

TAB 15

## POINT PAPER

### Securing Edenfield Property June 16, 2008

**Problem:** The agreements transferring title of the Edenfield property contains a reverter clause. The property is not ready for redevelopment and the City Commission must direct staff as to how to proceed.

**Background:** On March 15, 2004 the City adopted resolution 04-19 which transferred ownership of the Edenfield property to the CRA for the purposes of allowing the CRA to fund environmental assessments, avoid a FDEP consent order, and foster appropriate redevelopment of the site.

SCS Engineering conducted a limited site assessment, which was presented to City Commission, and submitted the findings to the FDEP, requesting a ruling on the appropriate uses of the property. No action was taken while awaiting guidance from FDEP.

FDEP responded on March 25, 2008, two years later, advising the City that allowable uses and required mitigation had changed AFTER our having submitted our findings, so no action was required under the new rule. They provided a list of actions that would be required under the new rule. From telephone conversations with environmental engineers, these actions would cost in excess of \$300,000.

The City may elect to leave the site undisturbed, allowing nature to continue to dissipate the contamination, as activity on the property will require the City to come into compliance with the new, more stringent rules.

If the property remains undisturbed, there are established “best practices” to mark and secure the site, which include the development of a plan for the same by a certified engineer. The cost estimate for the development of this plan is estimated to be less than \$2,000.

#### **Alternatives:**

1-A- Act upon the reverter clause and transfer the ownership of the property back to the City

B- Leave ownership with CRA

2-A-Authorize the Development of the plan to properly identify and secure the site.

B- Do nothing

**Recommendation:** Leave the property in the ownership of the CRA and properly mark and secure the site.

**Budget Impact:** Not to exceed \$2,000.



# Florida Department of Environmental Protection

Southwest District Office  
13051 North Telecom Parkway  
Temple Terrace, Florida 33637-0926

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

March 25, 2008

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7007 2680 0000 5033 2720

Chris Lukowiak, Public Works Director  
City of Palmetto  
600 17<sup>th</sup> Street West  
Palmetto, FL 34221

RE: Limited Site Assessment Report, Dated January 14, 2005  
Edenfield Property, 505 5<sup>th</sup> Street West  
Palmetto, Manatee County, Florida  
FDEP Project # 202469  
FDEP Site # 151357

Dear Mr. Lukowiak:

The Florida Department of Environmental Protection (Department) is in receipt of your Limited Site Assessment Report (LSAR) submitted by SCS Engineers and received on June 27, 2005. The Department has the following comments.

Please be advised that the Department has adopted a new administrative rule, Chapter 62-780 Florida Administrative Code (F.A.C.). These new rules provide a variety of site and risk management options that collectively are often referred to as the "global RBCA" provisions of the rule. This review letter is intended to provide some initial feedback on the document referenced above that was submitted to the Department prior to the effective date of our new Cleanup Rule (April 17, 2005). Since your submittal pre-dates the effective date of the new rule and does not appear to meet the content requirements for a Site Assessment Report (SAR) under the new rule, this letter is not intended to be an agency review and response as provided for under Rule 62-780.600(9) F.A.C. Additional requirements appear to be necessary to achieve compliance with the rule criteria itemized in Rule 62-780.600(8) F.A.C. for this site. As the person responsible for site rehabilitation (PRSR) to complete the SAR requirements under the rule, we suggest that you review the comments provided in this letter, the content requirements of Rule 62-780.600(8)(a) and (b) F.A.C. and submit a final SAR summarizing the results of your assessment efforts including a recommendation for a No Further Action Proposal pursuant to Rule 62-780.680(4) F.A.C., a Natural Attenuation with Monitoring Plan pursuant to Rule 62-780.690 F.A.C., a proposal to conduct a risk assessment

pursuant to Rule 62-780.650 F.A.C., or a proposal to submit a Remedial Action Plan pursuant to Rule 62-780.700 F.A.C.

Several required documents were not included in the above referenced report. No chain-of-custody documents were included for the May 2004 sampling event. No field sampling logs were included for the September 2004 boring activities that occurred; field sampling information is needed for borings at locations SB-24 through SB-41. The Department has no record of receiving these documents under separate cover. Please submit the chain-of-custody and field sampling information. In addition, your consultant, SCS Engineers, recommended that you properly dispose of the formation material stored in the 55-gallon drum, which is believed to contain low levels of arsenic. Please submit all documentation indicating the proper removal, transportation, and disposal of the material stored in the drums.

Soil analytical data confirmed the presence of arsenic-contaminated soil on this site. Arsenic was present in excess of the Soil Cleanup Target Level (SCTL) for residential direct exposure, 2.1 mg/kg, in soil samples collected at a depth of 1 to 2 feet from 11 of 41 sampling locations; arsenic concentrations were as high as 26 mg/kg. Your consultant, SCS Engineers, indicated that the source of elevated arsenic present in the soil is unknown, but may be the result of maintenance activities related to the railroad located east of the property. Another explanation your consultant presented was that the elevated arsenic is naturally-occurring, representing background conditions. Historical information indicates that there was extensive debris dumping on this site, which also may have contributed to the elevated concentrations of contaminants. If you believe the elevated concentrations of arsenic present on your property are the result of either naturally-occurring arsenic or from source(s) beyond the property boundaries of this site, your consultant needs to present information to support this conclusion.

According to the information provided in Section 2 of the above referenced report, soil samples were collected at two depth intervals, 1 to 2 feet and 4 to 5 feet. The 1 to 2-foot interval provided near surface soil samples and the 4 to 5-foot interval provided soil samples from immediately above the water table. Soil analytical data revealed that arsenic was detected at concentrations greater than 2.1 mg/kg in soil samples collected immediately above the water table from six sampling locations; SB-1, SB-4, SB-15 SB-19, and SB-40; arsenic concentrations were as high as 15 mg/kg. Since these samples were collected just above the water table and historical groundwater analytical data indicated elevated arsenic concentrations at two sampling locations the potential for elevated arsenic in groundwater in the vicinity of SB-1, SB-4, SB-15, SB-19 and SB-40 is a concern. Groundwater was sampled from one well, MW-1, which is not in close proximity to any of the soil locations of concern. Groundwater should be sampled where soil arsenic levels are the highest.

A sediment sample, SED-1, collected from the ditch near the southwestern corner of the property contained benzo(a)anthracene and benzo(b)fluoranthene at concentrations exceeding their respective SCTLs for residential direct exposure, as well as benzo(a)pyrene at a concentration in excess of the SCTL for residential direct exposure and commercial/industrial direct exposure. The ditch extends from a culvert opening and discharges stormwater from the culvert to Tampa Bay. Your consultant, SCS Engineers, indicates that the source of

contamination is unknown; however, a potential contamination source upgradient from the property may exist. If the elevated concentrations of the arsenic and semi-volatile organic compounds (SVOCs) present in sediment from the ditch are from source(s) beyond the property boundaries of this site that has been transported to this site by means of stormwater runoff, then your consultant needs to present information to support this conclusion.

