

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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| STATE OF FLORIDA, DEPARTMENT |) | IN THE OFFICE OF THE |
| OF ENVIRONMENTAL PROTECTION, |) | SOUTHEAST DISTRICT |
| |) | |
| Complainant, |) | |
| |) | OGC FILE NO. 94-0984 |
| vs. |) | |
| |) | |
| MIAMI-DADE COUNTY, a political |) | |
| subdivision of the State of Florida, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

CONSENT ORDER AND SETTLEMENT AGREEMENT

The State of Florida, Department of Environmental Protection (“the Department”) and Miami-Dade County (the “County”), a political subdivision of the State of Florida, enter into this Consent Order and Settlement Agreement (“Consent Order”) to cooperatively address and resolve disputes which have arisen regarding numerous complex environmental matters at Miami International Airport (“MIA”).

RECITALS

BACKGROUND

A. The Department is the administrative agency of the State of Florida charged with the duty to administer and enforce the provisions of the Florida Air and Water Pollution Control Act, Sections 403.011, et seq., Florida Statutes (“F.S.”); the Florida Resource Recovery and Management Act, Sections 403.702, et seq., F.S.; Chapter 373, Part IV, F.S.; Chapter 376, F.S.; and the rules promulgated thereunder in the Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Consent Order.

B. The County is a political subdivision of the State of Florida and is a person within the meaning of Sections 403.031(5), 403.703(4), 373.019(5), and 376.301(12), F.S.

C. The County is the owner of MIA. The County operates the airport through its Aviation Department (“DCAD”). DCAD provides services to air carriers for a fee, and leases space to air carriers and supporting fixed base operators. DCAD is responsible for operating and maintaining the airport in compliance with all federal and state laws and regulations, and the Miami-Dade County Code (the “County Code”).

D. The County’s Department of Environmental Resources Management (“DERM”) is empowered to control and prohibit pollution and protect the environment within the County pursuant to Article VIII, Section 6 of the Florida Constitution, the Miami-Dade County Home Rule Charter, the County Code, and Section 403.182, F.S. Under this Consent Order, DERM shall exercise its local authority pursuant to Chapter 403.182, F.S., and Chapter 24 of the County Code.

E. MIA is located in Miami-Dade County, Florida. It is bounded on the north by Northwest 36th Street, on the south by State Road 836, on the east by Le Jeune Road, and on the west by the Venetian Canal. MIA occupies approximately 3,000 acres of developed land, with over 2,000,000 square feet of building space.

F. MIA is one of the busiest airports in North America. It is sixth in total passengers, third in total landings, and first in total international commercial cargo. Approximately 33,000 individuals work at MIA for public and private sector employers. MIA accounts for approximately \$3.5 billion of Florida’s economy annually.

G. To accommodate increased domestic and international traffic, the County is redeveloping MIA. The current capital improvement program for redevelopment is expected

to cost approximately \$4.6 billion. It is one of the largest public works projects in the State of Florida. The redevelopment project includes a new runway along the northern boundary of the airport and the complete renovation and expansion of the main terminal and cargo handling areas.

H. The addition of a runway at MIA is a Development of Regional Impact, under Chapter 380, F.S. It is also subject to the federal National Environmental Policy Act. An Environmental Impact Statement is required for this project. The redevelopment and expansion of MIA is subject to review and approval by federal, state, regional, and local regulatory agencies, including the Federal Aviation Administration, the State of Florida Department of Community Affairs, and the South Florida Regional Planning Council.

I. MIA has several on-site drainage canals that are part of its storm water management system. All but one of these drainage canals will be filled during the course of airport redevelopment. The South Florida Water Management District (“SFWMD”) has issued DCAD permits authorizing use of the canals. EPA has issued DCAD NPDES Permit No. FLS 000030 for discharges from the MIA storm water collection system, including on-site canals, through five permitted outfalls to the Miami and Tamiami Canals.

J. The County also owns some, but not all, of the underground and aboveground storage tanks, integral piping, fuel filtering systems, and associated airport hydrant piping systems located at the airport which contain, or which previously contained, petroleum and other substances regulated by the Department, DERM, and other governmental authorities. Portions of the airport were previously owned by the United States Department of Defense and operated by it as a defense installation.

TENANT ENVIRONMENTAL COMPLIANCE

K. Over the past 60 years, scores of airlines, fixed based operators, fueling companies, aircraft engine repair shops, and related industries have operated at MIA as tenants of the County. As a result of the operations of tenants and others, there have been spills, releases, and discharges of hazardous substances and petroleum products at various locations at MIA.

L. The Department and DERM have in the past conducted inspections of DCAD's and tenant operations at MIA. During these inspections, the Department and DERM noted alleged violations of the Florida Statutes, Florida Administrative Code, and the County Code. The Department and DERM have in the past initiated and are currently pursuing administrative proceedings: (a) to compel certain tenants at MIA to cease and desist from unlawful practices which threaten the environment; and (b) to require DCAD and certain tenants to implement corrective measures to abate polluting conditions. Areas of contaminated soil and groundwater at MIA have not been responded to by the tenants which caused or contributed to such contamination.

THE DERM-DCAD CONSENT AGREEMENT

M. In August 1993, DCAD and DERM signed a consent agreement under which DCAD voluntarily agreed to initiate assessment and remediation activities at certain contamination sites, including those associated with former tenants at MIA (the "1993 Consent Agreement"). DCAD also agreed to abide by the provisions of Chapter 24 of the Dade County Code. DCAD has made substantial progress in implementing the response actions contemplated by the 1993 Consent Agreement, attached as Exhibit A.

HAZARDOUS WASTE

N. Many of DCAD's current and former tenants are or were generators of hazardous waste subject to regulation under Florida's hazardous waste program.

O. Cleanup of many of the areas under review as possible candidates for the hazardous waste closure and corrective action process under 40 C.F.R. part 264 is underway.

