

MANATEE COUNTY CLERK OF THE CIRCUIT COURT

INTERNAL AUDIT DIVISION

ENVIRONMENTAL ACTION COMMISSION

AUDIT REPORT

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MANATEE COUNTY CLERK OF THE CIRCUIT COURT

INTERNAL AUDIT DIVISION

ENVIRONMENTAL ACTION COMMISSION

AS OF JULY 31, 1994

AUDIT REPORT

A financial, compliance, and operational audit of the Manatee County Environmental Action Commission, hereafter referred to as the EAC, was conducted by the Internal Audit Division for the audit period March 1, 1993 through July 31, 1994. The audit was performed in conformance with Generally Accepted Governmental Auditing Standards, issued by the Comptroller General of the United States; and the Standards for the Professional Practice of Internal Auditing, issued by the Institute of Internal Auditors.

BACKGROUND

The EAC is comprised of the same members as the Board of County Commissioners and is responsible for overseeing the operations of the local independent environmental agency. The EAC consists of an Administration Office and the three divisions of Air Quality, Natural Resources Management and Water Quality.

The EAC Administration is charged with developing annual budgets, preparing deposits, reporting activities to the Commission, assisting other divisions by researching environmental issues and performing educational and community outreach on environmental issues.

The Natural Resources Management Division implements the environmental policies of the Manatee County Comprehensive Plan and the environmental regulations of the Manatee County Land Development Code in unincorporated Manatee County. This Division has primary responsibility for coordination of the County's beach restoration program, habitat restoration projects, and planning for environmental lands acquisition and management.

The Air Quality Management Division preserves and protects the air quality in both the unincorporated and incorporated portions of Manatee County through the administration of a state contract and enforcement of the Manatee County's Code of Environmental Regulation.

The Water Quality Management Division protects, maintains and enhances the surface and groundwater quality in Manatee County. This mission is carried out through a variety of programs, water quality monitoring, conducting special studies, and monitoring compliance with mandates of the Manatee County Comprehensive Plan. The Water Quality Division administers various state contracts and programs. This Division also performs special studies on a one-time or continuous basis, such as monitoring for the Sarasota Bay and Tampa Bay National Estuary Programs, water quality and quantity tracking, and trend analysis in the county's two watersheds.

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PURPOSE/OBJECTIVE

The main audit objectives include, but are not limited to, the following:

To verify accuracy and input timeliness of financial data, and reports processed and received by the EAC.

To verify an adequate system of internal control exists to safeguard assets, maintain the integrity of reports on operations, and provide adequate evaluation of the Commission's objectives and responsibilities.

To verify compliance with significant laws and regulations, including Florida Statutes, federal regulations, the EAC's ordinances, resolutions, policies, and signed agreements or contracts.

To evaluate operational efficiency and effectiveness.

To provide summary information on all major programs of the EAC for use by the Review Committee.

SCOPE

The financial audit scope consisted of a review of accounts, financial transactions, and reports of the EAC for the period March 1, 1993 through February 28, 1994.

The compliance audit scope consisted of a review of the policies and procedures, Florida Statutes, federal regulations, the EAC's ordinances, resolutions, contracts, and agreements through July 31, 1994.

The operational audit scope consisted of a review of the EAC's internal controls and the effectiveness and efficiency of the operation during the audit period March 1, 1993 through July 31, 1994.

METHODOLOGY

Internal control evaluations were accomplished by flow charting key operations, discussions with management and staff, observations, and analytical and substantive testing of individual internal controls.

Risk analysis was used to establish priorities of audit objectives. Statistical sampling was used whenever appropriate to accomplish audit objectives.

IRREGULARITIES, ABUSE, AND ILLEGAL ACTS

No indications of irregularities, abuse, or illegal acts were discovered during the audit that could affect the EAC for the audit period ended July 31, 1994.

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TEST OF COMPLIANCE

Except as noted in our audit report, tested items were In compliance with significant Florida Statutes, ordinances, resolutions, personnel policies, other policies established by the EAC and other applicable laws and regulations.

Nothing came to our attention as a result of specified procedures that caused us to believe that the untested items of the EAC failed to comply with applicable laws and regulations. However, it should be noted that our audit was not directed toward obtaining knowledge of noncompliance for areas not specifically tested.

STATEMENT ON INTERNAL CONTROL STRUCTURE

In planning and performing our audit of the EAC for the period March 1, 1993 through July 31, 1994, we considered its internal control structure in order to determine our auditing procedures for the purpose of our report on the EAC. As a result, except as noted in this report, we did not note any significant matters involving the internal control structure and its operations that we consider to be reportable conditions under standards established by the U.S. General Accounting Office, Government Auditing Standards. Reportable conditions involve matters relating to significant deficiencies in the design or operation of the internal control structure, that in our judgment, could adversely affect the organization's ability to record, process, summarize and report on data consistent with the intent of management.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions, as defined above. In addition because of the inherent limitations in any internal control structure, significant deficiencies in the design or operation of the internal control structure may exist and not be detected. However, we believe the conditions identified in our audit report constitute reportable conditions as previously defined.

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AUDIT REPORT AUTHORIZATION

The first section of this report examines the overall administration and general operations. We have divided the audit report into the following sections related to each major program group performed by the EAC. Detailed Audit Findings have been included in each section.

- Overall Administration Pages 7 - 13
- Groundwater Quality Pages 14-32
- Surface Water Quality Pages 33 -43
- Air Quality Pages 44-50
- Beach Restoration Pages 51 -52
- Restoration Projects Pages 53 -54
- Residential & Commercial Developments Pages 55 -59
- Complaints Pages 60-61

Management's response to detailed audit findings can be found on pages 63 through 84. Other minor findings, not included in this report have been discussed with management or corrected during the audit. We would like to thank the Environmental Action Commission's personnel and management for the cooperation and courtesy afforded to our auditors throughout the audit.

This audit report has been reviewed and authorized by

Richard J. Orienti, CFE R. B. "Chips" Shore

Director of Internal Audit Clerk of the Circuit Court

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OVERALL ADMINISTRATION

This section of audit findings relates to the overall administration of the EAC and not exclusively to individual environmental programs.

The EAC has only been in existence for approximately three years with an overall annual budget of approximately two million dollars. Internal Audit found the personnel of the EAC to be highly competent and dedicated to serving Manatee County to the best of their abilities. We did find a lack of inter-local agreements, an overall lack of prioritization of programs, a lack of a cost accounting system to quantify the costs of individual EAC programs, a lack of local enforcement and enforcement capability, and other areas requiring management's review.

Detailed Audit Findings Relating To the Overall Administration of the EAC:

01. No inter-local agreement with Manatee County. Page 8
02. No overall evaluation and prioritization of environmental programs. Page 9
03. Lack of cost accounting system for individual programs. Page 10
04. Lack of local enforcement or local laws to allow enforcement. Page 11
05. Survey of other Florida west coast environmental programs. Page 12
06. Qualifications of three employees do not meet job description requirements and two positions are underencumbered. Page 13

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DETAILED AUDIT FINDINGS

01. AN INTERLOCAL AGREEMENT DOES NOT EXIST BETWEEN MANATEE COUNTY AND THE EAC THAT DETAILS THE RESPONSIBILITIES FOR SERVICES EACH PROVIDES AND TO FORMALIZE THE RELATIONSHIP BETWEEN THE TWO PARTIES.

The EAC was established in June of 1991 by enabling legislation which established the EAC as an independent agency with the Board of County Commissioners serving as the Environmental Action Commission. Organizational independence issues arise by having the same Commissioners serve as both the Board of County Commissioners and the Environmental Action Commission. Further confusion as to the degree of independence is added by the lack of an inter-local agreement between the EAC and Manatee County. The EAC receives services from Manatee County departments including administration of purchasing documentation, administration of personnel records, automobile fleet and fuel services, as well as other County services. In addition, the EAC provides development review services to the Planning, Permitting and Inspections Department and has been delegated responsibilities under Manatee County's Comprehensive Plan and the Land Development Code, without a formal agreement. The EAC

has not established policies and procedures to ensure compliance with the specific sections of the Comprehensive Plan and the Land Development Code. Furthermore, the EAC is administrating several Manatee County grants regarding beach restoration and artificial reef construction. Without an inter-local agreement between these two independent governmental agencies, clear and specific delegation of responsibilities has not been accomplished.

