



Jack Long, Director  
Southeast District Office

# Florida Department of Environmental Protection

Southeast District Office  
400 N. Congress Avenue, Suite 200  
West Palm Beach, FL 33401  
(561) 681-6600

9/24/09

*RECEIVED*  
*PLEASE TAKE*  
*APPROPRIATE*  
*ACT.*

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

*[Signature]* Michael W. Sole  
Secretary

SEP 22 2009

**CERTIFIED MAIL 7009 0960 0000 3123 5368**

Ms. Maria Alberro Jimenez, Assistant City Manager  
City of Coral Gables  
405 Biltmore Way  
Coral Gables, Florida 33154

Miami-Dade County, Florida  
Facility ID No. FLU024805

RE: Florida Department of Environmental Protection vs. City of Coral Gables,  
Consent Order Number OGC 08-2788

Dear Ms. Jimenez:

Enclosed for your review and signature is the revised Consent Order drafted by the Department in the above-styled case. This revised Consent Order includes revised project completion dates and an explanation of requirements for In-Kind Projects. The Consent Order represents a resolution acceptable to the Department in this matter.

Please review, sign, and return the original Consent Order within 30 days of receipt to this office for Department signature and execution. If you do not sign and return this letter to the Department within 30 days of receipt, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly.

Should you have any questions concerning the Consent Order, please contact Fred Rapach of this office at (561) 681-6711.

Sincerely,

*[Signature]*  
Jack Long  
District Director  
Southeast District

JL/LAB/MH/brk

*9-22-09*  
Date

City of Coral Gables

SEP 24 2009

RECEIVED  
City Managers Office

City of Coral Gables  
Consent Order No. OGC 08-2788  
Page 2 of 2

enc: Consent Order No. 08-2788

Copies furnished to:

Lea Crandall, Agency Clerk  
Diana Thurman, DEP/TLH  
R. Alberto Delgado, Public Works Director, Coral Gables  
Agustin Socarras, DERM  
Michael Bechtold, DEP/WPB

[Lea.Crandall@dep.state.fl.us](mailto:Lea.Crandall@dep.state.fl.us)  
[Diana.Thurman@dep.state.fl.us](mailto:Diana.Thurman@dep.state.fl.us)  
[ADelgado@coralgables.com](mailto:ADelgado@coralgables.com)  
[SocarA@miamidade.gov](mailto:SocarA@miamidade.gov)  
[Mike.Bechtold@dep.state.fl.us](mailto:Mike.Bechtold@dep.state.fl.us)

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION, )

vs. )

CITY OF CORAL GABLES, )  
\_\_\_\_\_ )

IN THE OFFICE OF THE  
SOUTHEAST DISTRICT

OGC FILE NO. 08-2788

**CONSENT ORDER**

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

The Department finds and the Respondent admits 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 Chapter 403, Florida Statutes ("Fla. Stat."), and the rules promulgated thereunder, Title 62, Florida Administrative Code ("F.A.C."). The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a person within the meaning of Section 403.031(5), Florida Statutes.

3. Respondent is the owner of and is responsible for the operation of the City of Coral Gables Wastewater Collection and Transmission System ("System"), a system of pipes and lift stations that collects sewage in the City of Coral Gables and delivers it to a regional wastewater treatment facility.

4. The Department finds that:

a. On September 11, 2008, Respondent discharged, as a result of conducting surcharging activities, an unknown amount of untreated wastewater from the System onto Tagus Avenue and Aqua Avenue, in violation of Rule 62-604.130(1), F.A.C. The untreated wastewater

flowed onto ground surfaces and into French Drain type storm drains with natural percolation and no visible outlets. A copy of Miami-Dade Department of Environmental Resource Management ("DERM") Complaint # 49342 is attached hereto and incorporated herein as Exhibit A.

b. On September 13, 2008, Respondent discharged untreated wastewater from System manholes onto the intersection of Tagus Avenue and Aqua Avenue and onto the corner of Belle Vista Avenue and Red Road (SW 57<sup>th</sup> Avenue), in violation of Rule 62-604.130(1), F.A.C. The SW 57<sup>th</sup> Avenue location has a visible flow at low tide into the wildlife preserve south of Bella Vista Avenue. The untreated wastewater flowed into the streets, storm drains, driveways, and lawns in the area. A copy of DERM Complaint # 49362 is attached hereto and incorporated herein as Exhibit B.

c. On October 5, 2008, Respondent discharged untreated wastewater from System manholes onto Tagus Avenue and Aqua Avenue, in violation of Rule 62-604.130(1), F.A.C. A copy of DERM Complaint # 49574 is attached hereto and incorporated herein as Exhibit C.

d. Respondent failed to report the discharges of untreated wastewater described in subparagraphs (a)-(c) above, in violation of Rules 62-604.550(2)(b) and 62-604.550(2)(c), F.A.C.

