



Florida Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926
Telephone: 813-632-7600

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

September 18, 2009

Hand-Delivered

Hillsborough County Board of County Commissioners
Mr. Ken Hagan, Chairman
P.O. Box 1110
Tampa, Florida 33601

RE: Executed Consent Order OGC Case No. 08-2838
Hillsborough County Northwest Closed Class I Landfill
Water Quality Monitoring Permit No. 130425-002-S0, WACS ID No. 41084
Hillsborough County

Dear Mr. Hagan:

Enclosed please find an original signed and executed copy of the Consent Order for the above-referenced case. The effective date is September 18, 2009.

Please pay particular attention to the activities and deadlines specified in paragraphs 9 through 16 of the Consent Order.

The Department appreciates your cooperation towards resolution of this matter. If you have any questions, you may contact me at telephone number (813) 632-7600, ext. 451.

Sincerely,

Stephanie Watson
Solid Waste Section
Southwest District

Enclosure

ec William Kutash, P.G., SWD FDEP
Susan Pelz, P.E., SWD FDEP
Steve Morgan, SWD FDEP
John Morris, P.G., SWD FDEP
Matthew Smith-Kennedy, FDEP OGC Tallahassee
Barry M. Boldissar, Director, Hillsborough County Solid Waste Mgmt. Dept., boldissarb@hillsboroughcountv.org
David S. Adams, P.G., Hillsborough County Solid Waste Management Department, adamsds@hillsboroughcounty.org
Ron Cope, Environmental Protection Commission of Hillsborough County, cope@epchc.org
David Dee, P.A., Young Van Assenderp, PA., ddee@vvlaw.net

"More Protection, Less Process"
www.dep.state.fl.us

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,
vs.

OGC FILE NO. 08-2838

BOARD OF COUNTY COMMISSIONERS
OF HILLSBOROUGH COUNTY, FLORIDA

Respondent.

_____/

CONSENT ORDER

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

The Department finds and the Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapters 403 and 376, Florida Statutes, and Chapters 62-520 and 62-780, Florida Administrative Code ("F.A.C."). The Department has jurisdiction over the matters addressed in this Consent Order.
2. Respondent is a person within the meaning of Section 403.031(5), Florida Statutes.
3. Respondent is the owner of the Northwest Landfill ("Facility"), which is a closed Class I landfill located one-half mile east of Sheldon Road on the north side of

Linebaugh Avenue, in Hillsborough County, Florida. The Respondent's Facility is located on property ("Property") that is in Section 14, Township 28 South, Range 17 East at 28 degrees, 02 minutes, 38 seconds latitude and 82 degrees, 34 minutes, 22 seconds longitude. The Property is further described in Hillsborough County Folio ID 3766.0000.

4. The Respondent's Solid Waste Management Department is the designated permittee in the Department's Water Quality Monitoring Permit No. 130425-002-SO ("Permit") and Pending Permit No. 130425-004-SO ("Pending Permit") for the Facility. The Permit authorizes ground water and surface water monitoring at the Facility to demonstrate compliance with the established Zone of Discharge ("ZOD") for the Facility. The Permit addresses the monitoring requirements of Chapter 62-520, F.A.C. rather than the closure (long-term care) requirements of Chapter 62-701, F.A.C. Assessment activities were previously conducted at the Facility in accordance with Department Consent Order OGC Case No. 89-0108. The Department has assigned WACS ID No. 41084 to the Facility.

5. The Facility's ZOD is described in an Affidavit of Zone of Discharge ("Affidavit"), which was recorded in the County's official records on April 11, 1997. The Affidavit and related property descriptions are contained in Exhibit I, which is attached hereto and made part of this Order.

a. In accordance with Rule 62-520.520(1), F.A.C., the Department considers the Facility to be an existing installation that is exempt from compliance with secondary ground water standards on the Property or to the Property boundary.

b. The Facility's ZOD does not relieve Respondent from compliance with Minimum Criteria for Ground Water, pursuant to Rule 62-520.400(1), F.A.C., which are specified in Chapter 62-777, F.A.C.