P. DCAD is cooperating with the Department in making determinations of whether some of the contaminated locations at MIA currently being addressed under the 1993 Consent Agreement are areas of disposal of hazardous waste subject to closure under Ch. 62-730, F.A.C., incorporating 40 C.F.R. part 264. The parties are desirous of resolving all pending hazardous waste issues in accordance with the appropriate standard for decision and promptly completing appropriate cleanups at MIA.

Q. The Department and the United States Environmental Protection Agency ("USEPA") have jurisdiction over hazardous waste cleanups in Florida. The Department is authorized to administer the base hazardous waste program, which includes closure and post-closure for hazardous waste facilities. USEPA retains jurisdiction over facility-wide corrective actions for other solid waste management units and areas of concern pursuant to the Hazardous and Solid Waste Amendments of 1984 ("HSWA"). USEPA Region IV has acknowledged by letter dated November 14, 1997, that at appropriate cleanup sites, USEPA's cleanup integration and coordination policy may be used to integrate hazardous waste cleanup authorities with other substantially equivalent state and federal cleanup authorities which achieve the substantive requirements of such hazardous waste authorities.

CONTINUATION OF ENFORCEMENT ACTIONS

R. In addition to the Department and DERM administrative enforcement actions currently being pursued, DCAD is investigating those parties responsible for the contamination at MIA. The parties to this Consent Order intend to preserve the County's rights to recover costs of response from persons responsible for contamination at MIA.

S. A portion of MIA, known as the Eastern Varsol Spill Site, was previously placed on the National Priority List ("NPL") under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"). In the early 1980s, EPA studied a portion of MIA's West Cargo Area formerly known as "Aerodex Ponds" for possible listing on the NPL. The federal government has designated for future response action a portion of MIA within the U.S. Army's former Miami Air Depot in accordance with the Defense Environmental Restoration Program for Formerly Used Defense Sites ("DERP/FUDS"). The U.S. Army Corps of Engineers is studying the federal government's liability for contamination at MIA. Because federal funding for the cleanup of DERP/FUDS facilities must comply with federal law, response actions at the former Miami Air Depot may be subject to the requirements of relevant portions of the National Contingency Plan.

T. Many of the current and former tenants at MIA have not voluntarily responded to the contamination they have caused. As a result, DCAD has commenced assessment and remediation of certain tenant-related contamination.

U. The County has begun to notify current and former tenants of their potential responsibility for the remedial actions required with respect to contamination at MIA, including costs of response DCAD has incurred and will incur for contamination at MIA.

THE IPTF LOCATIONS

V. The Department has determined that the majority of the petroleum contamination at MIA is eligible for state-funded cleanup from the Inland Protection Trust Fund (“IPTF”) under the following state cleanup programs: the Early Detection Incentive Program; the Petroleum Liability and Restoration Insurance Program; the Abandoned Tank Restoration Program and the Petroleum Cleanup Participation Program (the “IPTF Locations” and “IPTF Programs”).

W. To date, cleanup activities at the IPTF Locations have been conducted in accordance with Ch. 62-770, F.A.C., under the supervision of the Department and DERM, which the Department has contracted to perform specific oversight activities. Through March 29, 1995, DCAD (and, in a few cases, responsible tenants) conducted the assessment, remedial action planning and remediation of the IPTF Locations under the private cleanup and state reimbursement cleanup mechanism under Chapter 376, Florida Statutes. The eligibility status of the IPTF Locations, and other relevant information, is summarized in the MIA IPTF Locations Spreadsheet (the “IPTF Locations Spreadsheet”) attached as Exhibit B. The cleanup status of all known hazardous substance contamination sites and all known petroleum contamination sites not eligible for state-funded cleanup is summarized in the MIA Non-IPTF Locations Spreadsheet (the “Non-IPTF Spreadsheet”) attached as Exhibit C. The contamination locations described in those spreadsheets are depicted on Figure 1, attached as Exhibit D.

PRE-CONSTRUCTION ASSESSMENT PROCESS

X. In addition to the locations addressed under the 1993 Consent Agreement and by the state-funded IPTF programs, DCAD also implements a pre-construction investigation

of any proposed area of construction in accordance with DERM's pre-construction assessment process. If suspected contamination is uncovered, the location is addressed, depending on whether the contamination involves petroleum products or hazardous substances, under either Ch. 62-770, F.A.C., or the local contamination assessment and remedial action methodology utilizing the framework of the Department's Corrective Actions For Contamination Site Cases, attached as Exhibit E. The areas which have undergone this pre-construction assessment process are depicted on Figure 1, Exhibit D.

Therefore, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. The foregoing recitals are true and correct and are fully incorporated herein by reference.

2. The parties desire that the investigation and remediation of contamination at MIA shall be comprehensive, protective of human health and the environment, efficient and cost effective. They will cooperate to minimize requirements or activities that are overlapping, duplicative, or inconsistent. The parties intend to conduct the cleanup at MIA in such a manner that would permit application of the USEPA Cleanup Integration Policy if at some future date that should become relevant and desirable. See USEPA September 24, 1996, Memorandum entitled "Coordination Between RCRA Corrective Action and Closure and CERCLA Site Activities."

3. The purpose of this Consent Order is to provide for and require a comprehensive and integrated program of action that will achieve a complete investigation

and remediation of all conditions of contamination at MIA that will fulfill and satisfy all applicable federal, state and local environmental regulatory requirements to assure protection of human health and the environment. This Consent Order also requires the timely assessment and cleanup of pollutants, petroleum products, regulated substances, hazardous substances, hazardous materials or hazardous wastes as defined in federal, state, and local law, and the correction of other existing environmental issues not previously addressed by the parties under prior agreements or orders, which assessments and cleanups shall be performed in accordance with applicable federal laws and regulations, Chapters 373, 376, and 403, F.S., and the County Code. This Consent Order shall also serve to establish procedures to eliminate or minimize polluting conditions and events in the future.