Internal Audit recommends that an inter-local agreement be developed and approved by both the EAC and the Board of County Commissioners detailing both entities' responsibilities for providing services. This inter-local agreement should include delegation of responsibilities under the Comprehensive Plan and the Land Development Code and any grant administration performed for Manatee County. In addition, Internal Audit recommends that policies and procedures be established by the EAC to ensure compliance with the specific delegated sections of the Comprehensive Plan and the Land Development Code.

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DETAILED AUDIT FINDINGS

02. OVERALL COMBINATION OF PROGRAMS OF THE EAC HAS EVOLVED WITHOUT ADEQUATE EVALUATION OF LOCAL NEEDS OR COST/BENEFIT.

The EAC, when originally established, incorporated some of the programs and personnel from Pollution Control, a state division of the Health and Rehabilitative Services (HRS). According to management, Pollution Control lacked the staffing and resources necessary to carry out the programs' objectives. The EAC staffing and available resources only recently has grown to a level sufficient to begin achieving these programs' objectives. In examining the overall combination of programs performed by the EAC, we found that Manatee County's Comprehensive Plan and Land Development Code define responsibilities that have been informally delegated to the EAC. We also found that increasing demands for services and resources dedicated to existing programs have been made by outside agencies and by the EAC's divisional managers. Internal Audit believes that the EAC lacks an overall evaluation process to determine which programs would be most beneficial to the local area with the limited resources available.

We recommend the EAC, along with the Director, establish local priorities in deciding which programs will provide the maximum benefit to Manatee County with the limited resources available.

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DETAILED AUDIT FINDINGS

03. THE EAC LACKS A TIME ACCOUNTING SYSTEM AND OTHER COST ACCOUNTING METHODS TO DETERMINE THE COST OF MAINTAINING THE VARIOUS PROGRAMS.

Internal Audit reviewed the various programs maintained by the EAC and found that a time accounting system has not been established to determine the cost of maintaining the various programs by the divisions. Personnel time is primarily charged to the assigned division's cost centers with no breakdown between separate programs or functions performed. In addition to the individual programs of each division, staff time is used for administrative time, responding to citizens' complaints, and commenting on development review plans. The Water Quality Division has eight distinct programs they maintain for which personnel are cross-trained and assist in performing sampling activities. Without accounting for time spent on each program, program costs and accountability for use of resources can not be determined. Internal Audit believes that a program's cost is a crucial factor in determining a program's efficiency and effectiveness. Accurate program costs must be known to determine sufficient user fee rates to recover program costs. Without knowledge of operational costs, privatization comparisons for in-house services that can be provided by outside vendors cannot be made.

The majority of the EAC's program costs is related to personnel. We believe capturing the personnel costs for each program can serve as an adequate basis for allocation of other direct and indirect costs without incurring substantial additional expense to estimate total program costs. Manatee County's is currently searching for a new finance system that includes enhanced cost accounting abilities and such a system could assist in the automation of EAC's cost accounting needs once the system has been implemented.

Internal Audit recommends the EAC establish a cost accounting system to track the costs of the programs being performed. To accomplish this objective, we recommend policies and procedures be established for a time accounting system which can serve as a basis for which all other direct and indirect costs can be allocated.

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DETAILED AUDIT FINDINGS

4. THE EAC HAS NOT DEVELOPED LOCAL LAWS AND REGULATIONS WHICH WOULD ALLOW LOCAL ENFORCEMENT ACTION FOR VIOLATIONS.

Our audit found that the EAC does not use local enforcement to assure compliance with environmental laws and regulations. Instead, the EAC attempts to secure compliance with education, through the

complaint process, and through development plans review. Major violations of state environmental laws are referred to the Florida Department of Environmental Protection for their investigation and enforcement. We noted from discussions with other environmental programs in the state that enforcement revenues rarely cover the costs of enforcement; however, the lack of the ability to enforce laws can have a negative influence on compliance. As a new entity, the EAC is faced with many political and developmental pressures. According to management, the EAC has decided not to actively pursue local enforcement due to budgetary and staffing constraints. We found that, in most cases, the EAC has not developed the local laws and regulations that are required prior to taking local enforcement actions.

We recommend that the EAC include analyses of what enforcement actions will be necessary to achieve compliance with the programs they prioritize and select. We further recommend local laws and regulations be developed for programs the EAC decides to enforce.

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DETAILED AUDIT FINDINGS

05. THE EAC'S COMPARISONS TO OTHER FLORIDA WEST COAST ENVIRONMENTAL PROGRAMS.

We surveyed five other Florida west coast counties that had environmental programs and found that two of the five operate under county health departments. The remaining three were used for comparison to Manatee County. **Direct comparisons become difficult because no two counties' environmental priorities are the same. Comparisons can be used to explore possible changes or potential cost savings.** Internal Audit noted Manatee County is currently attempting to obtain state funding for air monitoring that could improve Manatee County's revenue from non ad valorem taxes. We found the following:

Sources of Operating Revenue

County Ad Valorem Taxes Other Revenue Sources

Manatee \$1,157,000* (74.31%) \$ 400,000 (25.69%)

Pinellas \$3,375,000 (67.50%) \$1,625,000 (32.50%)

Hillsborough \$4,000,000 (45.39%) \$4,812,000 (54.61%)

Sarasota \$ 120,000 (9.59%) \$1,131,000(90.41%)

* Does not include reserves of approximately \$400,000 which are funded by Ad Valorem Taxes

Administrative Positions - Total Personnel

Manatee County 8 out of 32 employees - 25.00%

Pinellas County 5 out of 78 employees - 6.41%

Hillsborough County 20.5 out of 158.5 employees - 12.93%

Sarasota County 5 out of 27 employees - 18.52%

We recommend the EAC explore other revenue sources to reduce reliance on ad valorem taxes to every extent possible. We further recommend the EAC review the number of the administrative staff for potential cost savings.

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DETAILED AUDIT FINDINGS

06. QUALIFICATIONS OF THREE EMPLOYEES OF THE EAC DO NOT MEET JOB DESCRIPTION REQUIREMENTS AND TWO EMPLOYEES HOLD POSITIONS WHICH ARE UNDER-ENCUMBERED, A DISTORTION OF TRUE STAFFING NEEDS.

The EAC has adopted the Manatee County's Personnel Policies and Procedures and also utilizes the services of the Office of Human Resources. Internal Audit reviewed job descriptions and found 3 out of 32 employees or 9.4% of the EAC's personnel did not meet the minimum training and/or experience requirements of their respective positions. In addition, we noted that 2 out of 32 employees or 6.25% hold positions which are underencumbered, a practice that distorts true staffing needs by hiring personnel at lower than authorized rates to fill positions for which they are not qualified, Manatee County government is attempting to eliminate underencumbering as an employment practice.

Internal Audit recommends the EAC review hiring procedures to ensure the employee qualifications meet job descriptions. We further recommend that the practice of underencumbering be discontinued to more accurately reflect staffing needs.

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WATER WELLS PROGRAM

The EAC is performing the responsibilities under the Well Construction Permitting Agreement. The objective of this program is to review, evaluate and issue permits for the construction, repair, modification and abandonment of water wells within Manatee County. The agreement allows for fees to be set to recover the costs of the program. The agreement also specifies an enforcement program is to be developed in cooperation with Southwest Florida Water Management District (SWFWMD).

Internal Audit's review of this program found a general lack of contract compliance.