6. In its November 12, 2008 letter regarding Respondent's responses to the Department's May 30, 2008 (3rd) Request for Additional Information for the Pending Permit, the Department has concluded that existing ground water monitoring wells MW-66, MW-301, MW-302, MW-313, and MW-314 are closest to the south boundary of the Respondent's Property and, therefore, these wells shall be designated as "compliance wells" for the ZOD (except the extended ZOD for benzene) in the Pending Permit. During the Facility's routine semi-annual sampling events in February and August of 2007 and 2008, and supplemental sampling event conducted during November 2007, contaminants were detected and confirmed in certain compliance wells in concentrations significantly above background water quality or at levels above the Department's water quality standards or minimum criteria. During the Facility's routine semi-annual sampling events that occurred during February and August of 2007 and 2008, contaminants were detected and confirmed in concentrations significantly above background water quality or at levels above the Department's water quality standards or minimum criteria at detection wells MW-135, MW-304, MW-306, and MW-303A. Respondent elected to install new ground water monitoring wells at outboard locations. Monitoring wells MW-315, MW-316, and MW-317 are located in proximity to Rocky Creek, while monitoring well MW-318 is located in proximity to Respondent's eastern property boundary. It is intended that the new well locations will be designated as "compliance wells" for the ZOD in the Pending Permit. During an initial sampling event in December 2008, a follow-up sampling event in January 2009, and a routine sampling event in February 2009, contaminants were detected and confirmed in wells in MW-315, MW-316, and MW-317 in concentrations significantly above background water quality or at levels above the Department's water quality standards or minimum criteria. A map that depicts the location of the referenced compliance wells is attached hereto as Exhibit II and made part of this Order. A table summarizing exceedances of water quality standards or minimum criteria in MW-66,

MW-301, MW-302, MW-313, MW-314, MW-315, MW-316, and MW-317 is attached as Exhibit III and made part of this Order. In December 2008, and January and February 2009, the Respondent collected samples in Rocky Creek at three surface water sampling locations (SW-A, SW-C, and SW-G). The results of these events indicate that the samples collected in Rocky Creek comply with the applicable Department surface water criteria. Based on these results, there is not a current need for remedial actions for surface water impacts to be implemented along Rocky Creek.

7. The Department finds that the following violations occurred:

a. Contaminants have been detected in the ground water at levels that exceeded Class G-II ground water quality standards and minimum criteria for ground water at the Facility's ZOD in violation of Rule 62-520.310(7), F.A.C.

b. Ground water at the Facility is classified as Class G-II and does not meet the primary drinking water quality standards at the ZOD for public water systems established pursuant to the Florida Safe Drinking Water Act, in violation of Rule 62-520.420(1), F.A.C.

c. Ground water at the Facility is not free from domestic, industrial, agricultural, or other man-induced non-thermal components of discharges, in violation of Rule 62-520.400(1), F.A.C.

8. Nothing contained in this paragraph shall be construed to limit the Department's authority to require the Respondent to comply with the applicable provisions in Chapter 62-780, F.A.C. Based on the data collected to date, the Respondent and the Department currently agree that:

a. Chapter 62-780, F.A.C. does not mandate that solid waste must be excavated, but source removal or relocation may be part of the remedial alternatives evaluated for the Facility;

b. Respondent will need to continue to monitor the groundwater and surface water on and off of the Property for an extended period of time;

c. Respondent may need to use institutional controls (e.g., deed restrictions) to address the contamination in the surficial aquifer in the areas located south of the Property;

d. Respondent may continue to conduct surface water monitoring in Rocky Creek to demonstrate that the Facility is not causing water quality violations in the creek, notwithstanding the provisions in Chapter 62-780, F.A.C.; and

e. Nothing in this Consent Order precludes the Respondent from seeking relief in the future by requesting an extended ZOD (Rule 62-520.470(3)(d), F.A.C.), or an exemption from water quality standards and criteria (Rule 62-520.500, F.A.C.).

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

ORDERED:

9. Within 60 days of execution of this Consent Order, the Respondent shall commence a Site Assessment in accordance with Rule 62-780.600, F.A.C. Within 270 days after the execution of this Consent Order, the Respondent shall submit a Site Assessment Report ("SAR") to the Department in accordance with Rule 62-780.600(8), F.A.C. The SAR may include information and data that previously were collected by the Respondent, if and to the extent that such information and data satisfy the requirements in Rule 62-780.600, F.A.C. The Department will review and process the SAR in accordance with Rule 62-780.600(9), F.A.C.

10. Upon receiving notice of the Department's approval of the SAR, the Respondent shall commence and complete all further tasks required by Chapter 62-780, F.A.C., in accordance with the requirements and time schedules identified therein. Pending draft Chapter 62-701, F.A.C. includes proposed language that addresses the

applicability of some portions of Chapter 62-780, F.A.C. regarding corrective actions that can be used for remedial actions. When the revisions to Chapter 62-701, F.A.C. are adopted and become final, the referenced applicability language can be used regarding corrective actions.

11. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$5,500.00 in settlement of the matters addressed in this Consent Order. This amount includes \$5,000.00 for civil penalties and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. The civil penalty in this case includes one violation that warrants a penalty of \$2,000.00 or more. Payment shall be made by County check or cashier's check. The instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund."