5. Having reached a resolution of the matters described above, the Department and Respondent mutually agree and it is;

**ORDERED:**

6. The Department, in consideration of and in exchange for the Respondent's commitment and agreement to adhere to the requirements set forth in Paragraph 10, below, hereby conditionally waives its right to sue the Respondent for the violations addressed by this Order.

7. The waiver described in paragraph 6 is conditioned upon the Respondent's complete compliance with all of the terms of this Order. If Respondent fails to comply with the terms of this Order, the waiver conditions will be considered unfulfilled and the waiver will be ineffective.

8. Respondent further agrees not to assert any claim of waiver and/or estoppel against the Department in the event Respondent fails to comply with any requirement of this Order, and the Department, as a result thereof, elects to pursue the Respondent for civil penalties assessed as a result of the Respondent's non-compliance with the terms of this Order.

9. The Respondent acknowledges and agrees that in no event shall Paragraphs 6 through 8 be construed to apply as a waiver by the Department to undertake causes of action not addressed by this Order.

10. The Department's conditional waiver of its right to sue, as detailed above, is also expressly conditioned upon the Respondent's complete and timely performance of all requirements set forth in this Paragraph. Respondent shall comply with the following corrective actions within the stated time periods:

a. Respondent shall complete the Old Cutler Road Force Main Replacement Project in accordance with the following completion date:

i. Completion of Phase IV, Old Cutler Road 16 inch force main, from approximately SW 57<sup>th</sup> Avenue to Pump Station A ("PS-A"), located at Red Road (SW 57<sup>th</sup> Avenue) and Campamento Avenue, by March 31, 2010.

b. Within 60 days of the effective date of this Order, Respondent shall submit the preliminary engineering report, along with the proposed construction schedule, for completion of the PS-A upgrade. All PS-A improvements shall be completed by May 31, 2010. It is recognized herein that Respondent's PS-A completion date also includes completion of Infiltration and Inflow ("I/I") reduction repairs and post rehabilitation flow ("GPDIM") monitoring and reporting to verify compliance of the PS-A Basin with the Miami-Dade

Municipal Code (<http://www.municode.com/resources/gateway.asp?pid=10620&sid=9>) Chapter 24 Article III, Division 1 standards. Specifically, paragraph 24-42.2 (1) (d) states that the sewer system infiltration and inflow rehabilitation programs shall be sufficient to insure that sewer system infiltration and inflow into the rehabilitated sanitary sewer collection system shall be less than five thousand (5,000) gallons per inch pipe diameter per day per mile of pipe and laterals, or complies with best management practices as required by the U.S. EPA's Sewer System Infrastructure Analysis and Rehabilitation Handbook (October 1991, EPA/625/6-91/030).

c. As of the effective date of this Order, there are 19 pump stations in the Respondent's System that are subject to various moratorium and/or restrictions, most of which stem from the Normal Average Pump Operating Time ("NAPOT") exceeding the 10 hours, per day maximum. Respondent shall complete the rehabilitation and upgrades of all of the pumps stations identified in and in accordance with the schedule attached hereto and incorporated herein as Exhibit D. The implementation of this requirement is subject to the United States Environmental Protection Agency's ("EPA") approval of the WASD plan. The requirements of this paragraph shall be limited to compliance with the 10 hours NAPOT.

11. In the event of a sale or conveyance of the System or of the property upon which any part of the System, is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property or facility:

- a. Notify the Department of such sale or conveyance,
- b. Provide the name and address of the purchaser, or operator, or person(s) in control of the facility, and
- c. Provide a copy of this 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 Order.

12. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$40,500.00 in settlement of the matters addressed in this Order. This amount includes \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalties are apportioned as follows: \$10,000.00 for violation of Rule 62-302.530, F. A. C., for failure to properly report the spill identified in Paragraph 4 of this Order as an unauthorized discharge; and \$10,000.00 per day for three days of violations of Rule 62-604.130(1), F.A.C., discharge of untreated wastewater. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this Order and the notation "Ecosystem Management and Restoration Trust Fund". Payment shall be sent to the Department of Environmental Protection, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida, 33401.

13. In lieu of making cash payment of \$40,000.00 in civil penalties as set forth in paragraph 12 above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be an environmental enhancement, environmental restoration or a capital/facility improvement project. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$60,000.00. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order.

14. If Respondent elects to implement an in-kind project as provided in paragraph 13, then Respondent shall comply with all of the requirements and time frames in Exhibit E entitled In-Kind Projects.

15. Within 30 days of the effective date of this Order, Respondent shall pay DERM \$1,529.00 in settlement of the matters addressed in this Order. This amount includes \$1,529.00 for costs and expenses incurred by DERM during the investigation of this matter, and the preparation and tracking of this Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the "Department of Environmental Resources Management" and shall be submitted to: DERM, c/o Joseph Ramdial, Environmental Code Enforcement Officer; 701 NW 1 Court, Suite 7-200; Miami, Florida, 33136.

16. 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 10 and 11 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Order and the notation "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida, 33401. 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 terms of this Order. Any penalties assessed under this Paragraph shall be in addition to the settlement sum agreed to in Paragraph of this 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 Order in an amount greater than the stipulated penalties due under this Paragraph.

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 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 Order.

18. Persons who are not parties to this Order, but whose substantial interests are affected by this Order, have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below 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 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 name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, 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, MS #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.

19. 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 Order and the rules and statutes of the Department.

20. All submittals and payments required by this Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida, 33401.

21. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This 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.

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

21. The terms and conditions set forth in this 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 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 Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

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

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

25. 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 Order. Respondent acknowledges its right to appeal the terms of this Order pursuant to Section 120.68, Florida Statutes, and waives that right upon signing this Order.

26. This 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 Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

\_\_\_\_\_  
Maria Alberro Jimenez, Interim City Manager  
City of Coral Gables

\_\_\_\_\_  
Date

DONE AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 200\_, in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Jack Long  
District Director  
Southeast 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

\_\_\_\_\_  
Date

Copies furnished to:

Lea Crandall, Agency Clerk, MS #35, DEP/TAL  
Diana Thurman, Enforcement Coordinator, Water Facilities, DEP/TAL  
R. Alberto Delgado – City of Coral Gables – Public Works Director  
Agustin Socarras – DERM  
Michael Hambor – DEP/WPB  
Mike Bechtold – DEP/WPB  
Todd Brown – DEP/WPB

## **Exhibit A**

## DERM Complaint Inspection Worksheet

Inspection Area	S-2
Inspector	CEREZR
Date (mm/dd/yyyy)	9/11/2008
Start Time (24 hr. format)	9:48
End Time (24 hr. format)	13:11
Hours Worked	
Mileage	15
County Vehicle Number	26036

### Complaint Information

Complaint #	49342
Complainant Name	Mr. Russel
Complainant Address	N/A
Complainant Phone #	305-796-3996
Call back?	Yes <span style="margin-left: 20px;">Call back info (DATE&amp;TIME): 9/11/2008</span>
Source Name	Sanitary nuisance
Source Address	1420 Tagus Ave.
City	Coral Gables
Nature of Complaint	Two sewage manholes surcharged at the end of Tagus Ave. Similar situation occurring at Agua Ave. Problem has been occurring for some time; sewage goes into nearby storm drains which discharge into nearby canals.
Additional Complaint Types:*	NPDES <input type="checkbox"/> SAN.NUIS <input type="checkbox"/> SPILLS <input type="checkbox"/> SURF H2O <input type="checkbox"/>

\* Please add NPDES to all relevant complaints

Inspection Type & Reason:	UNS-COM	
Outcome Code:	SAT	Notice Given: (for Water Rest & NPDES)
Inspector On Call:	No	
On Site Contact Name	Mr. Russel Anno and Mr. Cary Smith.	
On Site Contact Title	Complainant and Line Tech for the City of Coral Gables, respectively.	
On Site Phone #	(305) 460-5180 main and (786) 371-9817.	
Photos Taken:	Yes	Samples Taken: No
QUE FOL Inspection (w/in Days)?	No	QUE FOL to?
Permit Group Notification	Yes	Enforcement Required: No