Detailed Audit Findings Relating To The Water Wells Program:

7. Permit fees charged do not cover the cost of administering the program. (Page 15)
8. Well completion reports are not received from the contractors on a timely basis. (Page 16)

09. An enforcement program has not been developed. (Page 17)

10. Permits were transferred for situations not allowed by the program. (Page 18)

11. Permit fees were waived, in violation of agreement terms. (Page 19)

12. Monthly reports were not submitted timely to SWFWMD. (Page 20)

13. Permit fees were not deposited timely and applications were not date stamped when received. (Page 21)

14. Staffing requirements do not meet the requirements of the agreement. (Page 22)

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DETAILED AUDIT FINDING

07. PERMIT FEES CHARGED DO NOT COVER THE COST OF ADMINISTERING THE WATER WELLS PROGRAM.

Florida Statute 373.309 allows fees paid for well construction permits to be based on actual costs incurred by the agency. Internal Audit conservatively estimates that the revenues generated by the program cover only 37% of personnel salaries used in the administration of the program for the one-year audit period examined. Personnel salaries do not include fringe benefits and all other direct and indirect costs associated with the program.

Internal Audit recommends the EAC adjust the rates charged for well construction permits to cover the cost of administering the program.

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DETAILED AUDIT FINDINGS

08. WELL COMPLETION REPORTS ARE NOT RECEIVED FROM THE CONTRACTOR ON A TIMELY BASIS AS REQUIRED BY THE TERMS OF THE WELL CONSTRUCTION PERMITTING AGREEMENT.

The Well Construction Permitting Agreement requires well contractors to submit completion reports to the EAC within 30 days of completing any well activity. The well permits are effective for a period of six months from the date issued. If the well activity is cancelled, the contractor is still required to submit a completion report to EAC explaining the cancellation.

Internal Audit found that 41.74% or 48 out of 115 of the reports examined were not submitted within the required 30 days. These consisted of the following:

25 out of 115 22% Completion reports were received in excess of 30 days.

18 out of 115 16% Completion reports were not received.

4 out of 115 3% Completion reports did not contain the well's completion date.

1 out of 115 1% Completion report was not date stamped when received by EAC.

In addition, Internal Audit found permits expired prior to the date of completion of the well activity in 20.87% or 24 out of 115 of the reports examined. These consisted of the following:

19 out of 115 17% Completion reports were not received.

2 out of 115 2% Construction was completed prior to the permit issued date.

2 out of 115 2% Permit has expired with no evidence of permit extension.

1 out of 115 1% Completion report did not contain the well's completion date.

Internal Audit recommends the EAC develop procedures that will ensure contract compliance by actively monitoring the timeliness of well completion reports received by the well driller.

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DETAILED AUDIT FINDINGS

09. AN ENFORCEMENT PROGRAM HAS NOT BEEN ESTABLISHED AS REQUIRED BY THE AGREEMENT.

The Well Construction Permitting Agreement requires that an enforcement program be implemented in cooperation with the Southwest Florida Water Management District to ensure compliance with standards. Internal Audit found the EAC has not developed an enforcement program. Through discussions with management, the EAC is currently in the process of developing such a program.

Internal Audit recommends the EAC comply with the terms of the contract by implementing an effective enforcement program in cooperation with the Southwest Florida Water Management District.

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DETAILED AUDIT FINDING

10. PERMIT FEES WERE TRANSFERRED FOR SITUATIONS NOT ALLOWED BY PROGRAM REQUIREMENTS.

The Southwest Florida Water Management District's rules for the regulation of wells requires two conditions to exist for permits to be transferred. These include permit transfers from one contractor to another and permit transfers from one well to another. Both of these conditions allow transfers of permits when the well location has not significantly changed. In addition, the rule states the fee paid by contractors is a non-refundable permit processing fee that is required for permit applications to be processed and filed. Internal Audit found 11 instances where permit fees were transferred from various well locations by the same contractors that do not qualify under SWFWMD's rules. One of these instances included the holding of a check in the amount of \$80 for a period of three months then subsequently returning the check to the payee.

Internal Audit recommends the EAC strictly comply with SWFWMD's rules regarding the transfer of permitting application fees. In addition, we recommend that all fees be deposited timely and proper refund procedures be developed and followed.

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DETAILED AUDIT FINDINGS

11. PERMIT FEES WERE WAIVED IN VIOLATION OF THE AGREEMENT.

SWFWMD's rules state the fee paid by contractors is a non-refundable permit processing fee that is required for permit applications to be processed and filed. There are no exceptions listed for the waiving of fees. Internal Audit found two instances where fees were waived to other governmental agencies. We also found that fees were waived for permits for individuals drilling wells without a certified contractor.

Internal Audit recommends the EAC comply with the permit processing fee according to SWFWMD's rules.

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DETAILED AUDIT FINDINGS

12. MONTHLY REPORTS ARE NOT SUBMITTED TO THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT ON A TIMELY BASIS.

The SWFWMD Well Construction Permitting Agreement requires the following reports to be submitted to the district on or before the fifth day of each month describing the well activities of the previous month:

- Copies of Well Completion Reports
- Copies of Well Abandonment Inspection Reports
- Copies of Well Grouting Inspection reports for public supply wells
 - A list by permit number of public supply well construction, repair, modification or abandonment permits issued
- A list by permit number of public supply site inspections

- Reports of any enforcement proceeding, including the status of any ongoing enforcement cases and copies of all warning letter, notices of violation, consent orders, and final order relating thereto.

Internal Audit found no evidence that the required monthly reports were submitted to SWFWMD. While management states that the above required information has been submitted to the various SWFWMD offices sporadically, no evidence was available to support this assertion.

Internal Audit recommends the EAC comply with the terms of the agreement by submitting monthly reports containing the above requirements.

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DETAILED AUDIT FINDINGS

13. PERMIT FEES WERE NOT DEPOSITED TIMELY AND APPLICATIONS WERE NOT DATE STAMPED WHEN RECEIVED.

The EAC uses informal internal procedures to comply with the Manatee County Well Construction Permitting Agreement. Internal Audit found the following exceptions when reviewing permit applications:

16.09% 14 out of 87 Payments received were not deposited on a timely basis.

("timely" was defined as deposited within ten working days)

28.70% 33 out of 115 Permit applications were not date stamped when received by

the EAC. This date is important in order to determine the

time it takes to process applications.

Internal Audit recommends the EAC establish standard operating procedures to provide guidance in complying with the terms of the Wells Construction Permitting Agreement. Internal Audit also recommends that these procedures include the processing of permit applications and the depositing of permit fees.

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DETAILED AUDIT FINDINGS

14. MINIMUM STAFFING LEVELS SPECIFIED IN THE CONTRACT WERE NOT MAINTAINED.

The Well Construction Permitting Agreement requires minimum staffing levels and specific requirements that include one supervisor, two field technicians and one clerical position. In addition, SWFWMD requires notification of vacancies within fourteen days and these vacancies are to be filled no later than 90 days. Internal Audit found that one field technician vacancy exists, and the clerical position is not performing the duties as required by the terms of the contract. No evidence in writing exists that supports SWFWMD was notified of these staffing deficiencies and it appears that the technician position has been vacant in excess of 90 days. In addition, we noted that two of these positions are filled part-time. The contract, however, does not specify whether the positions require full or part-time positions.

Internal Audit recommends the EAC comply with the terms of the contract by employing the minimum staffing levels. In addition, notification of vacancies in the staffing levels should be conveyed within the required time and vacancies should not exceed the 90-day requirement.

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STORAGE TANK SYSTEM COMPLIANCE VERIFICATION PROGRAM

The EAC enters into annual contracts with the Florida Department of Environmental Protection (FDEP) to perform compliance and enforcement inspections of regulated pollutant storage tanks within Manatee County. The contract period for which we tested was for 12/1/92 through 11/30/93. The contract requires a specified number of inspections for the contract period. The FDEP pays the EAC for performing the services and the 1993 contract fees amounted to \$161,500.

Internal Audit found a general lack of contract compliance. In addition, we found weak internal controls in the reporting function.