Groundwater analytical data from well MW-1 indicates that no constituents were present in excess of their respective Groundwater Cleanup Target Levels (GCTLs). However, the laboratory minimum detection limit (MDL) exceeded the GCTL for numerous constituents. Furthermore, the values reported for these constituents were not between the MDLs and practical quantitation limits (PQLs). Pursuant to Chapter 62-160, F.A.C., the MDLs must meet the GCTLs (or the target PQLs in Department guidance if the GCTLs are not attainable) for all constituents of concern in order to demonstrate compliance with the rule. Elevated concentrations of polynuclear aromatic hydrocarbons (PAHs) have been detected in sediment and soil samples on this site and the source is unknown; thus, these constituents are of particular concern. If you believe that some of the constituents that were not reported below the GCTLs should not be constituents of concern for your site, your consultant should present the reasons for this conclusion.

After reviewing the above referenced report in addition to other documents in the file, the Department has determined that additional assessment is needed. Several SVOCs have been detected on this site in concentrations in excess of their respective CTLs. In 1998, benzo(a)pyrene and benzo(b)fluoranthene were detected in soil from a boring location near the southeast corner of the property in excess of the SCTLs for residential direct exposure; data for the other soil samples collected was inconclusive because the RLs exceeded the respective SCTLs and no PQLs were provided. No subsequent soil analysis for SVOCs has occurred in this portion of the site; in 2004, samples collected from 2 of 41 locations were analyzed for SVOCs. Ditch sediment samples collected in 1998 revealed the presence of elevated benzo(b)fluoranthene-contaminated sediment near the outfall of the drainage system; data for other portions of the ditch as well as for benzo(a)anthracene and benzo(a)pyrene are inconclusive because the RLs exceeded the SCTLs and no PQLs were provided. One ditch sediment was collected in 2004; data indicated that benzo(a)anthracene was present in excess of the SCTL for groundwater leachability, and benzo(a)pyrene and benzo(b)fluorathene were present in excess of the SCTL for residential direct exposure. As discussed earlier, groundwater data for SVOCs is inconclusive because the MDLs exceeded the GCTLs and no PQLs were provided. Since several SVOCs have been detected in concentrations in excess of their respective CTLs and some data is inconclusive, additional assessment for SVOCs is needed.

Arsenic concentrations in soil have exceeded 2.1 mg/kg during the 1998, 2001, and 2004 sampling events. In addition, groundwater samples collected from two wells in 1998 and 2001 contained arsenic in excess of the GCTL. As discussed earlier, arsenic concentrations in soil collected just above the water table from several locations exceeded the SCTL causing concern regarding the groundwater in those locations. So, additional assessment activities are needed to address the arsenic contamination at this site.

The Department is requesting that additional assessment be conducted at this site and a SAR Addendum (SARA) be submitted within 120 days of receipt of this letter or by July 26, 2008. Specifically, groundwater monitoring needs to be further assessed and sampled and analyzed for SVOCs and arsenic. Soil samples need to be collected and analyzed for SVOCs and arsenic to determine the current extent of contaminated soil, especially in the area of boring locations SB-1, SB-3, SB-4, SB-5, SB-7, SB-11, SB-15, SB-17, SB-19, SB-21, SB-22, SB-40, and the southeast portion of the site. Ditch sediments need to be collected and analyzed for SVOCs and arsenic, especially in the area referred to as the outfall of the drainage system. After reviewing the data, the Department will determine the next appropriate actions for this site. Please note that the SARA must include all required documents pursuant to Rule 62-780.680(8) F.A.C. including, but not limited to summary tables for all media, groundwater flow direction map, and iso-concentration contour maps.

Please note that if you are subject to Chapter 62-780 F.A.C. you must fulfill the requirements of Rule 62-780.220 F.A.C. (Notices). This includes notifying the Department prior to undertaking field activities in the process of performing site rehabilitation under the rule. Unless an alternative schedule has been approved by the Department, the timeframe for providing this notice is within 7 days and at least 24 hours prior to the initiation of the activity pursuant to Rule 62-780.220(1) F.A.C. This notice should be provided in written form either by letter or email to the Department's Southwest District office.

Also, at any time during site rehabilitation, if you obtain knowledge that contamination is present beyond the source property boundary in any environmental medium, you must fulfill the Initial Notice of Contamination Beyond Property Boundaries requirement of Rule 62.780.220(2) F.A.C. This includes actual notice being given as soon as possible, but no later than 10 days from the date of discovery, to the Division of Waste Management at the Department's Tallahassee Office, with the Department's Southwest District office and appropriate County Health Department being copied. The information that must be included in the notice is described in Rule 62-780.220(2) F.A.C. Failure to provide the notices required under Rule 62-780.220 F.A.C. may subject the person responsible for site rehabilitation to enforcement action by the Department.

Please refer all future correspondence to my attention. If you have any questions, please contact me by phone at (813) 632-7600 ext. 403 or by email at [teresa.nehls@dep.state.fl.us](mailto:teresa.nehls@dep.state.fl.us).

Sincerely,



Teri Nehls  
Waste Cleanup Section  
Florida Department of Environmental Protection – Southwest District

cc: Tanya Lukowiak, CRA Director, Department of Public Works, City of Palmetto  
Zoller, Najjar & Shroyer, L.C.  
Robert L. Westly, P.G., SCS Engineers

**LIMITED SITE ASSESSMENT REPORT  
EDENFIELD PROPERTY  
MANATEE COUNTY, FLORIDA**

**Prepared for:**

Zoller, Najjar & Shroyer, L.C.  
P.O. Box 9448  
Bradenton, FL 34206

**Prepared by:**

SCS Engineers  
3012 U.S. Highway 301 North, Suite 700  
Tampa, Florida 33619  
(813) 621-0080

File No. 09203047.01  
January 14, 2005

*Robert J. Whalley*  
1/14/2005

## SECTION 1

### INTRODUCTION AND BACKGROUND

SCS Engineers (SCS) was retained by the Zoller, Najjar & Shroyer, L.C. on behalf of the City of Palmetto (City) to conduct this Environmental Assessment for the Edenfield property. The Edenfield property is located at 505 5<sup>th</sup> Street West, Palmetto, Florida, on the southwest corner of the intersection of 5<sup>th</sup> Street West and 5<sup>th</sup> Avenue West (Figure 1-1). Figure 1-2 shows a aerial photograph of the Edenfield property relative to surrounding features. Assessment test sites also are shown on Figure 1-2 to assist the reader in reviewing test site location figures included in Sections 2 and 4 of this report.