4. Except as set forth herein, DCAD shall be responsible for the completion of the assessment and cleanup at MIA of existing pollutants, petroleum products, regulated substances, hazardous substances, hazardous materials or hazardous wastes contamination, as defined in applicable federal, state and local law. The outstanding and remaining response actions required under the 1993 Consent Agreement shall be completed under the provisions of this Consent Order. Petroleum contamination sites at MIA covered by the 1993 Consent Agreement shall comply with assessment and response action requirements of applicable laws and regulations in effect on the date of this Consent Order. A site's eligibility for state-funded cleanup from IPTF shall not relieve the owner/operator from its liability to DCAD under any lease or other applicable authorities. DCAD's response actions at non-petroleum contamination sites shall be subject to DERM supervision and Department oversight as set forth in this Consent Order.

5. The petroleum product contamination cleanup process is depicted in Figure 2, “Relationship Between Airport RBCA Protocol and RBCA Activities at the Airport for Petroleum Sites Per Ch. 62-770, F.A.C.,” attached as Exhibit F. The hazardous substance contamination cleanup process is depicted in Figure 3, “Relationship Between Airport Risk Analysis Protocol and Activities at the Airport for Non-Petroleum Sites Per the Corrective Actions for Contamination Sites Cases,” attached as Exhibit G.

6. DCAD shall be primarily responsible for the completion of the assessment and cleanup of all Non-IPTF Locations at MIA, except for those locations where DERM and the Department determine that a DCAD tenant shall be primarily responsible. Any enforcement action by DERM or the Department against a DCAD tenant does not relieve DCAD of its ultimate responsibility for the contamination at that location if the tenant fails to complete assessment and cleanup to the satisfaction of DERM and the Department. The Non-IPTF Spreadsheet attached hereto as Exhibit C and accompanying illustrative Figure 1, Exhibit D, identify the known non-IPTF-eligible locations, their current cleanup status, and whether DCAD or DCAD’s tenant is the current lead on cleanup. Exhibits C and D are not intended as a limitation on DCAD’s responsibility to clean up Non-IPTF contamination discovered at MIA. Non-IPTF-eligible petroleum product contamination will be assessed and remediated in accordance with Ch. 62-770, F.A.C. Cleanup of hazardous substance contamination other than contamination addressed under Ch. 62-770 or Ch. 62-730, F.A.C., will be completed pursuant to the contamination assessment and remedial action requirements of the Department’s Corrective Actions for Contamination Site Cases, attached as Exhibit E, and the risk based corrective action criteria applied by the Department and specified in Section 376.81(1), F.S. (but not including the permanent groundwater deviations

or off-facility point of compliance authorized by Sections 376.81(1)(g)(3), 376.81(1)(h) or 376.81(1)(i), F.S.). For the duration of this Consent Order, all future response actions of DCAD at MIA, for known regulated substances, hazardous materials, petroleum products, hazardous substances, and hazardous waste contamination, shall be subject to the terms of this Consent Order, and applicable federal, state and local laws, regulations, and ordinances.

7. Apart from the contamination locations identified in the IPTF Spreadsheet and the Non-IPTF Spreadsheet, neither the Department nor the County is aware of any areas of contamination at MIA which are not already being responded to by DCAD, the Department through the IPTF, or the potentially responsible tenant. DCAD will continue to screen the airport for contamination locations using the preconstruction assessment process approved by DERM and, to the extent that the preconstruction assessment process uncovers additional contamination locations where the contamination predates the effective date of this Consent Order and which are not already under assessment or remediation, such locations shall be cleaned up under this Consent Order. Within ninety (90) days of the effective date of this Consent Order, DCAD shall submit to the Department and DERM for review and approval a plan for identifying other contamination locations at MIA which are not already under assessment or remediation, and for which a reasonable basis exists to suspect contamination exists in excess of applicable standards. DCAD's facility assessment plan shall set forth a methodology for identifying such suspect contamination locations based on site inspections and a review of agency records, including permit files and aerial photographs, to identify onsite structures, features and events which may have caused contamination of soil, sediments or groundwater at MIA. In the event that DERM and the Department disapprove the plan of facility assessment, DCAD shall have 30 days to revise the plan and resubmit it.

In the event that DERM and the Department again disapprove the plan of facility assessment, DERM and the Department may either require a resubmittal by DCAD within 15 days or draft specific modifications to the plan. Any contamination locations identified through the methodology of the approved plan of facility assessment shall be cleaned up under this Consent Order or, whenever DERM and the Department deem it appropriate, by the responsible DCAD tenant. Areas of contamination previously assessed under DERM or the Department's supervision do not have to be assessed again under the facility assessment plan.

8. Completion of cleanup of contamination locations for which DCAD is responsible shall be performed pursuant to a Schedule of Compliance to be finalized within 90 days of the effective date of this Consent Order. DCAD shall propose a Schedule of Compliance within 60 days of the effective date of this Consent Order. Such Schedule shall take account of the current status of contamination location cleanups stated in the IPTF Spreadsheet and the Non-IPTF Spreadsheet, the relative risk to human health and the environment posed by the contamination locations in light of applicable risk based corrective action criteria, section 376.308(5), F.S., MIA's construction and redevelopment plans, DCAD's operating and construction budgets, and other pertinent considerations. Based on these considerations, DERM and the Department shall finalize the Schedule of Compliance, and the approved Schedule of Compliance shall be incorporated by reference and become a fully enforceable part of this Consent Order.

9. The cleanup of the areas being remediated by DCAD tenants at MIA shall remain the primary responsibility of such tenants under the Department's and DERM's direct cleanup enforcement authority. DCAD will assist the Department's and DERM's cleanup

enforcement efforts against tenants by supplying any information pertinent to the tenants' liability for the contamination at issue.