Detailed Audit Findings Relating To The Storage Tank System Compliance Verification Program

15. Reporting of inspections to FDEP is not always accurate. (Page 24)

16. Follow-up procedures for non-compliance letters were not properly evidenced In the facilities case file. (Page 25)

17. The EAC did not always comply with the installation inspection procedures that are required by the terms of the contract. (Page 26)

18. The EAC did not always comply with the closure inspection procedures that are required by the terms of the contract. (Pages 27 - 28)

19. The EAC does not have a system in place to verify the Discharge Reporting forms were properly followed-up. (Page 29)

20. Regulated pollutant storage tank case files do not always contain required information.

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DETAILED AUDIT FINDING

15. REPORTING OF INSPECTIONS TO FDEP ARE NOT ALWAYS ACCURATE.

The FDEP contract with the EAC requires Program Output Reporting System Reports on a monthly and annual basis. Internal Audit found the monthly/annual Program Output Reporting System Reports, Inspection Logs and Annual Inspections Summary for the FDEP are not reconciled. As a result, the EAC overstated the total number of inspections by 18. The errors included the following:

+5 inspections not reported due to a math error

-11 inspections double counted in the report

- 8 inspections completed by the phone, not allowed by contract requirements

- 4 inspections were closure inspections of unregulated facilities, not allowed by contract requirements

18 Overstated Number of Inspections

By not reconciling, monthly/annual Program Output Reporting System Reports, Inspection Logs and Annual Inspections Summary for the FDEP, are more susceptible to errors.

Internal Audit recommends the EAC develop and implement policies and procedures for recording, reconciling and reporting of inspections performed.

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DETAILED AUDIT FINDING

16. FOLLOW-UP PROCEDURES FOR NON-COMPLIANCE LETTERS WERE NOT PROPERLY EVIDENCED IN THE FACILITIES CASE FILES.

The Storage Tank System Compliance Verification Program requires non-compliance letters to be issued to facility owners that do not comply with the Florida Administrative Code during inspections of their facility. Non-compliance letters require follow-up by the EAC that may include a reinspection or a request of additional information that is subsequently placed in the facility case files. Internal Audit found 9.5% or 8 out of 84 of the non-compliance letters sampled had no evidence of facility reinspection and/or requested compliance documentation in the facility case files.

Internal Audit recommends the EAC establish procedures to ensure all noncompliance cases are adequately followed-up and that required documentation is received and maintained in the facility case files.

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DETAILED AUDIT FINDING

17. THE EAC DID NOT ALWAYS COMPLY WITH THE INSTALLATION INSPECTION PROCEDURES.

Installation requirements according to contract terms require the EAC to obtain and review from the certified contractor an Underground Storage Tank Installation and Removal Form. Internal Audit found that in all cases examined, this form was not in the facility case file (19 out of 19). In addition, the contract requires a site visit for inspections. We found that 4 out of 20 cases or 20% of these inspections were completed by phone without a physical site visit.

Internal Audit recommends the EAC develop policies and procedures to ensure compliance with contract requirements. In addition, we recommend review procedures be implemented to ensure that all necessary forms required under the terms of the agreement are maintained in the facilities case file.

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DETAILED AUDIT FINDING

18. THE EAC DID NOT ALWAYS COMPLY WITH THE CLOSURE INSPECTION PROCEDURES.

Closure rules require the EAC obtain and review from the certified contractor an Underground Storage Tank Installation and Removal Form. We found that in 78.8%, or 26 out of 33 cases examined, this form was not in the facility case file. Other contract exceptions included:

- a. A Closure Assessment Report is required to be submitted by the owner/operator of the facility within 60 days of the closure. We noted that in 14.3% or 4 out of 28 cases examined that the closure reports were submitted in excess of 60 days.
- b. A Contamination Assessment Report (CAR) letter is required if their closure assessment revealed contamination levels in excess of standards. We noted that in 11.1% or 1 out of 9 files examined, the CAR letter was not included in the facility case file.
- c. A site inspection is required on closure activities. We found that 11.4% or 4 out of 35 cases of these inspections were completed by phone without a physical site visit.
- d. The contract requires notification to the EAC by the owner/operator of commencement of closure activities. We found that in 5.7% or 2 out of 35 cases, notification was made after the closure activities; however, the Compliance Inspection Report stated that notification was made prior to the closure activities.
- e. The FDEP encourages inspection of unregulated facilities by the EAC although these inspections are not part of the FDEP contract and therefore are not allowed to be included as an inspection for reporting requirements. We found that in 11.4% or 4 out of 35 cases examined, inspections were conducted at unregulated facilities and counted as closure inspections for contract purposes.

Internal Audit recommends the EAC establish policies and procedures to ensure closure activities comply with contract requirements. These procedures may include follow-up on receiving closure documents and documentation of these efforts and documentation and order of facility case files. In addition, we recommend review procedures be established to ensure that all closure activities are performed and properly documented.

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DETAILED AUDIT FINDING

19. THE EAC DOES NOT HAVE A SYSTEM IN PLACE TO VERIFY THE DISCHARGE REPORTING FORMS WERE PROPERLY FOLLOWED-UP.

The contract requires the EAC to inspect the facilities that file Discharge Reporting Forms within 10 days of their receipt. The EAC inspections require the completion of a Compliance Inspection Report. We found that the EAC does not have a system in place to verify that Discharge Reporting Forms were properly followed-up. In addition, the contract requires that Florida Petroleum Liability Insurance and Restoration Program (FPLIRP) checklists be completed by the EAC on confirmed discharges that provides the state with ranking and clean up information. We were not able to test the follow-up on Discharge Reporting Forms due to the lack of a centralized system. We were able to examine a portion of them through the FPLIRP checklist and found that 6 out of 14 or 42.9% had inspections that were not completed within ten days of receipt of the Discharge Reporting Form and 9 out of 14 or 64.3% did not have a compliance inspection report.

Internal Audit recommends the EAC develop policies and procedures addressing the recording, investigating, reporting and documenting of all reported discharges to ensure compliance with contract requirements.

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DETAILED AUDIT FINDING

20. REGULATED STORAGE FACILITY CASE FILES WERE INCOMPLETE AND DID NOT ALWAYS CONTAIN REQUIRED INFORMATION REQUIRED BY THE CONTRACT TERMS.

The contract requires that originals or required copies of inspection reports, inspection notification letters, notification letters, non-compliance letters, requested compliance documentation, correspondence to facility owners or other agencies, and Underground Storage Tank Installation and Removal Forms for Certified Contractors be maintained in the regulated storage facility case files. We found numerous inconsistencies and deficiencies in reviewing the facility case files.

Internal Audit recommends the EAC develop policies and procedures on the documentation and order of facility case files. In addition, we recommend a review system be established to ensure that all facility case files are complete and consistent.

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SMALL QUANTITY GENERATORS

NOTIFICATION PROGRAM

The Small Quantity Generators Notification Program is a statutory program under Florida Statute 403.7234. The program objective is to inform businesses that generate small amounts of hazardous wastes of their legal responsibilities regarding management of hazardous waste, and to obtain information from the generator concerning the quantity and types of hazardous wastes generated annually and the practices used to manage hazardous waste. This program requires notification to small quantity generator businesses once every five years. Fees to pay for the program may come from the occupational licensing process. Internal Audit learned the current five-year reporting period began in 1990. The program was passed down from HRS Pollution Control; however, Pollution Control did not perform in compliance with statutory requirements. When the EAC was formed in June 1991, this program along with many others were transferred to the EAC. At that time the EAC began notifying small quantity generator businesses but did not have the staff to physically inspect the facilities. In the last year, the EAC has obtained proper staffing levels in order to carry out the requirements under the statutes.

Internal Audit found a lack of compliance with Florida Statute requirements; however, the FDEP is currently revising the program.

Detailed Audit Findings relating to the Small Quantity Generators Notification Program

21. The EAC is not in compliance with the Small Quantity Generators Notification Program as required by Florida Statute 403.7234. In addition, Manatee County does not currently have an occupational license ordinance that would help defray the cost of maintaining this program. (Page 32)

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DETAILED AUDIT FINDING

21. THE EAC IS NOT COMPLYING WITH THE SMALL QUANTITY GENERATORS NOTIFICATION PROGRAM AS REQUIRED BY FLORIDA STATUTE 403.7234. IN ADDITION, MANATEE COUNTY DOES NOT CURRENTLY HAVE AN OCCUPATIONAL LICENSE ORDINANCE THAT WOULD HELP PAY FOR THE COST OF MAINTAINING THIS PROGRAM.