Zoller, Najjar & Shroyer previously retained SCS Engineers on behalf of the City to complete a review of City and Florida Department of Environmental Protection (FDEP) files regarding the Edenfield property (Property). Results of the file review indicate that three environmental assessments of the Property have been performed. Phase I and Phase II environmental assessments of the Property were performed by Enviro-Audit and Compliance, Inc. These assessments were associated with the sale of the Property to the City by Mr. and Mrs. Edenfield. The reports are dated October 18, 1997 and January 22, 1998, respectively. A supplemental assessment of the Property was performed by Jones, Edmunds and Associates, Inc., (JEA) and reported in March 2001. In brief, these previous reports indicated that additional assessment of the lateral extent of soil and groundwater contamination with respect to arsenic, lead, and selected organic parameters remained to be performed for the Property.

FDEP has expressed the need for additional assessment of the Property in the form of review comments issued for the March 2001 JEA report in a June 26, 2001 letter. SCS and the City met with FDEP representatives on February 9, 2004 to discuss the scope of additional assessment needed at the Property. It was concluded that the scope should include the following:

- Soil sampling for semi-volatile compounds
- Soil sampling for RCRA metals
- Sampling sediment from the on-site ditch
- Replacement of the temporary groundwater monitoring well TMW-4A
- Sampling of groundwater from the replacement monitoring well

SCS performed the above scope tasks in accordance with SCS' proposal number 9220203, dated February 19, 2004. This report documents the results of this assessment.



## SECTION 4

### EVALUATION OF FINDINGS

The findings presented in Sections 2 and 3 indicate that groundwater quality is not of concern at the Property, based on groundwater quality at MW-1. However, arsenic may be of concern in the soils on the Property and stormwater being discharged from the culvert may be contributing contaminants to the sediments in the ditch on the Property. This section discusses these findings to support conclusions and recommendations provided in Section 5.

#### SOIL ARSENIC FINDINGS

Currently, the FDEP does not regulate soil quality. However, FDEP provides SCTLs that can be used as guidance to decide on actions appropriate to Property use when soils contain contaminants and the soils are not remediated or removed. These SCTLs are listed in Chapter 62-777, F.A.C. The SCTLs for arsenic are divided into direct exposure residential and commercial/industrial limits of 0.8 and 3.7 mg/kg, respectively. Figure 4-1 shows soil arsenic concentrations near surface soils on the Property at depths between 1-2 feet, and Figure 4-2 shows concentrations just above the water table, at depths ranging from 3 to 5 feet. The approximate areas where arsenic concentrations are below or within the SCTLs are shown on Figures 4-1 and 4-2 as Area A, Area B, or Area C as follows:

- Area A: Soils with arsenic concentrations generally above commercial/industrial cleanup target levels (3.7 mg/kg).
- Area B: Soils with arsenic concentrations generally between commercial /industrial and residential cleanup target levels.
- Area C: Soils with arsenic concentrations generally below residential cleanup target levels (0.8 mg/kg).

These areas can be used to guide development and use of the Property as follows:

- Area C - arsenic generally below 0.8 mg/kg: no limitations on Property use.
- Area B - arsenic generally between 0.8 to 3.7 mg/kg: residential use is acceptable with engineering and/or institutional controls to exclude contact with the soils. Commercial/industrial use is acceptable without engineering and/or institutional controls.
- Area A – arsenic generally above 3.7 mg/kg: residential use is not acceptable but commercial/industrial use is acceptable with engineering and/or institutional controls in place to exclude contact with the soils.

Assuming property development and use accesses essentially only the upper two feet of soil. Area C is the approximate area where use of the Property is relatively unrestricted with respect to the presence of arsenic while Areas B and A are restricted. If Area B is used for residential purposes, engineering and/or institutional controls should be installed to exclude contact with the soils. Area A should only be used for commercial/industrial purposes and have engineering and/or institutional controls installed to exclude contact with the soils.

As discussed earlier, the FDEP is in the process of modifying the SCTLs for arsenic such that the residential SCTL will become 2.1 mg/kg and the commercial/industrial SCTL will become 12 mg/kg. This modification would change the areas indicated on Figure 4-1 and 4-2 such that the current Areas C and B would all become available for development and use as residential area without the need for engineering or institutional controls. Further, nearly all of Area A could be used for residential development and use with engineering and/or institutional controls to exclude contact with the soils.

#### **DITCH SEDIMENT FINDINGS**

Ditch sediment at the culvert outfall on the Property contains SVOCs that indicate the potential presence of an up gradient source of contamination. Further, the sediment contains arsenic that may also be contributed by water flowing from the culvert. Compounds found in the sediment indicate the potential for two concerns relative to use of the Property.

- Do the sediments in the ditch contain compounds of concern to the Property?
- Does the water discharging from the culvert contain compounds of concern to the Property?

As discussed above, the FDEP has no regulatory standards or guidance for assessing potential health effects of direct contact with contaminated sediments. The FDEP does, however, provide guidance regarding environmental effects of contaminated sediments when such sediments are not remediated or removed. These issues are discussed below.

#### **Potential Human Health Effects**

There are no FDEP regulatory standards to control direct human exposure to contaminated sediments. However, SCTLs for soils provide a basis for evaluating the quality of the sediments found in the ditch on the Property. The SCTLs for soils can be applied sediments when exposure to the sediments is likened to exposure to shallow soils. Table 2-3 lists the compounds found in the sediments along with the SCTLs for the compounds. Of the compounds found in the limited analysis, benzo(a)pyrene, benzo(b) fluoranthene, and arsenic exceed the current SCTLs for residential use. Sampling of the water being discharged from the culvert was not part of the scope of the current assessment activities. The sediment sampling results indicate the sediments in the ditch should be treated the same as the soils in Area B.

## **Potential Environmental Effects Through the Food Chain**

Although there are no FDEP regulations that control direct human exposure to contaminated sediments, FDEP promulgated a guidance document regarding contaminated sediments and human exposure through the food chain and potential effects on organisms and wildlife.<sup>1</sup> This document includes numerical guidelines that reflect sediment quality assessment guidelines (SQAGs) of select substances in sediments below which harmful effects are unlikely to be observed. SQAGs for protection of human health, aquatic-dependent wildlife, and sediment-dwelling organisms for the contaminants found in the sediment sample at the Property are listed in Table 4-1. The table indicates that the concentrations of contaminants in the sediment do not exceed the SQAGs.

## **GROUNDWATER QUALITY FINDINGS**

As discussed in Section 3, no groundwater contamination was observed in the sample from MW-1. In addition to these findings, SCS compared the arsenic concentrations in the soils on the Property to the leachability standards of FDEP as published in Chapter 62-777, F.A.C., to assess whether the soil arsenic could detrimentally affect groundwater quality. The soil leachability SCTL for arsenic is 29 mg/kg. If soil arsenic exceeded this value, then additional groundwater sampling would be prudent to assess whether groundwater quality was being detrimentally impacted by the concentration of arsenic in the soils. The concentration of arsenic in soils at the Property is lower than the leachability SCTL. Consequently, further groundwater sampling with respect to arsenic is not warranted.