Supervisor	Eric Carr
Review Date	09/23/08
Status	Pending

### Comments

Note: Use CTRL-A to select all text

I responded to the complaint and arrived on site. I walked both Tagus Avenue and Aguas Avenue in the immediate area. During my inspection, I noted evidence of sewage water that had been discharging from manholes located in both roadways. Water not currently discharging. I noted that the discharge water had impacted nearby open ground areas, the public right of way and area storm drains. The first manhole inspected is located across from 1460 and 1461 Tagus Avenue and discharge water had impacted two storm drains. The second manhole inspected is located across from 1520 Aguas Avenue and had impacted another storm drain.

I proceeded to call the complainant (Mr. Russel). He informed me that the surcharging issue had been an ongoing problem for almost three years. He also added that the thought that the storm drains in Tagus Avenue drain to a nearby canal. I contacted the City of Coral Gables Public Works Department and informed them about the sanitary nuisance.



Comments (cont.)

Note: Use CTRL-A to select all text

In addition, I informed the City of Coral Gables dispatcher, Patty, that I would stay on site until their arrival. I also spoke, via telephone, with Mr. Steve Blair from DERM to inform him of the situation.

Secondly, I called Mr. Agustin Socarras from the DERM Water & Waste Water Section, but he was not in his office at the time.

\*\*\*\*\*

During my assessment of the nearby body of water (canal), I noted no pipes leading to the water and cattail patches growing along the seawalls of the canal. As per Mr. Russel, for the last past three years residents have noted a spike in the growth of cattails in the canal and consequently, they are constantly cutting the plants that usually grow near the shore and seawalls. Noted no obvious evidence of discharges to the canal.

\*\*\*\*\*

Once the repair crew from the City of Coral Gables arrived, I appraised them of the situation. They proceeded to clean and disinfect the area. They also pumped out and pressure cleaned all impacted storm drains.

\*\*\*\*\*

I spoke to Mr. Cary Smith (Crew Chief), who was not able to give an actual flow rate or discharge amount, since the manholes were not surcharging when he arrived to the site. I issued two Field Notices to Correct a Sanitary Nuisance to Mr. Alberto Delgado, Director of Public Works for the City of Coral Gables. Mr. Smith signed for the notices. One notice was for the discharge near 1460 and 1461 Tagus Avenue and the other near 1520 Aguas Avenue.

\*\*\*\*\*

I stayed on site until the cleaning activities were complete. I will investigate to determine the final discharge point for the impacted storm drains. Will also attempt to determine cause of reoccurring discharge problem. See photos for details. -EC  
9-23-08

## **Exhibit B**

## DERM Complaint Inspection Worksheet

Inspection Area	S-2
Inspector	SMITHR
Date (mm/dd/yyyy)	9/13/2008
Start Time (24 hr. format)	8:20
End Time (24 hr. format)	11:25
Hours Worked	3.05
Mileage	10
County Vehicle Number	17080

### Complaint Information

Complaint #	49362
Complainant Name	Rossoll Anno
Complainant Address	4161 Tagus Ave
Complainant Phone #	305-796-3997
Call back?	Yes
Source Name	Sanitary Nuisance
Source Address	Manhole located in Tagus ave
City	Coral Gable
Nature of Complaint	Manhole overflowing on Tagus Ave. Impacting Storm drains, driveways and grass neighborhood.
Additional Complaint Types:*	

\* Please add NPDES to all relevant complaints

Inspection Type & Reason:	UNS-COM
Outcome Code:	USAT
Inspector On Call:	Yes
On Site Contact Name	Rossoll Anno
On Site Contact Title	Neighbor
On Site Phone #	305-796-3997
Photos Taken:	Yes
QUE FOL Inspection (w/in Days)?	No
Permit Group Notification	Yes
Notice Given:	(for Water Rest & NPDES)
Samples Taken:	No
QUE FOL to?	
Enforcement Required:	Yes

Supervisor	Eric Carr
Review Date	09/23/08
Status	Closed

### Comments

Note: Use CTRL-A to select all text

On 09-13-2008 I conducted an inspection at Tagus Ave, Agua Ave and the corner Red Road and Bella Vista, in response to a sewer overflow complaint. I observed dark water with sewage odor, in the street, area storm drains, driveways and the edge of the street. The discharge came from a street manhole.