The Small Quantity Generators (SQG) Notification Program is a statutory program under Florida Statute 403.7234. Per interview with the FDEP, this program is in the process of being revised. Therefore, adherence to the specifics of the current statute is not being enforced by the FDEP. The FDEP is currently working to get all county programs on a schedule and allowing a grace period until the next five-

year period, beginning in June 1995. Internal Audit learned through interview with the management of the EAC that they were not complying with the specifics of the statute. However, the FDEP was informed of the difference in procedures and they confirmed with Internal Audit that procedures followed by the EAC were acceptable. As a result of this statute being in a transitional period, Internal Audit did not test the specific procedures required and relied on the interviews of the FDEP and the EAC.

In addition, Internal Audit found that no inter-local agreement exists between Manatee County and the EAC for the SQG notification/verification program detailing each party's responsibility. The Florida Statute states the program is the responsibility of the counties.

Manatee County currently does not have an occupational license ordinance. Therefore, a surcharge is not imposed for all new businesses that may have SQG's. Occupational licenses can benefit EAC in identifying SQG business and provide revenues for the program.

Internal Audit recommends the EAC adopt policies and procedures that will ensure compliance with the new rules governing the Small Quantity Generators Notification Program. In addition, we recommend that an inter-local agreement be established with Manatee County to delegate their authority and responsibility under the Florida Statute. We further recommend that the Board of County Commissioners consider adopting an occupational license ordinance that will enable the EAC to better identify small quantity generator businesses in Manatee County and defray the cost of maintaining this program.

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BRADEN RIVER STREAM GAGING PROJECT

The EAC entered into a cooperative funding agreement with the U.S. Geological Survey for continuation of the Braden River Stream Gaging Project for the period August 1, 1993 through July 31, 1994. Since May 1988, the U.S. Geological Survey, in cooperation with Manatee County, has been conducting a stream gaging project on the Braden River in order to establish a "water budget" for that river. The water budget will indicate seasonal volume of flows, as well as the relative contribution from surface and groundwater sources. The project involves the maintenance of one periodic discharge and six daily discharge stations in the Braden River.

Manatee County's contribution to this year's project is \$43,000. This amount is provided for in the EAC's annual budget. It is intended that this agreement will continue through 1997.

The proposed split of the financial burden of the study is as follows:

U.S. Geological Survey 50%

City of Bradenton 20%

Manatee County 20%

Southwest Florida Water Management District 10%

Detailed Audit Findings Relating to the Braden River Stream Gaging Project:

None

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BENTHIC MONITORING FOR THE TAMPA BAY

NATIONAL ESTUARY PROGRAM

The EAC entered into an agreement with the Tampa Bay Regional Planning Council for Benthic Monitoring Implementation for the Tampa Bay National Estuary Program. The agreement period is from September 13, 1993 and continuing through December 31, 1994. The purpose of this program is for the EAC to collect and process samples of bottom dwelling organisms at stations located throughout Tampa Bay. Sample design, collection, processing and analysis protocols will follow those designated by the U.S. Environmental Protection Agency's Environmental Monitoring and Assessment Program for Estuaries. The final product will be a Final Report produced in conjunction with the Environmental Protection Commission of Hillsborough County and a statistical consultant, and will include results of analyses and interpretation from the first year's data collection and an examination of costs and benefits of the year's data collection and an examination of costs and benefits of continuation of the benthic monitoring program.

The EAC is responsibilities include the collection of samples from a minimum of 20 stations. The collection of these samples, the forms to report the results of the sample and other procedures are all determined by a work plan approved by the Tampa Bay National Estuary program. In addition, the EAC will analyze 120 stations for grain/clay content as described in the work plan. The EAC will be compensated for services up to \$15,000 under the 1993 contract.

Internal Audit found the EAC is not performing in compliance with the approved work plan for this program.

Detailed Audit Findings Relating To The Benthic Monitoring For The Tampa Bay National Estuary Program:

22. The EAC is not following some of the procedures required by the approved work plan in the collection and-processing of samples of benthic organisms as required by the contract for Benthic Monitoring Implementation for the Tampa Bay National Estuary Program. (Pages 35 - 36)

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DETAILED AUDIT FINDING

22. THE EAC IS NOT FOLLOWING SOME OF THE PROCEDURES REQUIRED BY THE APPROVED WORK PLAN IN THE COLLECTION AND PROCESSING OF SAMPLES OF BENTHIC ORGANISMS AS REQUIRED BY THE CONTRACT FOR BENTHIC MONITORING IMPLEMENTATION FOR THE TAMPA BAY NATIONAL ESTUARY PROGRAM.

The EAC entered into an inter-local agreement with Tampa Bay Regional Planning Council for benthic monitoring implementation for the Tampa Bay National Estuary Program. The agreement called for a minimum of 20 stations to be sampled and associated environmental measurements be obtained. The sample collection, the forms to report the results of the sample and other procedures were all dictated by a work plan approved by the Tampa Bay National Estuary Program. Internal Audit found that the EAC was not complying with some of the specific details required by the work plan. Management informed us that Tampa Bay National Estuary Program had time constraints in approving the work plan and therefore adopted a state plan. Changes to the work plan to better suit the Tampa Bay's program are not anticipated to be incorporated until the subsequent year's work plan. Such discrepancies to the work plan included:

1. The work plan requires a crew of 5 members during the sampling of all stations. We found that crews consisted of 2 to 3 members.
2. The work plan requires that information be entered into the computer daily for the sampling of all the stations. We found that information was not entered daily.
3. The work plan requires that chemistry samples be shipped on the day following collection. Management informed us that due to budgetary constraints by the Tampa Bay National Estuary Program, chemistry samples were never shipped.
4. The work plan states that specific instruments be used to obtain certain measurements. We found that the EAC does not own the required instrument and instead obtains the required measurements using substituted instruments. The work plan does not include the use of substituted instruments, although management has informed us that this will be a change in the future work plan. Because of the use of the substituted instruments, data required on the sample forms are not completed since it does not apply to the substituted instrument.
5. Equipment failure resulted in not obtaining the required pH measurement.

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22. THE EAC IS NOT FOLLOWING SOME OF THE PROCEDURES REQUIRED BY THE APPROVED WORK PLAN IN THE COLLECTION AND PROCESSING OF SAMPLES OF BENTHIC ORGANISMS AS REQUIRED THE CONTRACT FOR BENTHIC MONITORING IMPLEMENTATION FOR THE TAMPA BAY NATIONAL ESTUARY PROGRAM. (Continued)

Internal Audit recommends the work plan required in the inter-local agreement with the Tampa Bay Regional Planning Council be amended to include the procedures followed by the EAC. If the work plan is not amended, we recommend the EAC comply with the approved procedures to the work plan as required by the inter-local agreement.

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TAMPA BAY NATIONAL ESTUARY PROGRAM

The Tampa Bay National Estuary Program is an independent agency with a goal of establishing a Comprehensive Conservation and Management Plan for Tampa Bay and producing documents for review and endorsement by local, state, and federal agencies, and the community at large. The EAC, along with other environmental programs in various counties, has provided the estuary program with information from their Ambient Water Quality Programs. In addition, the EAC also contributes in-kind services by participating in Technical Advisory Committees, Proposal Review Committee and other work groups. It is anticipated that the Comprehensive Conservation and Management Plan will be completed by December 1995.

Internal Audit did not find an inter-local agreement between -the EAC and the Tampa Bay National Estuary Program.