## **POTENTIAL SOURCES OF SOIL CONTAMINATION**

The source of arsenic in the soils of the Property is unknown. Research on the natural occurrence of arsenic in Florida soils reported by Ming, et al<sup>2</sup> indicates concentrations vary greatly depending on the presence of natural organic matter, clay, iron and aluminum oxides, and shell material, all of which can contribute to the presence of arsenic. Ming, et al found through sampling of natural soils in 51 Florida counties (not including Manatee County) that the geometric mean concentration of naturally occurring arsenic is 0.37 +/- 4.58 mg/kg, with concentrations ranging from 0.02 to 38.2 mg/kg. These findings indicate that at least some of the arsenic occurring at the Property could be naturally occurring. The tendency of arsenic concentrations to be higher nearer the railroad track suggests that some of the arsenic may be related to maintenance of the tracks or the Property line (e.g., herbicide application).

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<sup>1</sup> Florida Department of Environmental Protection. "Development and Evaluation of Numerical Sediment Quality Assessment Guidelines for Florida Inland Waters – Technical Report." Prepared by MacDonald Environmental Services Ltd., and the United States Geological Survey, January 2003.

<sup>2</sup> Chen, Ming and Lena Q. Ma, Willie G. Harris, and Arther G. Hornesby. "Background Concentrations of Trace Metals in Florida Surface Soils: Taxonomic and Geographic Distributions of Total-total and Total-recoverable Concentrations of Selected Trace Metals." Soil and Water Science Department, University of Florida, Report #99-7, December, 1999.

The source of benzo(a)pyrene, benzo(b) fluoranthene in the sediments at the culvert also is unknown. These compounds do not occur naturally; however, they are common fuel and asphalt components often found in urban environments. The compounds could find their source in stormwater runoff from adjacent pavement or in sediments carried along the culvert from the north. The specific source areas for stormwater runoff or associated sediments are unknown.

TABLE 4-1. SUMMARY OF SEDIMENT QUALITY ANALYTICAL RESULTS, RELATIVE TO SQAG VALUES (DETECTED PARAMETERS ONLY), EDENFIELD PROPERTY, CITY OF PALMETTO

Parameter	Units	Human Health SQAGs	Aquatic Dependent Wildlife SQAGs	Sediment Dwelling Organism SQAGs	SED-1 Sample Results
Date Sampled					9/24/2004
Acenaphthylene	mg/kg	---	---	6.7	0.081 I
Anthracene	mg/kg	---	---	57	0.28
Arsenic	mg/kg	---	---	9.8	1.4
Benz(a)Anthracene	mg/kg	69	---	110	1.3
Benzo(a)pyrene	mg/kg	69	---	150	1.2
Benzo(b)fluoranthene	mg/kg	69	---	---	1.7
Benzo(g,h,i)perylene	mg/kg	---	---	---	0.8
Benzo(k)fluoranthene	mg/kg	69	---	---	1.2
Chrysene	mg/kg	44	---	170	1.7
Fluoranthene	mg/kg	---	---	420	2.8
Fluorene	mg/kg	---	---	---	0.12
Indeno(1,2,3-cd)pyrene	mg/kg	69	---	---	0.79
Phenathrene	mg/kg	---	---	---	1.5
Pyrene	mg/kg	---	---	200	3.8

Notes:

1. mg/kg = milligrams per kilogram or parts per million.
2. SQAGs = Sediment quality assessment guidelines, FDEP Technical Report "Development and Evaluation of Numerical Sediment Quality Assessment Guidelines for Florida Inland Waters," dated January 2003
3. --- = no guideline
4. I = Analyte detected below quantitation limits.

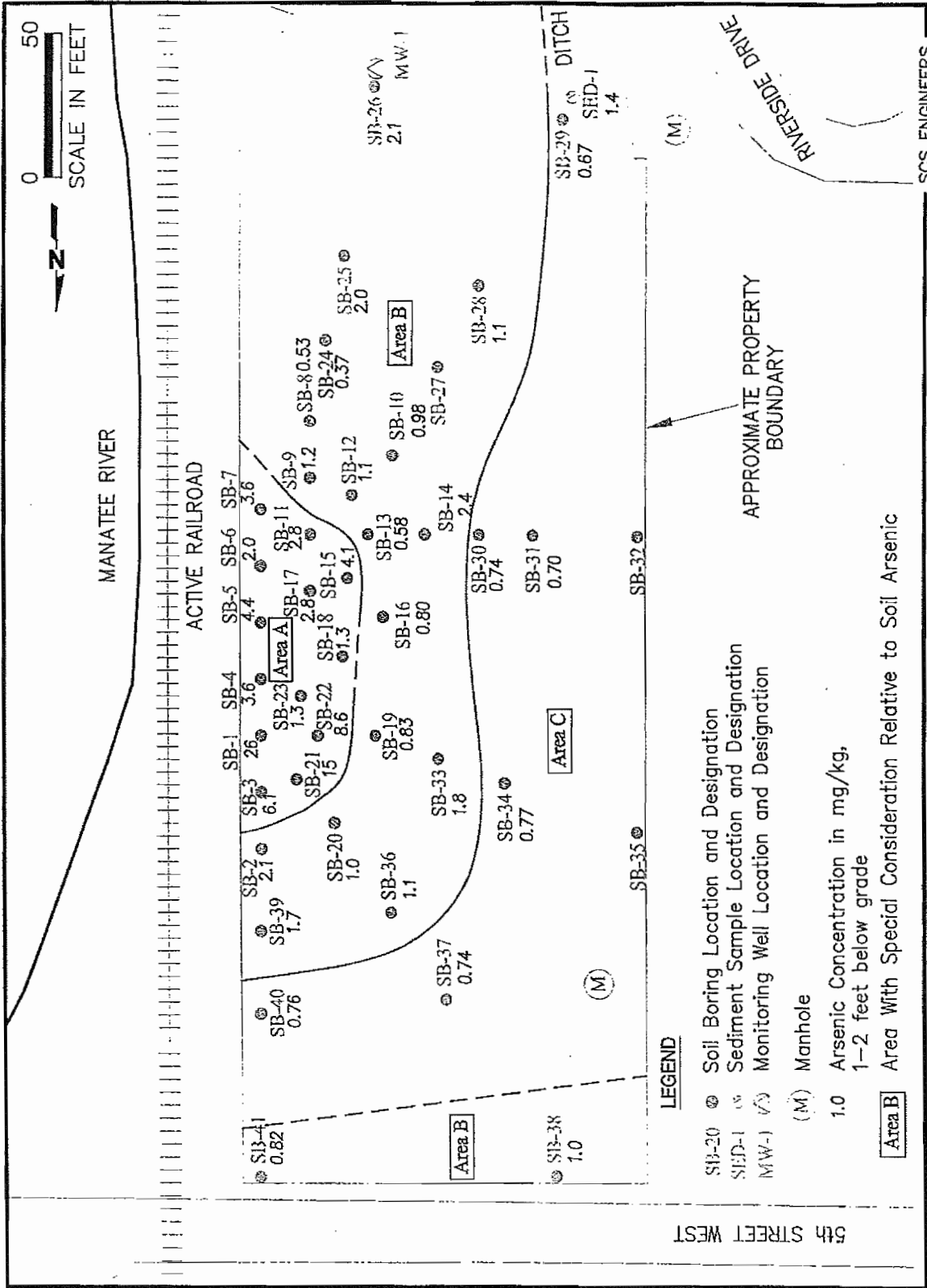


Figure 4-1. Arsenic Concentrations in Soils, 1-2 feet Below Grade, Edenfield Property, City of Palmetto, Florida.