I called WASD's 24 hour emergency response and reported the overflow. WASD called me back and told me that they did not have jurisdiction in Coral Gables.

I called Coral Gables Storm Water and Water Department and they did not respond. I called my On-CALL (Janett Rodriguez) supervisor for help. She contacted the water and sewer supervisor, who would a crew to fix, clean and disinfect the area. See site sketch and photos.

I contacted the complainants, Mr. Rossoll Anno and Mark Tomasin. They told me that the overflowing has been re-occurring for months, whenever the sea tide is high.

Comments (cont.)

Note: Use CTRL-A to select all text

They said that they have spoken with Coral Gables Stormwater and Water Department inspectors and nothing has been resolved.

\*\*\*\*\*

I inspected the area storm drains and noted sewer discharge water in them. I did not notice the water raising in the storm drains, therefore I could not calculate the approximate sewage water being discharged per minute. I walked around the area and noted that they drains do not appear to discharge into the canals behind the near-by residences.

\*\*\*\*\*

I stayed on site until the work crew arrived. Noted that a crew from City of Coral Gables Stormwater and Water Department arrived within the hour. I issued a 24 Hr notice to cease/desist and clean the sanitary nuisance. Mr. Micheal Beecharu (Crew supervisor) signed for the notice. I stayed on site and verified that the area was cleaned and disinfected. Recommend case be closed.

-EC 9-23-08

## **Exhibit C**

## DERM Complaint Inspection Worksheet

Inspection Area	S-2
Inspector	SYKORJ
Date (mm/dd/yyyy)	10/5/2008
Start Time (24 hr. format)	15:15
End Time (24 hr. format)	17:20
Hours Worked	2:05
Mileage	19
County Vehicle Number	26046

### Complaint Information

Complaint #	049574
Complainant Name	Russel Anno
Complainant Address	1420 Tagus Ave, Coral Gables, FL
Complainant Phone #	305-796-3397
Call back?	Call back info (DATE&TIME):
Source Name	Street manholes
Source Address	Tagus Ave, Gables by the Sea
City	Coral Gables
Nature of Complaint	Four sewer manholes are discharging sewage onto the street.
Additional Complaint Types:*	SAN.NUIS ON-CALL NPDES

\* Please add NPDES to all relevant complaints

Inspection Type & Reason:	UNS-COM	
Outcome Code:	USAT	Notice Given: (for Water Rest & NPDES)
Inspector On Call:	Yes	
On Site Contact Name	Eugenio Arrango	
On Site Contact Title	NA	
On Site Phone #	786-554-0404	
Photos Taken:	Yes	Samples Taken: No
QUE FOL Inspection (w/in Days)?	No	QUE FOL to?
Permit Group Notification	No	Enforcement Required: No

Supervisor	Eric Carr
Review Date	10/11/08
Status	Referred

### Comments

Note: Use CTRL-A to select all text

On 10/5/08 at 3:15 pm, I received a call from the on call answering service of sewage discharging onto Tagus Avenue in Coral Gables from the sewer manholes in the street. I contacted Miami Dade WASD in an attempt to find emergency contact information for Coral Gables. Nothing was available. I contacted Coral Gables Police (305-442-1600) and informed them of the complaint. They indicated they would contact the proper Coral Gables personnel and have them investigate the problem.

At about the same time, I received another call from the answering service from Mr. Russel Anno regarding the same complaint.

At 4:00 pm I arrived on Tagus Ave in front of 1420 Tagus Ave and met Mr. Eugenio Arrango. I observed no active discharges from any of the sewer manholes on Tagus Ave. Further, I did not see any obvious sewage in the street (e.g. feces or tissue paper). I did observe water puddled along the north side of

**Comments (cont.)**

*Note: Use CTRL-A to select all text*

Tagus Ave. I detected no sewage odors as I walked along the puddles of water. I saw no evidence in the puddled water positively identifying it as sewage water.

I opened a sewer manhole in front of 1421 Tagus Ave and found it to be surcharged. The sewer piping could not be seen, due to the high liquid level. However, the level was not rising or high enough to signal an imminent discharge.

Both Mr. Arrango and Mr. Anno produced photos and video evidence of manholes on Tagus Ave discharging sewer water. They emphasized that this problem has been ongoing and no one will take responsibility and correct the problem. I informed them that I would complete and submit a report on this particular complaint and inform the DERM Area Supervisor of the problem.