Detailed Audit Findings Relating to the Tampa Bay National Estuary Program:

23. An inter-local agreement does not exist between the EAC and the Tampa Bay National Estuary Program for in-kind services provided. (Page 38)

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DETAILED AUDIT FINDING

23. AN INTERLOCAL AGREEMENT DOES NOT EXIST BETWEEN THE EAC AND TBE TAMPA BAY NATIONAL ESTUARY PROGRAM FOR IN-KIND SERVICES PROVIDED.

The EAC does not have an inter-local agreement with the Tampa Bay National Estuary Program for in-kind services provided. The Tampa Bay National Estuary Program is an independent agency with a goal of establishing a Comprehensive Conservation and Management Plan for Tampa Bay. The EAC has provided the estuary program with information from their Ambient Water Quality Programs. In addition, the EAC also contributes in-kind services by participating in Technical Advisory Committees, Proposal Review Committee and other work groups.

Internal Audit recommends the EAC develop and obtain approval of an inter-local agreement with the Tampa Bay National Estuary Program for in-kind services to be provided to the program.

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SARASOTA BAY NATIONAL ESTUARY PROGRAM

The Sarasota Bay National Estuary Program is an independent agency with a goal of establishing a Comprehensive Conservation and Management Plan for Sarasota Bay and producing documents for review and endorsement by local, state, federal agencies, and the community at large. It is anticipated the Comprehensive Conservation and Management Plan will be completed no later than January 1995. The Manatee County Board of County Commissioners has a five-year agreement with Southwest Florida Water Management District to contribute funds annually to support the Sarasota Bay National Estuary Program. In addition, the Manatee County Board of County Commissioners has included sections in the Manatee County Comprehensive Plan to support the program. The EAC has also contributed services to support the program. The EAC has been responsible for sample collection and laboratory services in a designated number of stations. In addition, when Sarasota County decided to discontinue their in-house laboratory, the EAC performed laboratory analyses on the samples collected by Sarasota County.

Internal Audit did not find inter-local agreements between the Sarasota Bay National Estuary Program, Manatee County and the EAC.

Detailed Audit Findings Relating to the Sarasota Bay National Estuary Program:

24. An inter-local agreement does not exist between the EAC, Manatee County and the Sarasota Bay National Estuary Program for in-kind services provided. (Page 40)

25. The EAC is performing laboratory services for Sarasota County without an inter-local agreement. (Page 41)

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DETAILED AUDIT FINDING

24. AN INTERLOCAL AGREEMENT DOES NOT EXIST BETWEEN THE EAC, MANATEE COUNTY AND THE SARASOTA BAY NATIONAL ESTUARY PROGRAM FOR IN-KIND SERVICES PROVIDED.

The EAC does not have an inter-local agreement with the Sarasota Bay National Estuary Program for in-kind services provided. The Sarasota Bay National Estuary Program is an independent agency with a goal of establishing a Comprehensive Conservation and Management Plan for Sarasota Bay. The EAC has been responsible for sample collection and laboratory services in a designated number of stations.

Internal Audit recommends the EAC develop and obtain approval of an inter-local agreement with the Sarasota Bay Estuary Program for in-kind services provided to the program.

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DETAILED AUDIT FINDING

25. THE EAC IS PERFORMING LABORATORY SERVICES FOR SARASOTA COUNTY WITHOUT AN INTERLOCAL AGREEMENT.

The Sarasota Bay National Estuary Program has informally delegated to the EAC the responsibility for sample collection and laboratory services in a designated number of stations. When Sarasota County discontinued their in-house laboratory services, the EAC verbally agreed to perform laboratory analyses on the samples collected from Sarasota County for a fee. An inter-local agreement was not established for the services the EAC was providing nor was the fee approved by the EAC.

Internal Audit recommends an inter-local agreement be developed between the EAC, Manatee County, Sarasota County and the Sarasota Bay National Estuary Program for services provided. In addition, we recommend that all services and fees be approved by the EAC.

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AMBIENT WATER QUALITY MONITORING

PROGRAM

The Ambient Water Quality Monitoring Program is a surface water monitoring program established in the 1960's and transferred to the EAC during inception in June 1991. The

purpose of this program is to monitor ambient water quality in Manatee County by collecting water samples from the established stations on a monthly basis and reporting results to management and the state of Florida. Outside funding sources are currently not available to pay for the cost of this program.

Detailed Audit Findings Relating to the Ambient Water Quality Monitoring Program:

None

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EVERS WATERSHED MONITORING PROGRAM

The Evers Watershed Monitoring Program is a continuation of a surface water program established through a contract with the Southwest Florida Water Management District that expired in 1993. Since the stations were already established and several years of data had already been collected, the EAC decided to continue the monitoring program. The purpose of the program is to monitor water quality in the Evers Reservoir watershed by collecting water samples on a monthly basis and reporting results to management and the state of Florida. Results will be used to establish a baseline that will enable Manatee County to set future water quality standards. The Manatee County Comprehensive Plan currently addresses watershed monitoring. It is anticipated that through the data collected from this monitoring program, the EAC can establish reasonable water quality standards that will be included in the Comprehensive Plan. Currently, the program does not have outside funding sources. Management anticipates that outside funding sources will be available to support the continued efforts of this program.

Detailed Audit Findings Relating to the Evers Watershed Monitoring Program:

None

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AMBIENT AIR MONITORING PROGRAM

The EAC entered into an agreement with the Florida Department of Environmental Resources (now known as Florida Department of Environmental Protection) for the purpose of operating the State/Local Ambient Air Monitoring (SLAMS) Network for the period February 1, 1993 through January 31, 1994. The EAC is responsible for operating, calibrating, and maintaining all instrumentation and facilities and collecting, transmitting and verifying data required for the SLAMS network and the Port Manatee ozone site in Manatee County. Sites are operated in accordance with Statewide Quality Assurance Air Program Plan. The State estimates the cost of the program to be \$55,650 for which the State pays EAC \$50,300. The program is a monitoring program and therefore enforcement is not included as part of the contract terms.

Per review of contract requirements, the State performs systems audits of all state programs on an annual basis. A review of the 1993 Ambient Air Monitoring Systems Audit report did not reveal any major findings or combination of minor findings that would result in non-compliance with any Air Quality Division contract requirements. Internal Audit relied on the State's audit report and testing was limited to reporting requirements and staffing qualifications.

Detailed Audit Findings Relating to the Ambient Air Monitoring Program:

None

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SPECIAL AIR MONITORING PROGRAM

The EAC entered into an agreement with Florida Power & Light Company (FPL) to provide air quality and meteorological monitoring equipment for an investigation of citrus grove damage within Manatee County. The contract is for a period beginning May 19, 1992 through May 18, 1994. FPL agreed to loan the EAC the equipment for the purpose of collecting data that will be beneficial in the investigation of potential causes of citrus grove damage. The EAC is responsible for maintaining the equipment in standard operating condition and return the equipment to FPL upon the contract's expiration. The

EAC does not receive monetary compensation for the services rendered, however, the equipment is loaned at no cost to the EAC.

Detailed Audit Findings Relating to the Ambient Air Monitoring Program:

None

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OPEN BURNING REGULATION

Article III of the Manatee County Code of Environmental Regulations deals with the permit required for open burning, primarily related to land clearing. The objective of the program is to provide an effective control of air pollution through the monitoring of acceptable burning practices through the application, inspection and issuance of permits. A fee schedule is required and has been appropriately approved by the EAC. Article III gives local enforcement capability with citations and fines allowed. During the audit period examined, no citations or fines were levied and according to management only warning letters have been issued under this program.

Internal Audit found that basic internal controls and accountability have not been established for this program.