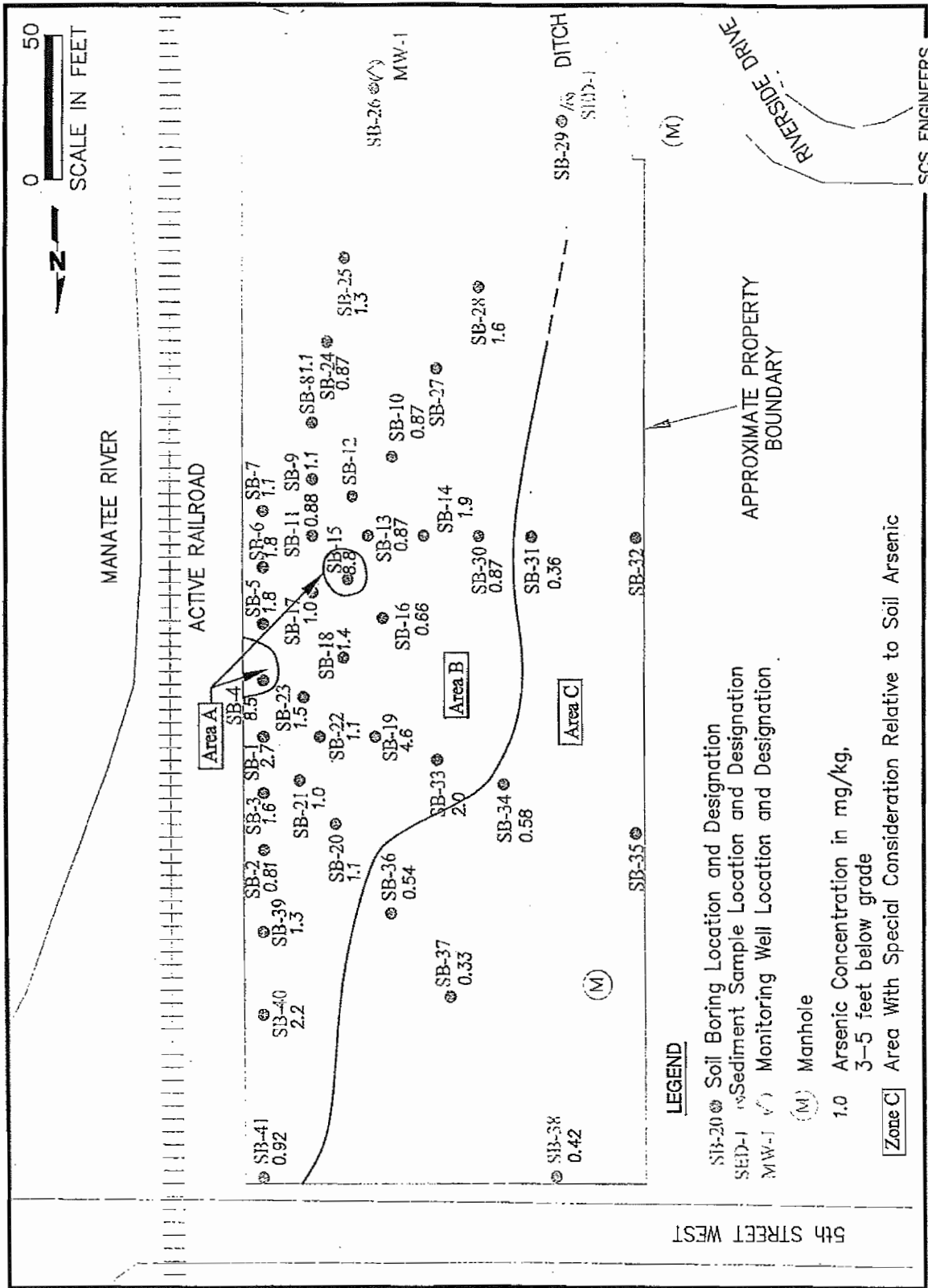


Figure 4-2. Arsenic Concentrations in Soils, 3-5 feet Below Grade, Edenfield Property, City of Palmetto, Florida.

RESOLUTION NO. 04-19

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR CONVEYENCE OF CERTAIN REAL PROPETY TO THE PALMETTO COMMUNITY REDEVELOPMENT AGENCY; REPEAL OF RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Palmetto is the owner of certain real property located within the City of Palmetto, Florida, which real property is more fully described in Exhibit "A," attached hereto and made a part here of, hereinafter the "Edenfield Property;" and

**WHEREAS**, the Florida Department of Environmental Protection, hereinafter the "FDEP," in reliance upon certain environmental testing of the soil and ground water within the Edenfield Property, has determined that certain contaminants contained in said soil and groundwater exceed the minimum standards for such soils and ground water as adopted by the FDEP; and

**WHEREAS**, the Edenfield Property is located within the Palmetto Community Redevelopment Agency Redevelopment Area as identified in the Community Redevelopment Action Plan for Palmetto, Florida, dated November 1993 as adopted and amended by the City Council of the City of Palmetto, hereinafter the "CRA Plan;" and

**WHEREAS**, on or about March 3, 2004, the Board of Directors of the Palmetto Community Redevelopment Agency, hereinafter the "CRA," determined that redevelopment of the Edenfield Property, to include remediation of said property in cooperation with FDEP, is consistent with and furthers the goals and objectives of the CRA Plan; and

**WHEREAS**, the CRA has agreed, upon the City Council of the City of Palmetto, Florida conveying, deeding and transferring fee simple ownership of the Edenfield Property to the CRA, to initiate redevelopment of the Edenfield Property ; and

**WHEREAS**, the City Council of the City of Palmetto, Florida, in reliance upon the CRA undertaking the redevelopment of the Edenfield Property, has determined that the conveying, deeding and transferring of fee simple ownership of the Edenfield Property to the CRA is in the best interest of and furthers the public welfare of the citizens of the City of Palmetto, Florida.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Palmetto, Florida;



1. The City Council of the City of Palmetto does hereby agree to convey, deed, and transfer fee simple ownership of the Edenfield Property, as described in Exhibit "A," to the Palmetto Community Redevelopment Agency.