12. Respondent agrees to pay the Department stipulated penalties in the amount of \$500.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 9 and 10 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by County check or cashier's check and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, Attn: Sandra Wilson, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this

paragraph shall be in addition to the settlement sum agreed to in paragraph 11 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

13. The Department, for and in consideration of Respondent's complete and timely performance of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order; provided, however, that should the Department conclude that clean up of the contaminated area to site rehabilitation levels is not feasible; or should the Respondent not completely implement a remedial action plan consistent with the requirements of Rule 62-780, F.A.C., as approved by the Department, the Department expressly reserves its right to seek restitution from Respondent for environmental damages. Within 20 days of receipt of Department's written notification of its intent to seek said restitution, Respondent may pay the amount of the damages or may, if it so chooses, initiate negotiations with the Department regarding the monetary terms of restitution to the state. Respondent is aware that should a negotiated sum or other compensation or environmental damages not be agreed to by the Department and Respondent within 20 days of receipt of Department written notification of its intent to seek restitution, the Department may institute appropriate action, either administrative through a Notice of Violation, or judicial, in a court of competent jurisdiction through a civil complaint, to recover Department assessed environmental damages as provided by law.

14. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent

Order pursuant to Section 120.68, Florida Statutes, and waives that right upon signing this Consent Order.

15. With regard to any agency action taken by the Department concerning Respondent's proposals submitted by the Respondent to the Department as required by Rule 62-780, F.A.C., the Respondent may file a Petition for Formal or Informal Administrative Hearing. If Respondent objects to the Department's agency action pursuant to Sections 120.569 and 120.57, Florida Statutes, Respondent shall have the burden to establish that the Department's agency action was not reasonable. The petition must contain the information set forth below in paragraph 16 and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of the Department's agency action the Respondent intends to challenge and must conform with the requirements of Rules 28-106.201 or 28-106.301, F.A.C. Failure to file a petition within this time period shall constitute a waiver by Respondent of its right to request an administrative proceeding under Sections 120.569 and 120.57, Florida Statutes. The Department's determination, upon expiration of the 21 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 this Consent Order shall remain in full force and effect at all times. If both parties agree, the Department and Respondent may mediate the dispute as provided in Section 120.572, Florida Statutes. If the parties agree to mediation, the time for filing a petition pursuant to this paragraph is tolled until such time as the mediation is unsuccessful. Upon notice from the Department that the mediation is unsuccessful, the Respondent shall have 21 days to file its petition as provided herein. If Respondent seeks an administrative proceeding pursuant to this paragraph, the Department may file suit against Respondent 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.

16. Respondent shall publish the following notice in a newspaper of daily circulation in Hillsborough County, Florida. The notice shall be published one time only within 15 days after the effective date of the Consent Order. An original copy of the notice shall be provided to the Department within 30 days of the date of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with the Hillsborough County Solid Waste Management Department pursuant to Section 120.57(4), Florida Statutes. The Consent Order requires the County to address certain violations of the Department's ground water quality standards and minimum criteria, which have been identified at the County's closed Class I Northwest Landfill, Permit No. 130425-002-SO, located one-half mile east of Sheldon Road on the north side of Linebaugh Avenue in Hillsborough County, Florida. More specifically, the Consent Order requires the County to conduct an assessment of the groundwater conditions at the site, and take other actions, in accordance with the requirements in the Department's rules (e.g., Chapter 62-780, F.A.C.). The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926.

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

The petition shall contain the following information: (a) the Department's identification number for the Consent Order and the county in which the subject matter or activity is located; (b) The name, address, and telephone number of each petitioner. The name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes; (c) A statement of how and when each petitioner received notice of the Consent Order; (d) A statement of how each petitioner's substantial interests are affected by the Consent Order; (e) A statement of the material

facts disputed by petitioner. If there are none, the petition must so indicate; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order, including an explanation of how the alleged facts relate to the specific rules or statutes; and (h) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

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

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

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;

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

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

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

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

17. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control.

Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

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

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

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

21. 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, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

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

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

24. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes or the rules promulgated there-under that are not specifically addressed by the terms of this Consent Order, including but not limited to undisclosed releases, contamination or polluting conditions.

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

26. All submittals required by this Consent Order to be submitted to the Department, with the exception of payments, shall be sent to the Florida Department of

Environmental Protection, Attn: Solid Waste Manager, 13051 North Telecom Parkway, Temple Terrace, Florida, 33637-0926.

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

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

29. Respondent shall use all reasonable efforts to obtain any necessary access for work to be performed in the implementation of this Consent Order. If necessary access cannot be obtained, or if obtained, is revoked by owners or entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within (5) business days of such refusal or revocation. The Department may at any time seek to obtain access as is necessary to implement the terms of this

Consent Order. The Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorneys fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain access as is necessary to implement the terms of this Consent Order. Respondent shall pay these sums to the Department or arrange a payment schedule with the Department within 30 days of written demand by the Department.

30. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, 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, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

31. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelistnum.htm>.