26. Internal controls for collection of revenues for

open burning permits are weak. Page 47

27. Approved rate schedule does not always agree with rates

currently being charged. Page 48

28. No written policies and procedures for the program exist. Page 49

29. Forms used for the program do not provide proper accountability. Page 50

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DETAILED AUDIT FINDINGS

26. INTERNAL CONTROLS FOR COLLECTION OF REVENUE FOR OPEN BURNING PERMITS ARE WEAK.

Citizens applying for an open burning permit file an application with the EAC. The EAC processes the application and performs on-site inspections of the property on which the burn will occur. Upon approval of the location, materials to be burned, and method to be used, the EAC phones the citizen to inform them that the open burn application has been approved and requires the citizen to visit the EAC office to pay for and receive the permit. Internal Audit noted that often the citizen does not pick up the permit and pay the permit fee. Internal Audit also noted that the EAC personnel dedicate time and resources to process the applications and perform on-site inspections for which applications are terminated by the citizen or not approved by the EAC for which no user fee is collected. Internal Audit believes the open burning program could recover more of the costs of the program by changing the user fee from being collected after issuance of the permit to being collected at the time of application. This application fee would better match revenues collected with program costs and would result in recovery of more of the costs of the program through user fees.

Internal Audit recommends the user fee charged after permit issuance be changed to a user fee collected at the time of application to more effectively offset costs associated with the open burning program.

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DETAILED AUDIT FINDINGS

27. OPEN BURNING PERMIT FEES ARE BASED ON ACREAGE ACCORDING TO THE APPROVED FEE SCHEDULE. TESTING REVEALED THAT PERMITS ARE NOT ALWAYS ASSESSED ACCORDING TO THIS FEE SCHEDULE.

Open burning permit fees are based on acreage of the proposed burn and so specified in an approved rate schedule. Internal Audit testing revealed that applicants were charged a permit fee for less acreage than reported on their permit application in 10.3% (4 out of 39) of the permits tested. We also found that no acreage figure was provided on the permit applications by either the citizen or the EAC inspector in another 10.3% (4

out of 39) of the permits tested. We found that the above variances resulted from assessments for "yard burns" at a flat rate. No such flat rate fee is detailed in the approved rate schedule.

We recommend that management revise future rate schedules for approval by the EAC to bring actual rates charged for opening burning permits for yard burns into agreement with approved rates.

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DETAILED AUDIT FINDINGS

28. THE EAC DOES NOT HAVE WRITTEN POLICIES AND PROCEDURES FOR THE PROCESSING OF OPEN BURNING PERMIT APPLICATIONS.

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Internal Audit did not find written procedures for the open burning program, including the processing of applications and inspections of private property on which burns are to occur. Policies and procedures are needed to reduce inconsistencies and provide guidance to employees in their daily tasks. Policies and procedures also provide valuable training information for new employees.

We recommend written policies and procedures be developed for the open burning program to reduce inconsistencies in administration, processing of applications, and inspections of property.

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DETAILED AUDIT FINDINGS

29. THE OPEN BURNING PERMIT APPLICATION FORM IS POORLY DESIGNED TO ALLOW SUFFICIENT INFORMATION TO ALLOW ACCOUNTABILITY OF THE PERMITTING PROCESS.

Internal Audit reviewed the open burning permitting process and found the form used to record information lacked an area for inspector's signature/initials for approvals or extensions. No areas are provided on the form to document extensions, and there is not a location to record the permit fee collected or the date the payment was received. The application form is a single sheet and if a multiple-copy form was used, a need for a separately created receipt would not be necessary.

We recommend the EAC change the form used to process the open burning permits to increase accountability over permit processing and to increase efficiency of paperwork.

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ANNA MARIA BEACH RESTORATION PROJECT

The Natural Resources Division of the EAC has been administering a grant for the beach restoration project of Anna Maria. The grant agreement is between the State of Florida's Department of Natural Resources and Manatee County. No interlocal agreement exists between the EAC and Manatee County and therefore, no formal delegation of administration of this grant has been made to the EAC. Personnel time involved with administering this grant appears to be the only EAC involvement or budgetary commitment. The flow of grant funds and expenditures under the grant is recorded in Manatee County's general ledger and has been subjected to financial auditing by the County's Public Accountant under the Single Audit Act. To avoid duplication of audit services, Internal Audit did not review the financial transactions of the grant.

Internal Audit did not find an interlocal agreement delegating the responsibilities under this program.

FINDINGS RELATED TO THE ANNA MARIA BEACH RESTORATION PROJECT:

30. No formal delegation from Manatee County to the EAC

of the responsibility for administering Manatee County's grant. Page 52

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DETAILED AUDIT FINDINGS

30. EAC ADMINISTERS THE GRANT BETWEEN MANATEE COUNTY AND THE STATE OF FLORIDA'S DEPARTMENT OF NATURAL RESOURCES WITHOUT AN INTERLOCAL AGREEMENT FORMALLY ASSIGNING THIS RESPONSIBILITY.

The Natural Resources Division of the EAC administers the grant between Manatee County and the State of Florida's Department of Natural Resources. An Interlocal agreement between Manatee County and the EAC has not been developed to formally delegate this responsibility to the EAC.

The flow of grant funds and expenditures under the grant is recorded in Manatee County's general ledger and has been subjected to financial auditing by the County's Public Accountant under the Single Audit Act. To avoid duplication of audit services, Internal Audit did not review the financial transactions of the grant.

Internal Audit recommends that an interlocal agreement be developed and approved by both the EAC and the Board of County Commissioners detailing both entities' responsibilities for providing services. This interlocal agreement should include delegation of responsibilities for administration of the Manatee County grants that the EAC has been informally delegated.

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LEFFIS KEY/COQUINA BAYSIDE PARK

ENVIRONMENTAL ENHANCEMENT PROJECT

The Natural Resources Division of the EAC has been administering a grant for the Leffis Key/Coquina Bayside Park Environmental Enhancement Project. The grant agreement is between the State of Florida's Department of Environmental Protection (FDEP) and Manatee County. No interlocal agreement exists between the EAC and Manatee County

and, therefore, no formal delegation of administration of this grant has been made to the EAC. Personnel time involved with administering this grant appears to be the only EAC involvement or budgetary commitment. The flow of grant funds and expenditures under the grant is recorded in Manatee County's general ledger and has been subjected to financial auditing by the County's Public Accountant under the Single Audit Act. To avoid duplication of audit services, Internal Audit did not review the financial transactions of the grant.

Internal Audit did not find an interlocal agreement delegating -the responsibilities under this program.

FINDINGS RELATED TO THE LEFFIS KEY/COQUINA BAYSIDE PARK ENVIRONMENTAL ENHANCEMENT PROJECT:

31. No formal delegation from Manatee County to the EAC

of the responsibility for administering Manatee County's grant. Page 54

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DETAILED AUDIT FINDINGS

31. THE EAC ADMINISTERS THE GRANT BETWEEN MANATEE COUNTY AND THE STATE OF FLORIDA'S DEPARTMENT OF ENVIRONMENTAL PROTECTION WITHOUT AN INTERLOCAL AGREEMENT FORMALLY ASSIGNING THIS RESPONSIBILITY.

The Natural Resources Division of the EAC administers the grant between Manatee County and the State of Florida's Department of Environmental Protection. An interlocal agreement between Manatee County and the EAC has not been developed to formally delegate this responsibility to the EAC.

The flow of grant funds and expenditures under the grant is recorded in Manatee County's general ledger and has been subjected to financial auditing by the County's Public Accountant under the Single Audit Act. To avoid duplication of audit services, Internal Audit did not review the financial transactions of the grant.

Internal Audit recommends that an interlocal agreement be developed and approved by both the EAC and the Board of County Commissioners detailing both entities' responsibilities for providing services. This interlocal agreement should include delegation of responsibilities for administration of the Manatee County grants that the EAC has been informally delegated.

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DEVELOPMENT PLANS REVIEW

The EAC performs reviews of residential and commercial development plans submitted to the Planning, Permitting, and Inspections Department of Manatee County as part of the Development Review Committee process. The EAC identifies environmental concerns and adds requirements to development plans that are in the best interest of Manatee County. These requirements relate to a need for changes in the plans, methods to be used in construction, and tracking of long-term post-construction environmental stipulations and mitigation.

Internal Audit found follow-up procedures necessary to ensure compliance with environmental concerns have not been formally developed or followed.