2. The Mayor of the City of Palmetto, Florida is hereby authorized and directed to execute on behalf of the City of Palmetto, Florida all documents necessary to complete the conveyance and transfer of fee simple ownership of the Edenfield Property to the CRA.

3. The CRA shall, within twelve (12) months of the transfer of ownership of the Edenfield Property to the CRA, submit redevelopment options for the Edenfield Property to the City Council of the City of Palmetto, Florida for said City Council's selection and approval.

4. The deed conveying fee simple ownership of the Edenfield Property to the CRA shall contain a provision whereby in the event the CRA does not submit redevelopment options to the City Council of the City of Palmetto, Florida for the redevelopment of the Edenfield Property within twelve (12) months after the transfer of such ownership, then ownership of the Edenfield Property shall revert to the City of Palmetto, Florida.

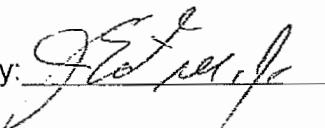
5. This Resolution hereby repeals all resolutions and parts of resolutions in specific conflict herewith to the extent of such conflict.

6. This Resolution shall take immediate effect within the City of Palmetto upon its adoption.

**PASSED AND DULY ADOPTED**, in regular session, by the City Council of the City of Palmetto, with a quorum present and voting, this 15th day of March, 2004.

ATTEST: J. E. FREE, JR.  
CITY CLERK

CITY OF PALMETTO, FLORIDA, BY AND  
THROUGH THE CITY COUNCIL OF THE  
CITY OF PALMETTO

By: 


  
Lawrence E. Bustle, Jr., Mayor

EXHIBIT "A"

DESCRIPTION:

COMMENCE AT THE N.E. CORNER OF THE S.W. 1/4 OF THE S.E. 1/4 OF SECTION 14, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA; THENCE S 00°00'40" W, ALONG THE EAST LINE OF SAID S.W. 1/4 OF THE S.E. 1/4, 1320.43 FT. TO THE S.E. CORNER THEREOF; THENCE N 89°38'47" W, ALONG THE SOUTH LINE OF SAID SECTION 14, 210.00 FT. FOR A P.O.B.; THENCE N 00°00'40" E, PARALLEL TO THE EAST LINE OF THE S.W. 1/4 OF THE S.E. 1/4 OF SAID SECTION 14 AND 210.00 FT. WESTERLY THEREFROM; 351.16 FT. TO THE INTERSECTION WITH THE SOUTH R/W OF 5TH STREET; THENCE S 89°34'48" E, ALONG SAID SOUTH R/W, 148.55 FT. TO A POINT LYING 25.0 FT. WEST OF THE CENTERLINE OF THE EXISTING SEABOARD SYSTEM RAILROAD TRACK; THENCE S 00°01'21" E, PARALLEL TO THE CENTERLINE OF SAID TRACK, AND 25.0 FT. WESTERLY THEREFROM, 324.09 FT. TO THE P.C. OF A CURVE, CONCAVE TO THE EAST, HAVING A RADIUS OF 5754.65 FT.; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, PARALLEL TO THE CENTERLINE OF SAID TRACK, AND 25.0 FT. WESTERLY THEREFROM, THROUGH A CENTRAL ANGLE OF 04°45'47", 478.40 FT. TO THE P.T. OF SAID CURVE; THENCE N 89°38'47" W, PARALLEL TO THE SOUTH LINE OF SAID SECTION 14, 10.0 FT., MORE OR LESS, TO THE INTERSECTION WITH THE APPROXIMATE M.H.W.L. OF THE MANATEE RIVER; THENCE NORTHWESTERLY ALONG SAID APPROXIMATE M.H.W.L., 135.0 FT., MORE OR LESS, TO THE INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE EASTERLY R/W OF RIVERSIDE DRIVE; THENCE N 14°40'27" W, ALONG THE SOUTHERLY EXTENSION OF SAID EASTERLY R/W, 30.0 FT., MORE OR LESS, TO THE INTERSECTION WITH THE SOUTHERLY R/W OF SAID RIVERSIDE DRIVE; THENCE CONTINUE N 14°40'27" W, ALONG THE EASTERLY R/W OF SAID RIVERSIDE DRIVE, 319.91 FT. TO THE INTERSECTION WITH THE SOUTH LINE OF SAID SECTION 14; THENCE N 89°38'47" W, ALONG THE SOUTH LINE OF SAID SECTION 14, 4.29 FT. TO THE P.O.B., BEING AND LYING IN SECTIONS 14 & 23, TOWNSHIP 34 SOUTH, RANGE 17 EAST, MANATEE COUNTY, FLORIDA.

**TABLE 1. CHRONOLOGY OF EDENFIELD PROPERTY ENVIRONMENTAL ACTIVITIES**

Date	Activity/Issue	Details
12/15/85	Edenfield purchased property from Atlantic Land and Improvement District.	From prior to 1940 to 1982 Tampa Southern Railroad Company owned the Property. Did not find information on who owned the Property between 1982-1985.
06/91	Joint Application for Works in the Waters of Florida.	City plan to perform ditch maintenance and dispose of ditch sediments onto Property in an "upland spoil site."
03/17/93	Letter from Dole to Zumani regarding tomato wash water discharge.	Referred to DER's (now FDEP) legal notice of intent to allow West Coast Tomato (WCT) to discharge tomato wash water.
03/12/97	Letter from Prather to Vogler regarding Edenfield drainage issue.	Indicated receipt of February 27 <sup>th</sup> correspondence and package of documents and that they had been forwarded to Hadzima.
07/29/97	Internal FDEP (DER) memorandum	Lists a history of problems with the ditch quality and indicates sewage system problems had resulted in sewage overflow into the ditch.
08/06/97	Notice of Non-Compliance issued by FDEP to WCT.	Indicated they had discharged final tomato rinse water into the stormwater system that had degraded water quality in the downstream ditch (the ditch on the Property).
09/04/97	Bradenton Herald newspaper article.	Article titled "City may buy ditch with stinky past." Article indicated the City's goal was to buy the Property with the ditch to incorporate the ditch into the City's overhaul of its stormwater drainage system. The ditch apparently was extremely smelly with high levels of bacteria and fecal waste. Further indicated the County was investigating the cause of the pollution.
10/10/97	Phase I Environmental Site Assessment prepared by Environ-Audit & Compliance, Inc.	Traditional non-intrusive Phase I. Found evidence of previous owners listed above. WCT was identified as an upgradient petroleum storage tank facility and RCRA SQG. A wetland jurisdictional line was surveyed as part of the assessment. The Property previously was used as railway spur line and freight yard until 1973. Other facilities adjacent to Property had the potential to discharge to it.