FOR THE RESPONDENT:

I, Ken Hagan, on behalf of the Hillsborough County Board of County Commissioners, HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER AND CONSENT ORDER SET FORTH ABOVE.

By: Ken Hagan
Ken Hagan, Chairman

Date: 9-2-2009

ATTEST: Pat Frank, Clerk of Court

By: Beverly Anne Miller
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY FLORIDA
DOCUMENT NO. 09-0946



OGC Case No. 08-2838

APPROVED BY COUNTY ATTORNEY
As To Form And Legal Sufficiency

Page 15 of 16

BY: [Signature]
Assistant County Attorney

DONE AND ORDERED this 17th day of September, 2009, in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Deborah A. Getzoff
District Director
Southwest District

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


Clerk

9/18/2009
Date

Copies furnished to:
Lea Crandall, OGC (executed copy only)
Sandra Wilson, FDEP SWD (executed copy only)

EXHIBIT I

ATTACHMENT

8523 0513

2

Project 97-38-L

AFFIDAVIT OF
ZONE OF DISCHARGESTATE OF FLORIDA
COUNTY OF HILLSBOROUGH

BEFORE ME, the undersigned authority, duly authorized to take acknowledgements and administer oaths, personally appeared DARYL SMITH, AS DIRECTOR OF HILLSBOROUGH COUNTY SOLID WASTE MANAGEMENT DEPARTMENT, hereinafter Affiant, who after being by me duly sworn, deposes and says:

1. Hillsborough County Solid Waste Management Department (SWMD) has been issued a permit by the Florida Department of Environmental Protection (DEP) for the purpose of monitoring water quality at the County's closed Northwest Landfill, as more particularly described in Exhibit "A".
2. Groundwater quality standards for benzene have been exceeded along the Southern property boundary of said site, therefore, the permit includes an extended groundwater zone of discharge (ZOD).
3. The portion of ZOD extending to the south beyond the landfill property boundary is solely for concentrations of benzene above the groundwater standard (F.A.C. 62.520.420).
4. The ZOD is defined horizontally to the north and west by Rocky Creek; to the east by the County's current property boundary; and, to the south by the southern boundary of the CSX Railroad right of way. The attached Exhibit "B" depicts the general location of the extended ZOD. The legal description, property folio number, and owner of record for each parcel within the extended ZOD is described on Exhibit "C". The ZOD extends vertically through the surficial aquifer to the bottom of the first confining unit.
5. Compliance with the ZOD will be measured in the Florida aquifer, Rocky Creek, the northeast stormwater pond, surficial aquifer groundwater monitoring well #MW-312 and offsite groundwater monitoring wells.
6. This affidavit is executed and recorded in the public records of Hillsborough County, Florida in compliance with F.A.C. 62-522.500(3)(c) for documentation of the location of the ZOD.

FURTHER AFFIANT SAY NOT.

RICHARD AKE
CLERK OF CIRCUIT COURT
HILLSBOROUGH COUNTY

RETURN TO: REAL ESTATE DEPARTMENT ✓

Sign: Daryl B. Smith (SEAL)Print Name: Daryl B. SmithTitle: Director, Solid Waste Management Department

(pth2:zondischg.aff)

1997 APR 11 AM 11:11

97089106

APR

1997

EXHIBIT I

OFF REC 8523 0514

STATE OF Florida
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 2nd day of April,
1997, by Darryl H. Smith, who is personally
known to me or who has produced N/A as identification.

NOTARY PUBLIC:

Sign: [Signature] (SEAL)

Print Name: Francis H. Howard

Title or Rank: Fiscal Services Manager

Serial/Commission Number: CC488182

My Commission Expires:



FRANCIS H. HOWARD
My Comm Exp. 8/13/99
Bonded By Service Inc
No. CC488182
My Comm Exp. 8/13/99 (Other L.C.)

(ACK)

APR 11 1997

EXHIBIT I

REC 8523 20515

EXHIBIT "A"

NORTHWEST LANDFILL
PROPERTY DESCRIPTION

That part of the Northeast 1/4 lying south of Rocky Creek; that part of the East 1/4 of the Southwest 1/4 lying east of Rocky Creek; that part of the East 1/2 of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 lying east of Rocky Creek; and, all of the Southeast 1/4. All lying and being in Section 14, Township 28 South, Range 17 East, Hillsborough County, Florida.

Less existing public road right of ways.

Containing 200 acres, more or less.