10. The parties acknowledge that in order to enable DCAD to pursue claims against other potentially responsible parties for contribution under Section 113 (f) of the federal Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), DCAD is voluntarily responding to hazardous substance contamination at MIA in a manner consistent with relevant portions of Subpart H of the National Contingency Plan ("NCP"). The parties agree to cooperate to facilitate compliance with such requirements. This paragraph does not authorize delay in complying with the requirements of this Consent Order. Compliance with the NCP is solely the responsibility of DCAD, which will serve as the "lead agency" as that term is understood in the NCP. DCAD's public participation plan is attached as Exhibit H. DCAD may seek from DERM and the Department appropriate modifications of deadlines and procedural requirements of this Consent Order to enable DCAD to comply with relevant portions of Subpart H, based upon a demonstration of necessity and provided that human health and the environment will not be adversely impacted. The Department and DERM will retain their supervisory roles as described herein.

TENANT ENVIRONMENTAL COMPLIANCE

11. DCAD, within sixty days of the execution of this Consent Order shall mail or deliver a request in writing to each tenant at the airport which is operating under an annual operating permit issued by DERM, asking the tenant to file a written report with the Department, DCAD, and DERM within sixty days of receipt of the request, describing its activities involving the use, generation, or other handling of hazardous materials, and listing

the types and quantities of regulated substances, hazardous materials, pollutants, petroleum products, hazardous substances and hazardous wastes handled or managed by each such tenant. Within 60 days of the execution of this Consent Order, DCAD shall furnish the Department and DERM with a copy of each such written request to tenants.

12. The Department and DERM shall assist DCAD in preparing and reviewing for distribution to tenants information consistent with applicable laws and regulations regarding: (a) the handling of hazardous substances, hazardous wastes, and other regulated pollutants; (b) emergency equipment requirements; and (c) training information for managing a spill, release, or discharge of these substances.

13. Within sixty days of execution of this Consent Order, DCAD shall request each tenant operating under an annual operating permit from DERM to notify the appropriate state and local officials of its designated emergency response coordinator in accordance with applicable laws, and provide a copy of such notification to DCAD, DERM and the Department.

14. To the extent not present in existing appropriate tenant leases, DCAD shall include in new leases, and where possible in lease extensions, provisions requiring appropriate tenants, in accordance with all federal, state and local laws and regulations, to develop emergency action plans to enable an immediate tenant response to spills, releases, or discharges of regulated substances, hazardous materials, pollutants, petroleum products, hazardous substances and hazardous wastes, including the hiring of emergency response contractors.

15. The Department agrees to cooperate with DCAD in preparing for distribution to appropriate tenants a notice informing such tenants that:

a. All reportable incidents involving spills, discharges or other releases of regulated substances, hazardous materials, pollutants, petroleum products, hazardous substances and hazardous wastes, must be reported in accordance with applicable laws, and must be accurately and timely reported by the tenants to the State Warning Point, telephone number (850) 413-9911 (24-hour emergency), the Department, DERM and DCAD.

b. To the extent required by law, within seventy-two hours of the start of any such incident, the tenant responsible for the incident shall submit to DCAD, the Department, and DERM a written preliminary report describing the incident. The tenant responsible for the incident shall submit to DCAD, the Department, and DERM a final written report within two weeks of the incident. The final report shall contain a complete description of and discuss the cause of the emergency and/or discharge, and the steps that will be taken to reduce, eliminate and prevent the recurrence of the event, and all other information necessary to characterize the incident.

16. DCAD shall, to the best of its ability, upon discovery of any release or discharge of regulated substances, hazardous materials, pollutants, petroleum products, hazardous substances or hazardous wastes, notify the person potentially responsible for such release or discharge, of its obligations regarding any reportable discharge or release. To the extent not present in existing appropriate tenant leases, DCAD shall include in new leases, and where possible in lease extensions, provisions requiring proof to DCAD that such discharges have been reported to the Department and DERM. If DCAD believes that the person potentially responsible for the discharge or release has failed to report any reportable discharge or release, then DCAD shall promptly report such discharge or release to the Department and DERM, including information regarding the identity of the potentially

responsible party. Copies of Field Notices and Incident Reports related to the discovery of any release or discharge as stated in this paragraph and issued to airport tenants by or on behalf of DCAD, shall be forwarded to the Department and DERM within one (1) working day of discovery.

17. DCAD shall include in new leases provisions allowing DCAD: (a) to inspect each tenant's leased premises at least annually, and to obtain answers to periodic questionnaires about each tenant's hazardous materials use, generation and other handling practices, in an attempt to ensure compliance with the lease; and (b) to perform a new inspection if, between inspections, DCAD learns that a tenant's operations have changed. Copies of inspection reports shall be maintained in DCAD's tenant files.

18. To the extent permitted under existing leases, DCAD shall conduct periodic environmental compliance inspections of appropriate tenants at a frequency determined by DCAD to be consistent with its obligations under this Consent Order. DCAD's performance of tenant inspections shall not relieve the Department or DERM from any of their responsibilities or obligations with respect to the administration and enforcement of applicable state and local environmental laws and regulations. DCAD's performance of such inspections shall not relieve the hazardous waste handler of any duty to inspect and report.

AGENCY OVERSIGHT ROLES

19. The Department and DERM agree to coordinate their respective responsibilities for overseeing DCAD's response actions under this Consent Order. Both DERM and the Department shall oversee DCAD's cleanup activities; DCAD shall deliver all required submittals to both DERM and the Department and both agencies will review the submittals within a reasonable amount of time consistent with current Department policies.

For reviews where the Department has the primary responsibility DERM will furnish its comments to the Department within a reasonable amount of time; the Department shall within a reasonable amount of time provide a written response to DCAD. For reviews where DERM has the primary responsibility, the Department will furnish its comments to DERM within a reasonable period of time; DERM shall within a reasonable amount of time provide a written response to DCAD incorporating the comments of the Department, which shall retain ultimate oversight authority for DCAD's response actions under this Consent Order. The decisions of the Department herein, including its actions on matters over which DERM has primary review responsibility, shall be agency action subject to the Administrative Procedure Act, Chapter 120, Florida Statutes.

a. DERM shall have primary responsibility over DCAD's cleanup of non-petroleum contamination which is not subject to the Department's hazardous waste program. DERM will utilize the Department's Corrective Actions for Contamination Site Cases, attached as Exhibit E, and the RBCA criteria established in Section 376.81 (1)(a-j), F.S., except for the permanent groundwater deviations authorized by Sections 376.81(1)(g)(3), 376.81(1)(h) or 376.81(1)(i), F.S., for Brownfield program sites.

b. The Department's Bureau of Petroleum Storage Systems shall have exclusive authority over the cleanup of locations of petroleum and petroleum mixed with other contamination eligible under the Inland Protection Trust Fund which are specified in the IPTF Spreadsheet attached as Exhibit B. Such cleanups shall be consistent with Section 376.308(5), F.S.

c. The Department shall have exclusive authority over closure activities under the hazardous waste program.

d. The Department's Southeast District has exclusive authority over petroleum storage system inspection and compliance activities at MIA.