Table 1, Continued  
Page 2 of 8

01/22/98	Phase II Environmental Site Assessment prepared by Environ-Audit & Compliance, Inc.	<p><i>Conclusions:</i></p> <ul style="list-style-type: none"> <li>-No buried debris in former railroad yard.</li> <li>-benzo(a)pyrene, benzo(b)fluoranthene, pyrene were detected in soils at SB-4. Latter two parameters were detected at concentrations above the clean soil residential concentrations.</li> <li>-carbon disulfide, fluoranthene, pyrene, chrysene, benzo(b)fluoranthene were detected in ditch sediments.</li> <li>-As, Ba, Cr, Pb were detected in soils, As was detected above the clean soil residential and/or industrial concentrations at SB-1, SB-4, SB-11.</li> <li>-As, Ba, Cr, Pb were detected in groundwater. As and Pb was detected above drinking water standards in TW-4.</li> </ul> <p><i>Recommendations:</i></p> <ul style="list-style-type: none"> <li>-Further assessment to identify extent and degree of soil contamination.</li> <li>-Further sampling of groundwater to assess effects of turbidity on metals results.</li> </ul>
04/06/98	Letter from Fruecht to Taylor.	Recommended preparation of a Property scale drawing, additional soil samples, both with depth and laterally past SB-12, and an additional eight monitoring wells for RCRA metals. This letter was forwarded to FDEP as an attachment to the 05/04/98 letter below.
05/04/98	Letter from Taylor to Yeagan regarding Phase I and II ESAs.	Transmitted copies of assessment reports and other City correspondence and indicated further assessment would be performed to determine extent of contamination.
09/15/98	Letter from Prather to Vogler regarding Agreement for transfer of Edenfield property to City.	Enclosed the Agreement dated 09/21/98 in the amount of \$90,000.
11/20/98	Letter from Tippin to Taylor regarding FDEP review of the Phase I and II ESAs (attached internal memo dated 11/16/98 and copy of an FDEP sediment quality assessment protocol).	Requested additional assessment per the internal memo and submittal of results within 30 days. Indicated PAHs may be a problem and groundwater discharging to the ditch needs to meet surface water standards.

Table 1, Continued  
Page 3 of 8

11/24/98	Fax from Prather to Taylor transmitting Tippin's 11/22/98 letter.	Requested Taylor review Tippin's letter. (Not found during the file review. Perhaps a typo occurred and Tippin's 11/20/98 letter was intended to be reference)
12/08/98	Letter from Taylor to Tippin regarding Tippin's 11/22/98 letter.	Indicated limited contamination is present within the property boundaries and limiting further activities to tidal effects survey until final property use is determined.
04/22/99	Letter from Tippin to Masio.	Reminder that City needs to submit plans regarding assessment activities.
08/13/99	Letter from Tippin to Petruff regarding a prior telephone conversation.	Confirmed Tippin's review of Phase II report. Confirmed FDEP understands organics and arsenic in soils and arsenic and lead in groundwater above standards. Also confirmed the FDEP completed its site investigation on 08/05/99. Requested removal of solid waste disposed on Property and additional soil and groundwater sampling to confirm previous results. Requested plans for work within 30 days.
10/19/99	Memo from Petruff to Taylor regarding contact with Tippin.	Summarized conversation with Tippin on 10/18/99. Petruff told Tippin that the City had removed all solid waste except the utility poles and railroad ties. Petruff indicated Tippin would not require additional soil sampling if a restriction were placed on the property.
10/20/99	Hand written note to FDEP file from Tippin.	Documented Tippin's inspection visit of 10/20/99 to confirm that solid waste was removed. Barrow also present at inspection.
12/06/99	Letter from Tippin to Petruff following up the 10/18/99 conversation elaborating on soil and groundwater sampling requested in the 8/13/99 letter.	Requested well construction evaluation; upgrade of temporary wells to permanent (or construction of new wells) with redevelopment and sampling for lead and arsenic; recommended discrete soils samples at SB-1 and SB-11 for arsenic; provided an example restrictive covenant; requested plans to respond to above within 30 days.
01/14/00	Letter from Taylor to Tippin regarding her 12/06/99 letter.	Agreed with Tippin recommendations; indicated contamination within parcel boundaries; proposed resampling for arsenic and lead, additional delineation around and with depth at SB-1 and SB-11, tidal study, compliance with Restrictive Covenant, if needed, and possible further assessment and remediation, if needed.

Table 1, Continued  
Page 4 of 8

12/01/00	Letter from Barron to Hickey regarding Taylor's 01/14/00 letter.	References FDEP's previous letters of 08/13/98, 11/20/98, and 12/06/99 and request to submit a report that documents all site activities since 01/14/00. Barron indicates in the letter that a complete environmental assessment of site contamination remains the goal and remediation of any groundwater contamination must be accomplished. Enclosed FDEP's "Corrective Actions for Contaminated Site Cases."
12/21/00	Letter from Hickey to Barron responding to the 12/01/00 letter.	Indicates the City is putting together a plan to complete the work.
01/10/01	Letter from Fruecht to Hickey proposing additional assessment activities.	To further define extent; sampling of TW-1 and TW-4; groundwater flow by installing 4 piezometers; soil sampling around SB-1 and SB-11
02/07/01	Letter from Hickey to Barron regarding the plan to complete the assessment actions.	Indicated TW-1 and TW-4 would be sampled for lead and arsenic; install four piezometers for tidal study; sample soil intervals at SB-1 and SB-11; provide a report.
03/01	Supplemental Assessment Activities report issued by JEA.	<p><i>Purpose:</i> To provide additional assessment activities following the Phase II assessment. Specifically to assess whether soil contamination could be vertically defined and if turbidity affected previous groundwater samples. Soil samples were collected at one-foot intervals to five feet below land surface near SB-1 and SB-11. Groundwater samples were collected from TMW-1 and TMW-4A.</p> <p><i>Conclusions:</i></p> <ul style="list-style-type: none"> <li>-Soil arsenic concentrations exceeded the residential cleanup criterion to a depth of five feet.</li> <li>-Soil arsenic concentrations exceeded the industrial cleanup criterion to a depth of three feet.</li> <li>-Groundwater flow was toward the south.</li> <li>-Groundwater samples indicated the presence of arsenic and lead above drinking water standard but high turbidity was a factor contributing to the presence of the arsenic and lead.</li> </ul>