APR 11 1997

APR 11 1997

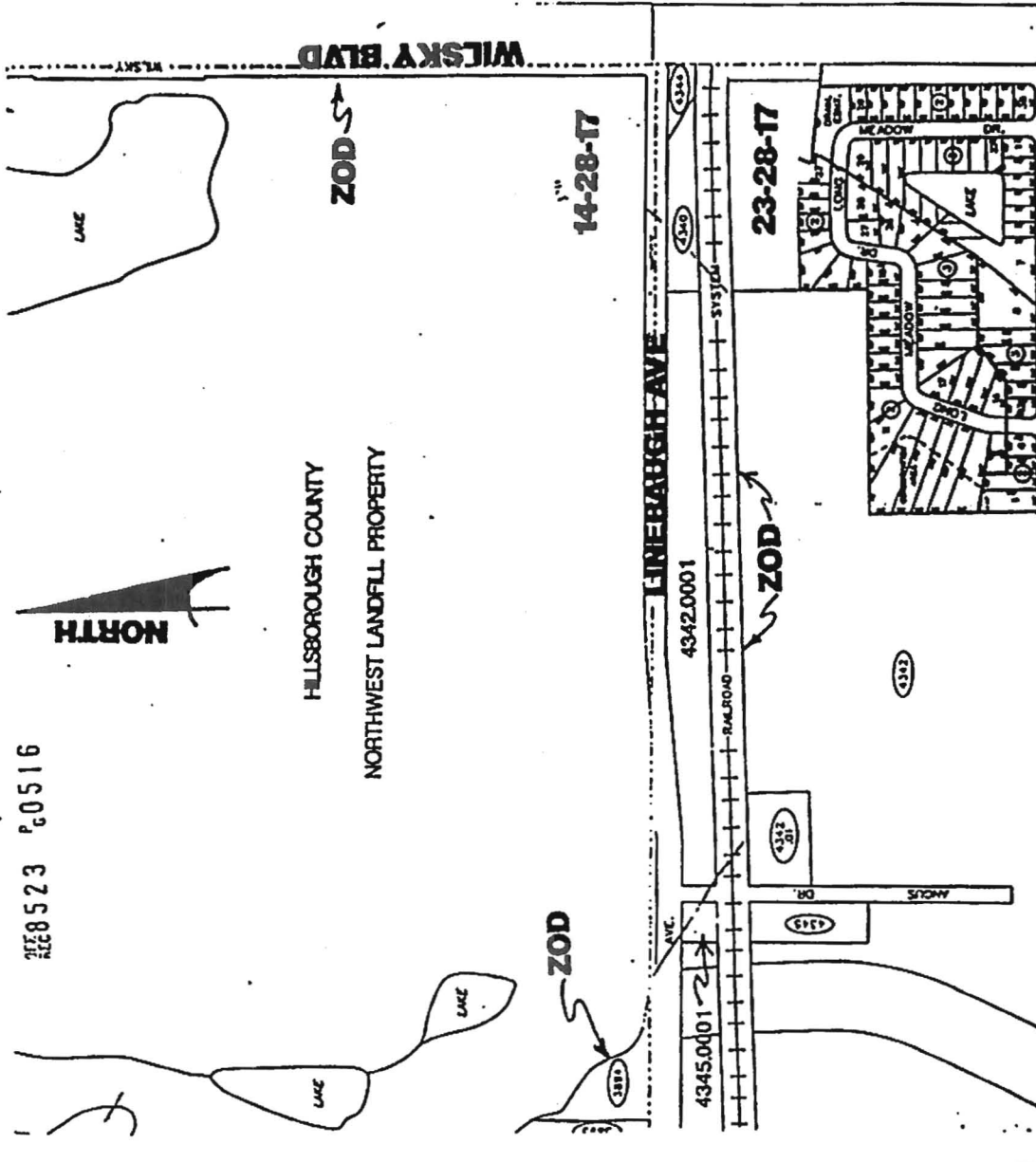


EXHIBIT 'B'
FIGURE #1

EXHIBIT I

8523 0517

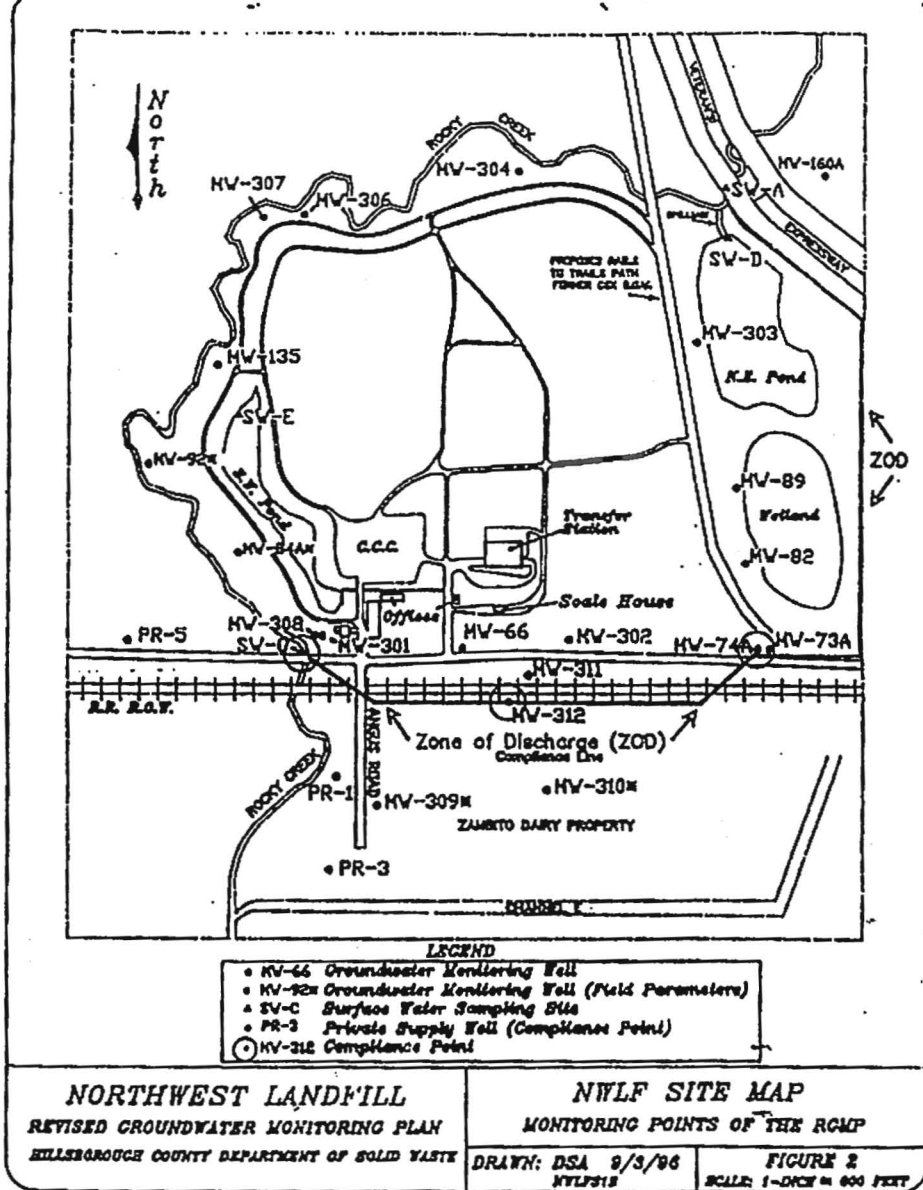


EXHIBIT "B" - FIGURE #2

APR 11 1997

APR 11 1997

EXHIBIT "C"

EXTENDED ZOD PROPERTIES

SEE 8523 P.0518

NAME OF OWNER, ADDRESS, DESCRIPTION OF PROPERTY AND OTHER INFORMATION										VALUES		TAXES		
FOLIO-NO.	DUR CODE	SEC TWN	RGE TAX DIST	PLAT BOOK-PAGE	OFF-REC BOOK-PAGE	MAP	ACRES	HTG		TYPE OF CLAIM	AMOUNT	MILLAGE	TYPE	APPROPRIATE TAXES
4340.0000	86	23-28-17	N		7256-1502	1	1.84			NON-EX		25.77640	N	.00
HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS Z REAL PROP CUSTODIAN P O BOX 1110 TAMPA FLORIDA 33601														
E 1/2 OF NE 1/4 OF NE 1/4 N OF SCL RR LESS E 25 FT RD AND LESS N 40 FT FOR LINEBAUGH AV								TOTAL ASSMNT	18400*	E EXEMPT TOTAL	18,400			*****.00*
								JUST VALUE	18400*		18,400			
4342.0001	60	23-28-17	N		8130-1460		40.44	998		NON-EX	996	25.77640	N	25.68
Hillsborough County Board of County Commissioners														