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Case forwarded to Steve Blair and Agustin Soccaras (DERM) for documentation concerning the sanitary sewers in this area. -EC

## **Exhibit D**



Station	Address	Station Type	Subject to FM Improvement	Proposed RAP	Expected Completion Date/Status	Date Last Migratorium
THIRTY-FOUR (34) CITY OF HOUSTON STATIONS						
A	1590 CAMPAMENTO	IM	NO	NONE (an incomplete RAP was provided in response to NOV)	Not Provided	1/16/2008
ARVIDA	1100 ARVIDA PKWY	AM	NO	NO NEW RAP	Not Provided	3/30/2001
BE-VI-1	1325 BELLA VISTA AVE	AM	NO	STATION CLEANED, GUIDE RAILS & FLOATS REPLACED PUMPS OVERHAULED, CHECK VALVES REPAIRED (ET Did not go down; No new RAP submitted; remains under AM)	8/18/2003	6/26/2003
BE-VI-2	705 BELLA VISTA AVE	AM	NO	Check Valves repaired 4/19/2000, but did not decrease hours after 12 month. No New RAP submitted. Remains under AM	4/19/2000	5/31/2001
C	8850 ARVIDA LN	IM	NO	Station in IM for high hours. No new RAP provided.	Not Provided	7/27/2005
CAMPAME	1380 CAMPAMENTO AVE	CM	YES	PLAN CALLS FOR REPLACEMENT OF FORCE MAIN SERVING OLD CUTLER ROAD AREA	Not Provided	7/27/2005
CAMPANA	11000 CAMPANA AVE	IM	NO	NO PLAN HAS BEEN PROVIDED FOR BREAKS, TO INCLUDE NEW FORCEMAIN. BOTH PROBLEMS MUST BE FIXED BEFORE THE STATUS GOES TO AC	Not Provided	8/29/2002
CASUA-1	475 CASUARINA CONCOURSE	AC	YES	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	Completed	6/8/2006
CASUA-2	80 CASUARINA CONCOURSE	AC	YES	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	Completed	6/8/2006
E	25 W SUNRISE AVE	AM	NO	END OF 12 MONTH OBSERVATION PERIOD Proj. NAPOT > 10.0 No new RAP Provided	Not Provided	6/20/2002
FIRE #3	OLD CUTLER ROAD & 57 AVE	AC	YES	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	FM Date	7/27/2005
JOU-END	W OF CULDESAC ON JOURNEYS END DR	AC	YES	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	FM Date	7/27/2005
LEUCA-1	490 LEUCADENDRA	IM	NO	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	FM Date	7/27/2005
LEUCA-2	200 LEUCADENDRA	AC	YES	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	Completed	7/27/2005
LUGO	1036 LUGO AVE	CM	YES	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	Not Provided	7/27/2005
ROVINO	487 ROVINO AVE	IM	NO	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	FM Date	6/12/2006
SAN-PED	1100 SAN PEDRO AVE	CM	YES	STATION STATUS CHANGED OK TO CM DUE TO PROBLEMS WITH RECEIVING FORCE MAIN PER LETTER TO CITY 6/15/05	FM Date	7/27/2005
SO-PR-1	675 SOLANO PRADO	AM	NO	END OF 12 MONTH OBSERVATION PERIOD Proj. NAPOT > 10.0 No new RAP Provided	Not Provided	1/12/2004
SO-PR-2	190 SOLANO PRADO	AM	NO	END OF 12 MONTH OBSERVATION PERIOD Proj. NAPOT > 10.0 No new RAP Provided	Not Provided	2/26/2003

## **Exhibit E**

## Exhibit E

### In-Kind Projects

#### I. Introduction

##### An in-kind project

- a. Within 60 days of the effective date of this Consent Order, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.
- b. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.
- c. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all of the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties as set forth in paragraph 12 above, within 30 days of Department notice.

d. Within 120 days of the effective date of this Consent Order, Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, then Respondent shall make cash payment of the civil penalties as set forth in paragraph 12 above, within 30 days of Department notice.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph I(a) above, Respondent shall complete the entire in-kind project.

f. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

g. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$40,000.00 penalty, no additional penalties shall be assessed for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the

Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

i. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all of the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$40,000.00, no additional penalties shall be assessed for failure to complete the requirements of this paragraph.