CHAPTER 403 HAZARDOUS WASTE

20. DCAD will fully cooperate with the Department to ensure that tenants of MIA are aware of all applicable hazardous waste management requirements and to encourage compliance with all applicable hazardous waste laws. As owner of MIA, DCAD is ultimately responsible for compliance with these laws.

21. If within 90 days of this Consent Order, the Department is unable to enter into a consent order with Sonic Aviation, Inc. for clean closure of an area of regulated hazardous waste activity at Building 55 pursuant to 40 C.F.R. part 264, DCAD will perform such 40 C.F.R. part 264 clean closure pursuant to the terms of this Consent Order. In this event, consistent with applicable laws, regulations, and guidance, the Department will allow DCAD a reasonable period of time within which to complete clean closure under 40 C.F.R. part 264.

22. At MIA locations where the identity and viability of the potentially responsible tenant is not obvious, as determined by the Department, including former Eastern Buildings 2, 3, 6, 7, and 21, portions of the Northwest Cargo area, and portions of the West Cargo area encompassing former Aerodex operations, DCAD will continue to make hazardous waste site determinations pursuant to the requirements of Chapter 62-730, F.A.C., incorporating 40 C.F.R. 262.11's standard of good faith effort and reasonable inquiry using available information and actual knowledge. At locations where there is an identified and viable responsible tenant, as determined by the Department, that tenant will have primary responsibility to make the hazardous waste disposal site determination. DCAD will submit the hazardous waste disposal site determination in the event that the responsible tenant

refuses to cooperate with the Department. For the specific locations identified in this paragraph, DCAD will submit supplemental hazardous waste location determinations to the Department by April 30, 1998.

23. With regard to the area of MIA formerly known as the Pan American Maintenance Base, which is an area where the responsible tenants are no longer in business or available and pertinent records and information are not available, DCAD has made additional reasonable efforts to uncover the necessary information to enable a determination to be made as to whether such area contains any location of illegal hazardous waste disposal into the environment subject to closure under 40 C.F.R. part 264. DCAD has submitted to the Department a supplemental analysis explaining why DCAD believes the Pan Am Main Base is not a hazardous waste closure location.

24. If the Department preliminarily determines that any contamination location at MIA is an illegal hazardous waste facility subject to closure under 40 C.F.R. Part 264, DCAD shall have the right to contest such determination pursuant to Chapter 120, Florida Statutes. Upon final determination that any contamination location at MIA is an illegal hazardous waste facility subject to closure under 40 C.F.R. Part 264, DCAD, or the operator of the facility, shall submit a closure plan consistent with the requirements of 40 C.F.R. Part 264 and Chapter 62-730, Florida Administrative Code. If clean closure is not achieved within the appropriate time frames, the Department will, in accordance with its Memorandum of Agreement with EPA, issue a post closure permit. DCAD may apply to the Department for authorization to complete closure under this Consent Order and the Department's Corrective Actions for Contamination Site Cases as modified herein, and demonstrate that cleanup hereunder will be substantially equivalent to the requirements of 40 C.F.R. Part 264. If the

Department approves DCAD's application, it will issue a post-closure care permit which prescribes use of this Consent Order and the Department's Corrective Actions for Contamination Site Cases as modified herein to accomplish the substantive requirements of 40 C.F.R. Part 264. If the Department is satisfied that the substantive requirements of its Hazardous Waste Program will be met, it will support DCAD's application to EPA Region IV to have any remaining facility wide corrective actions completed under this Consent Order, in accordance with EPA Region IV's November 14, 1997 letter, as well as other appropriate guidance.

25. Based upon DCAD's good faith investigation, reasonable inquiry, available information, and actual knowledge, the following locations have been determined by the Department not to qualify as areas of unlawful disposal of hazardous waste into the environment subject to the closure process of Ch. 62-730, F.A.C. incorporating 40 C.F.R. part 264, and their cleanup may continue pursuant to the Corrective Actions for Contamination Site Cases or Chapter 62-770, F.A.C., subject to Section 376.308(5), F.S., as applicable, under this Consent Order: former Eastern locations Hangar 22 and Buildings 39, 40, 42; former Aerodex vicinity locations Building 2120 and Buildings 2072 and 2072A, the former N.W. 72nd Avenue Soil Staging Area, and the Opa-locka Soil Staging Area.

26. To the extent that 40 C.F.R. part 264 is applicable to any cleanups under this Consent Order, the Department will exercise maximum flexibility in implementing its requirements, in accordance with principles of risk assessment utilized by the USEPA and the Department, USEPA guidance documents and other relevant and appropriate state and federal guidance. Furthermore, the Department shall allow the use of the latest federal and

state risk based closure criteria for soils and groundwater for hazardous waste program closures.

DCAD'S STORAGE TANK RESPONSIBILITIES

27. DCAD, upon execution of this Consent Order, shall notify the Department and DERM verbally and in writing, 24 hours prior to the performance of any maintenance activity related to DCAD's above or underground storage tanks, so that the Department or DERM may obtain split groundwater samples in connection with the closure of such storage tanks, and to verify that the installation, management, closure and/or abandonment of such storage tanks is in accordance with applicable federal, state, and local laws and regulations.