R/W FOR HILLSBOROUGH COUNTY LYING WITHIN NW 1/4 OF NE 1/4 OF NE 1/4 LESS R/W AND NW 1/4 OF NE 1/4 LESS W 125 FT OF N 1/2 AND LESS E 50 FT OF W 175 FT FOR RD LESS S 236.4 FT AND LESS R/W AND THAT PART OF SE 1/4 OF NE 1/4 OF NW 1/4 E OF ROCKY CREEK LESS R/W FOR CHANNEL A AND LESS THAT PARCEL DESC AS COM AT NW COR OF NW 1/4 OF NE 1/4 AND RUN ELY 175 FT TO A PT ON ELY R/W LINE OF ZAMBITO ROAD THN S ALG SD ELY R/W LINE TO A PT LYING S2 FT S OF SLY R/W LINE OF SCLRR FOR POB THN E 208.71 FT THN S 208.71 FT THN W 208.71 FT TO A PT ON AFOREMENTIONED ZAMBITO ROAD R/W THN N ALG SD R/W LINE 208.71 FT TO POB								TOTAL ASSMNT	996*	TOTAL	996			****25.68*
								JUST VALUE	414588*	LITIGATION		PRORATION		25.68
4345.0001	12	24-28-17	N		OT 196-4717	32-A	1.38			NON-EX	2,213	25.77640	N	57.05
Hillsborough County Board of County Commissioners														
R/W FOR HILLSBOROUGH COUNTY LYING WITHIN W 125 FT OF NW 1/4 OF NE 1/4 OF NE 1/4 LESS RR R/W AND LESS LINEBAUGH AV								TOTAL ASSMNT	2213*	TOTAL	2,213			****57.05*
								JUST VALUE	117804*	LITIGATION		PRORATION		57.05
								*PAYMENT INFO.	01/21/97		8553-01	57.05		57.05

