial action, the Department will notify the Respondent in writing of the determination. The Respondent shall then have 20 days from the Department's notification to resubmit a proposed alternate remedial action.

17. If the Department determines upon review of the resubmitted remedial action proposal that it does not agree with the proposal, the Department at its option, may choose to either:

A. Choose a remedial action alternative for the Respondent to carry out; or

B. Notify the Respondent that Respondent has failed to comply with paragraph 16 above, 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 Respondent.

18. Within 45 days of receipt of written notice from the Department, Respondent shall submit to the Department a detailed Remedial Action Plan ("RAP"). The RAP shall be signed and sealed by a registered professional engineer in accordance with Chapter 471, Florida Statutes. The objective of the remedial action shall be to achieve the clean up of the contaminated areas to the SRLs or the approved alternative SRLs. The RAP shall include:

A. Rationale for the remedial action proposed which shall include at a minimum:

(1) Results from any pilot studies or bench tests;
(2) Evaluation results for the proposed remedial alternative based on the following criteria:

a. long and short term environmental impacts;
b. implementability, which may include, but not be limited to, ease of construction, site access, and necessity for permits;

c. operation and maintenance requirements;
d. reliability;
e. feasibility; and
f. costs.

(3) Soil cleanup criteria such that the contaminated soils will not produce a leachate which contains contaminants in excess of State Water Quality Standards or minimum criteria established in 17-3, F.A.C.

Subparagraph A requirements can be omitted if a Feasibility Study was required and approved by the Department.

B. Design and construction details and specifications for the remedial alternative selected;

C. Operational details of the remedial action including the disposition of any effluent, expected contaminant concentrations in the effluent, an effluent sampling schedule if treated ground water is being discharged to ground water or to surface waters, and the expected concentrations and quantities of any contaminants discharged into the air as a result of remedial action;

D. A separate QAPP document;

E. Details of the treatment or disposition of any contaminated soils or sediments;

F. Proposed methodology including post remedial action ground water monitoring as applicable for evaluation of the site status after the remedial action is complete to verify accomplishment of the objective of the RAP; and

G. Schedule for the completion of the remedial action.

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 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.

21. In the event that the Department determines that the RAP submitted by the Respondent does not adequately address the objectives set forth in paragraph 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 submit 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 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 Order and shall be implemented within ten days from receipt of the Department's notification to the respondent that the RAP has been approved. The RAP shall incorporate all required modifications to the proposed RAP identified by the Department.

24. Following termination of remedial action (clean up of the Contaminated area to the SRLs or the approved alternative SRLs), designated monitoring wells shall be sampled on a schedule determined by the Department.

25. Following completion of the remedial action and post-remedial action monitoring, the Respondent shall submit a Site Rehabilitation Completion Report (SRCR) to the Department for approval. The SRCR shall be signed and sealed by a registered Professional Engineer in accordance with Chapter 471, F.S., unless "no further action" or "monitoring-only" was proposed and was approved by the Department. The SRCR shall contain a demonstration, with supporting documentation, that site cleanup objectives have been achieved.

26. Within sixty (60) days of receipt of the SRCR, the Department shall approve the SRCR or make a determination that the SRCR does not contain sufficient information to support the demonstration that cleanup objectives have been achieved.

27. If the Department determines that the SRCR is not adequate based upon information provided, the Department will

notify the Respondent in writing. Site rehabilitation activities shall not be deemed completed until such time as the Department provides the Respondent with written notice that the SRCR is approved.

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

29. 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.

30. Respondent shall provide written notification to the Department at least ten (10) 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.

31. The Respondent is required to comply with all applicable local, state and federal regulations and to obtain any necessary approvals from local, state and federal authorities in carrying out these corrective actions.

32. 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 cannot be overcome by due diligence. Upon occurrence of the event Respondent shall promptly notify the Department orally and shall, within seven (7) 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 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 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.

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

34. Should the Department conclude that cleanup of the contaminated area to SRLs or approved alternative SRLs 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 as a result of Respondent's actions. Within twenty (20) days of receipt of Department 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 for environmental damages not be agreed to by the Department and Respondent within twenty (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 seek to recover Department-assessed environmental damages pursuant to Section 403.141, Florida Statutes.