28. Within ninety (90) days of execution of this Agreement, DCAD shall provide the Department a complete and accurate inventory of all known storage tank systems owned by or located on the Airport (the "Master Storage Tank Inventory"). The Master Storage Tank Inventory shall include: name of facility and location (latitude and longitude), the Department Facility ID number or copy of the submitted State Registration Form, tank identification number as it appears on the state registration, type of storage tank (above or underground), tank capacity, tank contents, and the status of the tank. State Storage Tank Registration Forms shall be submitted to the Department and DERM as required by Chapters 62-761 and 62-762, Florida Administrative Code.

29. Within one hundred and eighty (180) days of execution of this Agreement, DCAD shall prepare and submit to the Department registration forms and discharge reporting forms for the known, remaining, and previously unregistered, improperly registered, abandoned, and closed in place and/or removed storage tanks, pursuant to Chapters 62-761 and 62-762, F.A.C. DCAD shall also coordinate with the Department to verify and update

information concerning the Airport storage tank facilities found in the Department's databases.

30. Within one year of execution of this Agreement, DCAD shall submit to the Department and DERM a best management plan which clearly identifies all groundwater monitoring wells and sample points, provides for their proper maintenance to prevent or minimize sampling interferences, and includes the location of each ground water monitoring well in degrees, minutes and seconds of Latitude and Longitude. In addition DCAD's Best Management Plan should contain provisions for:

a. Tank and fuel hydrant systems inspections and annual testing (integrity tests). System failures shall be reported in accordance with Section 62-762.450, F.A.C.

b. Secondary containment for all fuel hydrant loop piping and secondary containment for all field erected above ground tanks in the DCAD owned storage tank farms to the extent required by applicable rules and statutes.

c. Installation of a Department-approved leak detection system or pressure test program for the fuel hydrant distribution system which can detect discharge from the tank and integral piping system to the extent required by applicable rules and statutes.

d. Installation of a Department-approved leak detection method for DCAD's underground storage tank systems at MIA. The release detection method, or combination of methods, must be able to detect a discharge from storage tank systems and integral piping and be capable of detecting increases in contamination above background levels.

e. An overall investigation of the airport to include an inspection of the land surface to locate storage tank systems.

f. In lieu of the provisions of paragraphs a - d, DCAD has the option of implementing an alternate procedure approved by the Department pursuant to applicable rules and statutes. Should there be any changes to Department regulations, DCAD shall comply with the new rule requirements. Upon approval of the plan by the Department and DERM, DCAD shall implement the plan.

DCAD's ADDITIONAL ENVIRONMENTAL RESPONSIBILITIES

31. The County also agrees to undertake all reasonable efforts to investigate the nature and extent of the contamination caused by or attributable to the activities of any potentially responsible person, and to seek the recovery of the costs of investigating and remediating any such contamination, except when in DCAD's judgment the amount of a particular claim is too small or the likelihood of recovery is too uncertain. The Department and DERM agree to assist DCAD as they deem appropriate in DCAD's efforts to recover costs incurred in connection with the investigation and remediation of contamination caused by or attributable to activities performed by or on behalf of any potentially responsible person at MIA.

32. In recognition of the past and future costs incurred by the Department in the investigation of contamination at MIA, DCAD agrees not to seek payment from the Department for the official use of DCAD office space, telephones, copy machines and facsimile machines from 1995 through the duration of this Consent Order.

33. In lieu of the payment of penalties, no later than one hundred and eighty (180) days from the effective date of the Consent Order DCAD shall fund three Other Personnel

Services (“OPS”) positions to assist the Department and DCAD in the performance of this Consent Order. These positions will be recruited by and work under the direct supervision of the Department and will have the following duties and responsibilities:

- Engineer : Will be part of a technical team to: support DCAD’s assessment and remediation activities; provide guidance to DCAD on the Department’s technical design criteria, treatment standards, remediation methods, and reporting requirements; serve as a liaison between DCAD, DERM, USEPA, and the Department; review remedial action plans; inspect facilities/tenants at MIA; and provide assistance in pollution prevention, waste minimization, compliance, enforcement, public outreach and ecosystem management activities.

- Geologist/Environmental Specialist: Assures that all contamination assessment, monitoring, and remedial activities are performed in compliance with this Consent Order; provides progress reports; participates in meetings with DERM and Department staff; maintains records of all assessment activities, monitoring reports and advises the Department on status of compliance with the Consent Order; inspects facilities at MIA to assure compliance with Department rules and statutes; and provides assistance in multimedia inspections, pollution prevention, public outreach and ecosystem management activities.

- Secretary/Clerk: Acts as an administrative support person for all the technical staff including the Department staff assigned to perform activities at MIA and other positions filled pursuant to this order; organizes and maintain records, filing systems, performs typing and revisions of outgoing documents as requested by staff; operates office equipment like fax machines, copiers, printers, computers and answers telephones. The need for continued funding of these OPS positions, any adjustments to funding, or any other incidental funding

including but not limited to office space, furniture, telephone, office supplies and other utility services shall be reviewed by the Department annually, and shall not exceed the duration of this Consent Order. Unless otherwise agreed by the Parties, the cost to DCAD of the obligations in this paragraph shall not exceed \$100,000 per year for a period of ten (10) years from the effective date of this Consent Order. This paragraph does not affect the Department's obligation to supervise compliance with this Consent Order.

34. In a manner consistent with the airport being a public facility, DCAD shall use reasonable efforts to provide sufficient security at the airport: (i) to prevent third parties from entering the airport and illegally disposing of regulated substances, hazardous materials, pollutants, petroleum products, hazardous substances, and hazardous wastes; (ii) to prevent vandalism, theft of materials, equipment, or wastes; and (iii) to prevent other unauthorized activity by third parties which might result in injury to human health or the environment, or violations of law which threaten human health or the environment. Nothing in this paragraph creates nor shall be construed to create any third party rights.

35. Given that MIA is an operating international airport, with reasonable advance notice, DCAD shall allow all authorized representatives of the Department access to the facility at reasonable times for purposes of sampling and determining compliance with this Consent Order, any permits issued by the Department, and the rules of the Department.