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

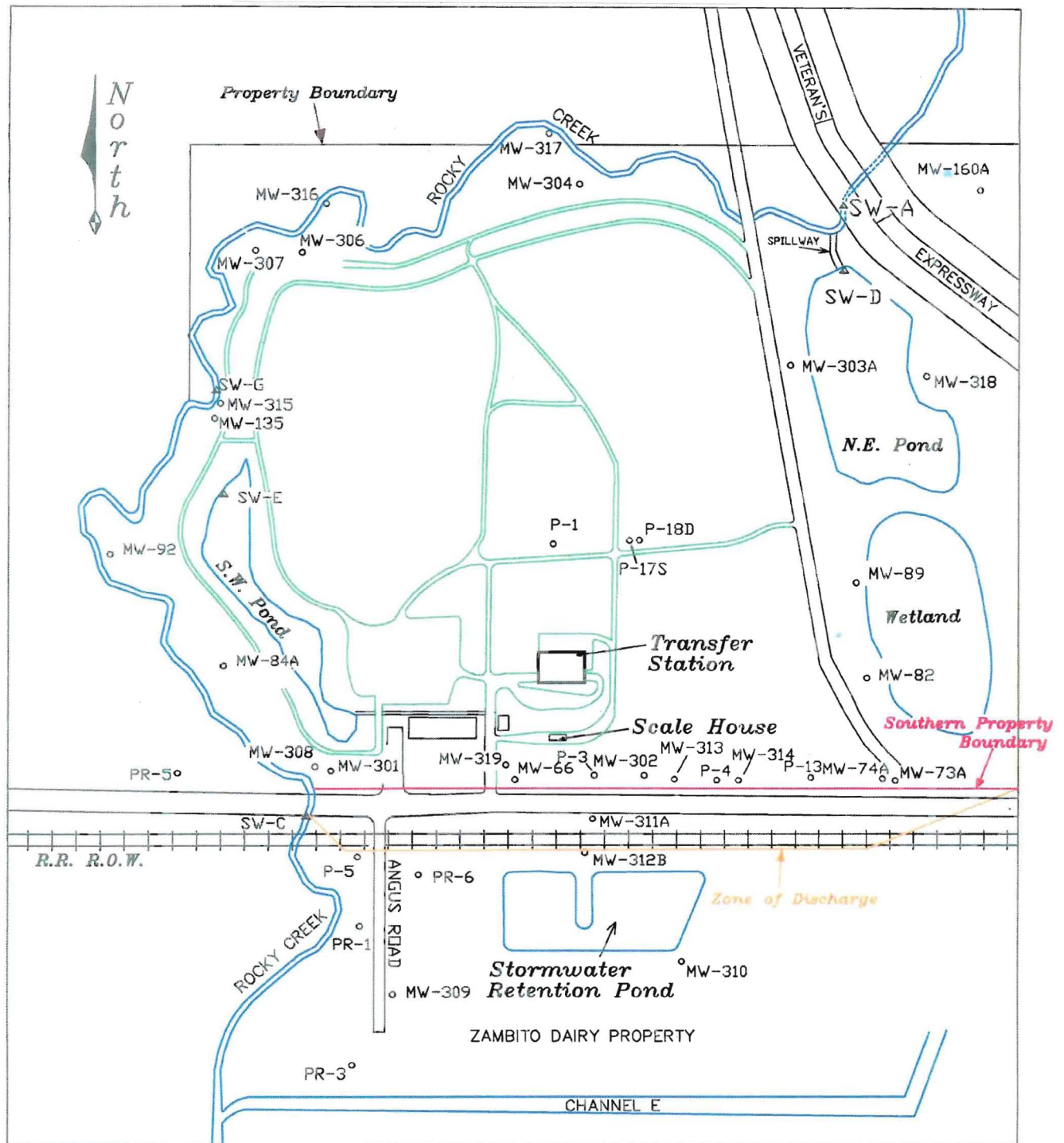
THIS IS TO CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE DOCUMENT ON
FILE IN MY OFFICE. WITNESS MY HAND AND
OFFICIAL SEAL THIS 11th DAY OF APRIL 1997