Table 1, Continued  
Page 5 of 8

		<p><i>Recommendations:</i></p> <ul style="list-style-type: none"> <li>-If further soil sampling is performed to assess lateral extent of soil contamination, use SB-1 and SB-11 as starting locations for the assessment.</li> <li>-Additional groundwater quality site assessment should consider tidal effects.</li> <li>-Future wells should incorporate adequate screening materials and construction to reduce turbidity.</li> </ul>
06/26/01	Letter from Barron to Hickey regarding review of Supplemental Site Assessment Activities.	Additional borings in addition to SB-1 and SB-11 are needed to assess vertical and horizontal extent. The installation of a permanent monitoring well at the TWM-4A location is needed. Soil and groundwater analyses for EPA Method 8270 and 8 RCRA metals are needed. A Restrictive Covenant may not be appropriate. Additional data may be sufficient to complete a risk assessment. A revised Contamination Assessment Plan is needed.
07/11/01	Meeting between City and FDEP regarding 06/26/01 letter from Barron.	City will respond to the 06/26/01 letter. The City will check the Agreement with Edenfield for responsibility and understands that if none is found that the City will be the responsible party. The City's engineers will prepare a proposal to address FDEP's requested actions.
07/23/01	Letter from Hickey to Barron summarizing the 07/11/01 meeting between the City and FDEP.	City reps – Conlon, Tusing, Fruecht, Siewert, Hickey. FDEP reps – Barron, Gonzalves Actions to be taken as a result of the meeting – City to respond to 06/26/01 letter by 07/26/01; City to research the Edenfield Agreement regarding cleanup of the Property. A proposal to perform actions requested in the 06/26/01 letter will be prepared by Smith & Gillespie (to become part of JEA).
08/03/01	Proposal from JEA to Hickey regarding assessment of site.	Proposed to delineate arsenic at SB-1 and SB-11, sediment sample at ditch outfall for Benzo (b) floranthene; installation of a monitoring well near the former TMW-4A (to be designated MW-4); collect soil and groundwater samples for EPA method 8270 and 8 RCRA metals.

Table 1, Continued  
Page 6 of 8

08/28/01	Letter from Petruff to Hickey regarding responsibility for cleanup.	Indicated FDEP investigated complaints about the property prior to City purchase and FDEP was provided copies of the environmental audit. Indicated Cathey and other FDEP employees visited the site more than once and did not determine that it was contaminated. After closing on the Property transaction, an FDEP internal memo raised issues regarding the environmental assessments. Petruff stated her opinion that the railroad or upstream facilities were responsible and asked why FDEP did not advise the City prior to the Property transaction regarding FDEPs concerns. She said Tippin said FDEP would investigate requesting cleanup of the Property by the railroad.
09/06/01	Letter from Hickey to Barron regarding Agreement with Edenfield.	Indicated Agreement silent on property cleanup and absence affects FDEP's view of "responsible party." Attached Petruff 08/28/01 letter and JEA 08/03/01 proposal to assess property.
01/17/02	Letter from Ettore to Hickey regarding 09/06/01 letter.	Referenced 09/06/01 letter, 08/28/01 letter and project file; states City is liable for hazardous substances on property; FDEP is not required to notify an owner that a property is contaminated; references Florida law of "buyer beware;" no facts to indicate railroad or upstream facilities are responsible; sees no reason why the case should not be proceeding; referenced 07/11/01 meeting that reached tentative agreement; indicates only need limited soil removal and natural attention ( <i>should be "attenuation"</i> ) of groundwater ( <i>what is really meant here is "monitored natural attenuation"</i> ); says "Either the City is going to proceed to conduct the required work in the immediate future or I believe the District will refer this case to the Office of General Counsel."
03/02/02	Email from Hickey to Barron regarding status of response to FDEP.	Referenced 01/17/02 letter from Ettore and that Petruff will be responding. Requested Barron's review and recommendation on JEA's plan of study dated 08/03/01.
03/07/02	Fax cover page from Barron to Russel	Transmits Ettore's 01/07/02 letter.
03/08/02	Email from Hickey to Petruff regarding 01/17/02 letter.	Summarized status of issues and suggested Mayor and staff get together to set a direction.



Table 1, Continued  
Page 7 of 8

02/17/03	Proposed Agreement with West Coast Tomato, Inc.	<p>Elements:</p> <ul style="list-style-type: none"> <li>-New property line.</li> <li>-WCT would assume environmental liability for new property.</li> <li>-Silt basin would be created by WCT.</li> <li>-New berm to channel runoff would be created by WCT.</li> <li>-Regraded ditch by WCT.</li> <li>-Trash and debris removed by WCT.</li> <li>-Drain pipe refurbished by WCT.</li> <li>-New property properly graded.</li> </ul>
05/21/03	Phone call record for call from Russell to Barron requesting what assessments are needed at property.	Barron indicated the letter of 06/26/01 included the required assessments and a contamination assessment plan (CAP) needed to be submitted.
05/29/03	Letter from Russell to Bustle regarding WCT interest in Edenfield property	To expand its facility; understands that additional assessment is needed; willing to share half the costs in assessing and remediating the property. Estimates CAP and assessment at \$17,000 and possibly \$5,000 to \$10,000 more for additional assessment following the CAP and assessment with no estimate for remediation costs.
05/30/03	Email from Bustle to Scott	City is not interested in sharing in the assessment and remediation costs since the City did not cause the contamination.
07/24/03	Memo from Hickey to Bustle.	Summarizes status of Edenfield property.
07/28/03	Palmetto City Council workshop	Included presentation by Russell of Environmental Safety Consultants' letter dated 05/29/03 offering for WCT to share in one half of the costs of assessing and remediating the Property.
09/08/03	Fax cover page from Barron to Petruff	Transmits the 5/21/03 phone call record.
09/26/03	Letter from Lukowiak(Ms) to Clark regarding consulting services to assist CRA with Edenfield property	Transmits SCS Engineers proposal for file review to update status of Property environmental activities and provides notice to proceed.

Notes:

Prepared from review of City and FDEP files.  
Prepared by Bob Westly, P.G., SCS Engineers Project Director.  
October 14, 2003

Persons referenced:

Barron – FDEP employee.  
Bustle – Mayor.  
Cathey – FDEP employee.  
Clarke – V.P. of Zoller, Najjar and Shroyer, L.C.  
Dole – Mayor.  
Fruecht – Environmental/Engineering Specialist with Smith and Gillespie Engineers.  
Gonsalvez – FDEP employee.  
Hadzima – City of Palmetto Public Works Director.  
Hickey – City of Palmetto Public Works Director.  
Lukowiak(Ms) – Executive Director of Palmetto Community Redevelopment Agency.  
Masio – Attorney with McGuire & Parry.  
Petruff – Attorney with Dye, Deitrich, Prather, Petruff, & St. Paul, P.L.  
Prather – Attorney with Dye, Scott, Prather & Petruff, P.A.  
Russell – Principal Scientist and President, Environmental Safety Consultants, Inc.  
Taylor – City of Palmetto Public Works Director.  
Tippin – FDEP employee.  
Vogler – Attorney representing Mr. and Mrs. Billie E. Edenfield.  
Zumani – FDEP employee.

Abbreviations used:

CRA – Community Redevelopment Agency.  
JEA – Jones, Edmonds and Associates, Inc.  
RCRA – Resource Conservation and Recovery Act.  
SQG – Small quantity generator.  
WCT – West Coast Tomato, Inc.

Symbols used:

As – arsenic  
Ba – barium  
Cr – chromium  
Pb - lead