RELEASE, COSTS AND PENALTIES

36. The Department will cooperate with DCAD in pursuing enforcement actions where appropriate to ensure that current and former tenants or other responsible parties assume full responsibility for cleanup of contamination for which they are liable. DCAD will fully cooperate with the Department and DERM in their efforts to require tenants to

complete cleanups of contamination for which they are responsible. This cooperation does not alter DCAD's liabilities for cleanup.

37. The Department, for and in consideration of the complete and timely performance by the County of the assessment and cleanup obligations, including the Schedule of Compliance, defined in this Consent Order, releases and covenants not to sue the County, regarding any and all legal, equitable, common law and statutory claims and causes of action, including claims under Chapters 376 and 403, F.S., which the Department now has or may have, arising out of the existing contamination and pollution conditions at MIA the cleanup of which are the subject of this Consent Order. With regard to third party claims for contribution against the County for any of the contaminated locations which DCAD has agreed to clean up under this Consent Order, the Department agrees that the County is entitled, as of the execution of this Consent Order, to such protection from third party contribution actions or claims based on common liability to the Department as may be provided in state or federal law. This release and covenant not to sue from the Department to the County is for purposes of Section 768.31(5) F.S., and is intended to discharge the County from any and all liability for contribution to any third party who has common liability to the Department for the contamination and pollution conditions at MIA, the assessment and cleanup of which is made DCAD's obligation under this Consent Order.

38. In addition, in light of the County's voluntary resolution of its liability to the Department before the filing of an action, for and in consideration of the complete and timely performance by the County of the cleanup obligations agreed to in this Consent Order, and for the specific purpose of preserving and perfecting the County's entitlement to recover contribution under Sections 376.313(3), 768.31(d), and 403.727(8), F.S., and common law,

by entering into this settlement the Department extinguishes and releases the liability of any persons jointly and severally liable in common with DCAD for all costs of removal or remedial action incurred by the Department for the contamination and pollution conditions at MIA which are made DCAD's assessment and cleanup obligations under this Consent Order. The foregoing release: (a) does not extinguish the Department's rights to pursue civil penalties from persons responsible for existing contamination and pollution conditions at MIA, given that civil penalties are not liabilities in tort under UCATA; and (b) applies only to contamination, releases or threatened releases existing at MIA as of the effective date of this Consent Order.

39. Should the Department determine that the County has failed to timely and completely perform the assessment and cleanup obligations, including the Schedule of Compliance, defined by this Consent Order, the rights granted in the preceding three paragraphs shall be void and of absolutely no effect whatsoever and shall not be asserted as a defense to impede the Department's ability to enforce the other terms of this Consent Order or to seek any injunctive or damages relief whatsoever in respect of the existing contamination and pollution conditions at MIA.

40. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to: (i) timely comply with any of the material requirements of the Schedule of Compliance referred to in paragraph 8; and (ii) submit the Best Management Plan required by paragraph 30. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to the "Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation

"Ecosystem Management and Restoration Trust Fund". Payment shall be mailed to the Department of Environmental Protection, Post Office Box 15425, West Palm Beach, Florida 33416-5425. 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 the 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 penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

41. This Consent Order is a settlement of the Department's civil and administrative authority arising from Chapters 403 and 376, F.S., to pursue the allegations addressed herein. This Consent Order does not address settlement of any criminal liabilities which may arise from Sections 403.161(3) through (5), 403.413(5), 403.727(3)(b), 376.302(3) and (4), or 376.3071(10), F.S., nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

42. Respondent waives its right to an administrative hearing on the terms of this Consent Order under Section 120.57, F.S., and its right to appeal this Consent Order pursuant to Section 120.68, F.S. This waiver does not extend to any future final agency action by the Department taken after the effective date of this Consent Order.

43. Execution of this Consent Order does not relieve DCAD of the need to comply with applicable federal, state or local laws, regulations or ordinances.

44. The Department reserves its right to bring suit against DCAD in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S.

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

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

MEDIATION OF DISPUTES

47. The Department, DCAD, DERM, and any other substantially affected person may agree to mediate disputes which may arise out of the interpretation or implementation of this Consent Order, pursuant to the terms of the Administrative Procedure Act.

48. The names, addresses, and telephone numbers of the party representatives who may participate in the mediation are those set forth in paragraph 51, plus any additional persons which the Department, DCAD, or DERM may identify, or anyone who has filed a timely and sufficient petition. The mediating parties agree to jointly select a mediator from lists provided by the Florida Growth Management Conflict Resolution Consortium of Florida State University.

49. The costs and fees associated with mediation shall be borne equally by the parties. All discussions and documents relating to the mediation shall be open to the public.

50. Mediation shall occur within 30 days of any agreement to mediate a dispute with respect to the interpretation or implementation of this Consent Order. The provisions of Section 120.573, F.S., shall govern mediation of any dispute relating to the interpretation

or implementation of this Consent Order. If mediation terminates without settlement of the dispute, the parties retain their rights to administrative hearings under Sections 120.569 and 120.57, F.S., or other relief with respect to such disputes. The mediation provisions of this Consent Order do not preclude the Department from taking such action as may be necessary to abate any imminent hazard or immediate threat to human health and safety.