RICHARD AKE, CLERK
BY *[Signature]*



EXHIBIT I

EXHIBIT II



LEGEND

- MW-66 Groundwater Monitoring Well Location
- P-1 Piezometer Location
- PR-1 Private Supply Well
- △ SW-A Surface Water Sampling Site / Staff Gauge Location
- Southern Property Boundary
- Expanded Zone of Discharge

NORTHWEST LANDFILL

HILLSBOROUGH COUNTY

SOLID WASTE MANAGEMENT DEPARTMENT

MANAGEMENT & ENVIRONMENTAL SERVICES SECTION

GROUNDWATER MONITORING WELL, PIEZOMETER,
PRIVATE SUPPLY WELL, AND SURFACE WATER
SAMPLING POINT LOCATION MAP

Checked:

SCALE: 1-INCH ≈ 600 FEET

Consent Order OGC Case No. 08-2838

Contaminants Detected and Confirmed in Wells Designated as Compliance Wells in Concentrations Significantly Above Background Water Quality or at Levels Above the Department's Water Quality Standards or Criteria in Ground Water Samples Collected at Northwest Landfill, Hillsborough County

Parameter/ Sampling Event	Ground Water Criterion	Criterion Type	Monitor Well Identification Number											
			BACKGROUND			SOUTH BOUNDARY						WEST/NORTH BOUNDARIES		
			MW-74A B/S	MW-82 B/S	MW-89 B/S	MW-66 C/S	MW-301 C/S	MW-302 C/S	MW-312A C/S	MW-313 C/S	MW-314 C/S	MW-315 C/S	MW-316 C/S	MW-317 C/S
Lead (mg/L)														
Feb-07	0.015	1° GWS	0.0008	0.0063	0.0053	0.028	0.048	0.0008	0.0017					
Aug-07	0.015	1° GWS	0.0008	0.053	0.018	0.0089	0.047	0.002	0.0008					
Nov-07	0.015	1° GWS								0.003	0.0008			
Feb-08	0.015	1° GWS	0.0008	0.0026	0.016	0.072	0.0041	0.0008	0.0008	0.0022	0.0023			
Apr-08	0.015	1° GWS							0.0008					
Aug-08	0.015	1° GWS	0.001	0.013	0.011	0.006	0.0026	0.001	0.001	0.001	0.001			
Dec-08	0.015	1° GWS										0.0008	0.0034	0.0094
Jan-09	0.015	1° GWS										0.0025	0.0027	0.0086
Feb-09	0.015	1° GWS	0.001	0.0072	0.0078	0.0073	0.005	0.001	0.001	0.001	0.001	0.001	0.001	0.017
Isopropyl benzene (µg/L)														
Feb-07	0.8	MC	0.095	0.095	0.095	3.8	1.5	2.7	0.53					
Aug-07	0.8	MC	0.095	0.095	0.095	0.095	0.095	2	0.095					
Nov-07	0.8	MC	0.095			1.8		0.75	0.095	0.095	0.095			
Feb-08	0.8	MC	0.033	0.033	0.033	3.1	1.8	1.8	0.03	0.37	0.79			
Apr-08	0.8	MC							0.095					
Aug-08	0.8	MC	0.095	0.095	0.095	1.6	1.3	2	0.26	0.39	0.73			
Dec-08	0.8	MC										3.9	5.1	0.095
Feb-09	0.8	MC	0.095	0.095	0.095	1	1.2	1.4	0.095	0.21	0.62	0.47	1.4	0.095
Ammonia (mg/L)														
Feb-07	2.8	MC	0.34	0.7	1	120	34	170	32					
Jun-07	2.8	MC				110		120	29					
Nov-07	2.8	MC	0.36			60		140	28	13	34			
Feb-08	2.8	MC	0.31	0.92	1	300	31	120	26	10	34			
Apr-08	2.8	MC							26					
Aug-08	2.8	MC	0.33	0.82	0.91	17	32	130	28	3.9	31			
Dec-08	2.8	MC										58	82	2.3
Jan-09	2.8	MC										63	78	1.1
Feb-09	2.8	MC	0.26	0.69	0.81	110	34	130	28	9	41	57	80	0.68

Monitor Well Descriptions:

- B = background well
- C = compliance well
- S = surficial aquifer

 = exceedance of ground water standard or minimum criteria

-- results reported to be below the MDL are indicated in this table at **half** the detection limit

1° GWS = primary ground water standard

MC = ground water minimum criterion (Chapter 62-777, F.A.C., Table 1)