COMMUNICATIONS

51. All communications, including notices, writings and deliverables relating to the Consent Order shall be directed to the following individuals on behalf of the parties hereto:

Department: Mr. Carlos Rivero-deAguilar
State of Florida Department
of Environmental Protection
P.O. Box 15425
West Palm Beach, Florida 33416
Telephone: (561) 681-6600
Facsimile: (561) 681-6755

With a
copy to: Mr. Thomas M. Beason
Assistant General Counsel
State of Florida
Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
Telephone: (850) 921-9648
Facsimile: (850) 488-2439

DCAD: Mr. Pedro F. Hernandez
Manager, Environmental Engineering
Dade County Aviation Department
4200 NW 36th Street
Building 5A, 1st Floor
Miami, Florida 33159
Telephone: (305) 876-7928
Facsimile: (305) 876-0239

With a
copy to:

Ms. Mercedes Sandoval Holston
Assistant County Attorney
Dade County Attorney's Office
Aviation Division
Miami International Airport
Concourse B
4th Floor
Miami, Florida
Telephone: (305) 876-7040
Facsimile: (305) 876-7294

DERM:

Mr. John W. Renfrow
Director
Dade County Department of
Environmental Resources Management
33 S.W. 2nd Avenue, Penthouse 2
Miami, Florida 33130
Telephone: (305) 372-6789
Facsimile: (305) 372-6759

With a
copy to:

Mr. Thomas H. Robertson
Assistant County Attorney
Stephen P. Clark Center
Suite 2810
111 N.W. First Street
Miami, Florida 33128-1993
Telephone: (305) 375-1669
Facsimile: (305) 375-1347

The parties may change these designations at any time, including additional designees, by giving written notice of the change or additional designees to the other parties.

MISCELLANEOUS PROVISIONS

52. DCAD shall publish the following notice in a newspaper of daily circulation in Dade County, Florida. The notice shall be published one time only within twenty-one days after execution of the Consent Order by the Department. DCAD shall provide a copy of such publication to the Department's Southeast District Office and to DERM within seven (7) days after publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT ORDER AND SETTLEMENT AGREEMENT

The Department of Environmental Protection (“the Department”) gives notice of agency action of entering into a Consent Order and Settlement Agreement (“Consent Order”) with Miami-Dade County, Florida (the “County”). The Consent Order addresses the assessment and remediation of soil and groundwater contamination at the Miami International Airport. 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 (a) the Department of Environmental Protection, 1600 South Congress Avenue, West Palm Beach, Florida; (b) Miami-Dade County Department of Environmental Resources Management, 33 SW 2nd Avenue, Penthouse 2, Miami, Florida; and (c) Miami-Dade County Aviation Department, 4200 NW 36th Street, Building 5A, 1st Floor, Miami, Florida.

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, Tallahassee, Florida 32399-3000, within twenty-one days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the Department Southeast District Office, PO Box 15425, West Palm Beach, Florida 33416-5425, the Dade County Aviation Department and the Dade County Department of Environmental Resources Management. Failure to file a petition within the twenty-one days constitutes a waiver of any right such person has to an administrative hearing pursuant to Section 120.57, F.S. The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number for the Consent Order and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within twenty-one 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 Section 120.569 and 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 6OQ-2.010, F.A.C.

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

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include 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, by the same 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;
- (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; and
- (h) The signatures of all parties or their authorized representatives.

As provided in section 120.573 of the Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by sections 120.569 and 120.57, F.S. for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the

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

The public is also invited to comment on the proposed cleanup process for MIA and whether the proposed cleanup is necessary and appropriate and satisfies applicable and appropriate legal requirements. Those who wish to challenge the cleanup process proposed in the Consent Order must petition the Department or seek mediation, as set forth above. Those who have comments or recommendations on the proposed cleanup process must submit them in writing to Mr. Pedro F. Hernandez, Manager, Environmental Engineering, Dade County Aviation Department, 4200 NW 36th Street, Building 5A, 1st Floor, Miami, Florida 33159, within thirty days of this Notice. At 10:00 a.m. on May 28, 1998, DCAD will hold a public hearing at MIA's Concourse B Auditorium on its environmental response actions at MIA, including response actions being undertaken under the Consent Order. DCAD will take any significant public comments into account in the cleanup and will also submit such public comments to the Department and DERM for consideration. Persons failing to submit comments to DCAD within the above time period shall be deemed to have waived the right to participate in decision making on the proposed contamination assessment.

53. The parties may amend this Consent Order from time to time as necessary to reflect changed conditions or circumstances or the adoption of new laws, regulations, or applicable guidance. Any such amendment of the terms of this Consent Order shall be effective only if reduced to writing and executed by the County and the Department.

54. The provisions of this Consent Order shall apply to and be binding upon the parties, their successors, and assigns.

55. If any event occurs which causes delay, or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, DCAD shall have the burden of proving that the delay was, or will be, caused by the circumstances beyond the reasonable control of DCAD and could not have been or cannot be overcome by due diligence. Upon

occurrence of an event causing delay, or upon becoming aware of a potential for delay, DCAD shall promptly notify the Department and DERM orally and shall, within seven (7) days of oral notification, notify the Department and DERM 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 DCAD intends to implement these measures. If the parties can agree that the delay or anticipated has been, or will be, caused by circumstances beyond the reasonable control of DCAD, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such Consent Order shall adopt all reasonable measures necessary to avoid or minimize delay. Failure by DCAD to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of DCAD's right to request an extension of time for compliance with the requirements of this Consent Order.

56. This Consent Order is final agency action of the Department pursuant to Section 120.69, F.S., and Rule 62-103.105(3), F.A.C., 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 timely filing of a petition this Consent Order will not be effective until such petition is disposed of or a new Consent Order is executed by the parties.

MIAMI-DADE COUNTY

DATE

By: _____
M. R. Stierheim
County Manager

STATE OF FLORIDA, DEPARTMENT
OF ENVIRONMENTAL PROTECTION

DATE

By: _____
Carlos Rivero-deAguilar
Director of District Management
Southeast District

DONE AND ORDERED this _____ day of _____ 1998, in
West Palm Beach, Florida.

FILING AND ACKNOWLEDGMENT: FILED, on this date, pursuant to
Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby
acknowledged.

Clerk

Date

- cc: Thomas M. Beason, OGC, the Department/Tallahassee
- John Ruddell, DWM, the Department/Tallahassee
- Carlos Rivero-deAguilar, the Department/WPB
- Pedro F. Hernandez, DCAD
- John Renfrow, DERM
- Eduardo Lopez, SFWMD
- Mercedes Sandoval Holston
- Thomas H. Robertson
- Douglas M. Halsey