32. Follow-up and inspections of developments in the construction

phase are not always done. Page 56

33. Incomplete identification and monitoring of development

stipulations that require developers to continue monitoring and

reporting after construction. Page 57

34. The EAC has not been requiring developers to post security bonds

to assure environmental stipulations and mitigation are

accomplished, with no input into release of security performance

bonds. Page 58

35. Wetland mitigation requirements of the Land Development Code

conflict with standards of SWFWMD & FDEP. Page 59

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DETAILED AUDIT FINDINGS

32. AIR AND WATER ENVIRONMENTAL CONCERNS DURING THE CONSTRUCTION PHASE OF RESIDENTIAL AND COMMERCIAL DEVELOPMENTS ARE NOT ALWAYS ENFORCED OR VERIFIED THROUGH FOLLOW-UP BY THE EAC. I

Developers must submit plans for residential and commercial developments prior to site plan approvals. During this planning stage developers often have to obtain permits from state agencies having environmental jurisdiction. The Natural Resource Management Division of the EAC also reviews plans and makes appropriate environmental comments for the construction and post-construction phases of developments. Internal Audit found that the EAC staff is highly skilled in performing plans reviews and initiating concerns and stipulations that developers should follow during the construction phase of residential and commercial land developments. We found, however, that the EAC does not always perform site visits or follow-up to be sure that developers follow the stipulations during construction. Air and water quality concerns for construction are not being followed-up to be sure the developer is performing as required. While the Planning, Permitting, and Inspections Department of Manatee County inspects developments in construction phases, their concerns are often of a different priority and the EAC may not be able to delegate their unique responsibilities. Without monitoring and follow-up of environmental concerns during the construction phase of developments, no assurance is gained that the environmental concerns are being followed during construction.

We recommend that the EAC establish policies and procedures to allow timely visits and assurances that environmental concerns addressed in the planning process are actually performed during construction of residential and commercial developments. We further recommend the EAC closely coordinate with the Planning, Permitting, and Inspections Department of Manatee County to assure that all developments comply with environmentally sound construction guidelines.

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DETAILED AUDIT FINDINGS

33. RESIDENTIAL AND COMMERCIAL DEVELOPMENT PLANS THAT CALL FOR LONG-TERM, POST-CONSTRUCTION MONITORING AND MITIGATION EFFORTS ARE NOT ALWAYS IDENTIFIED AND NOT ALWAYS REVIEWED TO VERIFY STIPULATIONS AND MITIGATION EFFORTS HAVE BEEN COMPLIED WITH.

Developers must submit plans for residential and commercial developments prior to site plan approvals. During this planning stage developers often have to obtain permits from state agencies having environmental jurisdiction. The Natural Resource Management Division of the EAC also reviews plans and makes appropriate environmental comments for the post-construction phases of developments. Internal Audit found that the EAC staff is highly skilled in performing plans reviews and initiating concerns and stipulations that developers should follow after construction is completed in residential and commercial land developments. State and local agencies often require developers to perform long term self-monitoring and other mitigation efforts after construction. We found that the EAC does not always perform site visits or follow-up to be sure that developers follow the stipulations and mitigation requirements after construction has been completed. The EAC has not identified all developments that have long-term monitoring and mitigation requirements. Without monitoring and follow-up of environmental concerns, no assurance is gained that the environmental concerns are being completed.

We recommend that the EAC establish policies and procedures to allow timely visits and assurances that environmental concerns addressed in the planning process are actually performed for residential and commercial developments. We further recommend the EAC closely coordinate with the Planning, Permitting, and Inspections Department of Manatee County to assure that all developments are identified and comply with environmental plans approved for the development.

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DETAILED AUDIT FINDINGS

34. SECURITY BONDS REQUIRED BY THE LAND DEVELOPMENT CODE FOR RESIDENTIAL AND COMMERCIAL DEVELOPMENTS AS A MEANS OF ASSURING COMPLIANCE WITH MITIGATION AND OTHER ENVIRONMENTAL STIPULATIONS ARE NOT BEING REQUIRED, TRACKED, OR RELEASED TO ASSURE ENVIRONMENTAL CONCERNS ARE COMPLIED WITH BY DEVELOPERS.

The Land Development Code requires developers to post security instruments as a guarantee that environmental mitigation is completed, sometimes years after the construction is completed. This section of the Land Development Code has been delegated to the EAC as the primary agency responsible for compliance. We found that the EAC has neither required security instruments of developers nor monitored and released security instruments to assure environmental issues are satisfactorily addressed by developments in Manatee County. Internal Audit did not find any policies and procedures developed by the EAC for requiring, monitoring, and releasing security instruments after successful completion of environmental concerns identified for developments.

We recommend the EAC develop policies and procedures to begin requiring, monitoring and releasing security instruments after successful completion of environmental concerns identified for developments in Manatee County.

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DETAILED AUDIT FINDINGS

35. MANATEE COUNTY'S LAND DEVELOPMENT CODE REQUIRES MITIGATION FOR ALL WETLANDS IMPACTED BY DEVELOPMENT. STATE AGENCIES DO NOT REQUIRE MITIGATION IF AFFECTED WETLAND IS LESS THAN ONE-HALF ACRE. THE EAC REVIEWS IMPACTED WETLANDS OF LESS THAN ONE-HALF ACRE, BUT DOES NOT ALWAYS REQUIRE MITIGATION.

The State of Florida's Department of Environmental Protection (FDEP) and the Southwest Florida Water Management District (SWFWMD) do not require mitigation if impacted wetlands are less than one-half acre. Manatee County's Land Development

Code requires mitigation for all affected wetlands. The EAC reviews development plans and does not always require mitigation for wetlands of less than one-half acre. No policies and procedures have been developed to allow the waiver of mitigation for small areas. In discussions with management, it is felt that the Land Development Code should be changed to reflect the current practice of not always requiring mitigation for wetlands of less than one-half acre. Since the Land Development Code has not been changed to reflect this policy, wetland mitigation requirements for impacted wetlands of less than one-half acre have not always been made.

We recommend the EAC take appropriate steps to have Manatee County's Land Development Code changed to reflect the current practice of not always requiring mitigation for impacted wetlands of less than one-half acre with appropriate criteria for making this determination. If changing the Land Development Code is not accomplished, we recommend the EAC conform to the Land Development Code by requiring mitigation for all affected wetlands.

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COMPLAINTS PROCEDURES

The EAC receives environmental complaints from the public. According to EAC's policies and procedures, each complaint is tracked from receipt through investigation and response back to the filer of the complaint. The EAC policy requires initial investigation to be performed within 24 hours of the complaint. The administrative section of EAC routes the complaint to the appropriate EAC division for investigation. Major violations are referred to the State of Florida's Department of Environmental Protection for further investigation and enforcement of environmental laws and regulations. The EAC works with other agencies as needed and often is part of a team approach in finding solutions to environmental concerns. Our audit testing found the following:

Internal Audit found the initial investigations were not always conducted according to EAC policy.

36. The initial investigation was not always conducted within

24 hours of the complaint. Page 61

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DETAILED AUDIT
FINDINGS

36. INITIAL INVESTIGATIONS OF COMPLAINTS BY THE PUBLIC ARE
NOT ALWAYS CONDUCTED WITHIN 24 HOURS OF THE COMPLAINT.

Internal Audit reviewed the tracking of complaints from the public to the policies and procedures of the EAC for handling of such complaints. Generally, we found the responses to be handled quickly with an adequate system in place to track complaints received. We did, however, find that on 9.3% of the complaints (10 out of 108 tested) the initial investigation was not conducted within 24 hours as is required by policy. We also found that the complaint investigator signed as his own reviewer of the investigation in 8.2% (9 out of 110 tested) of the applicable cases. Internal Audit noted that complaint resolution often involved other governmental agencies and issues requiring an extended period of time in a team environment.

We recommend the EAC comply with their policies and procedures regarding timely initial investigations. We also recommend review procedures be strengthened to eliminate an investigator from reviewing his own investigations.

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ENVIRONMENTAL

ACTION

COMMISSION

MANATEE COUNTY, FLORIDA

M E M O R A N D U M

DATE: October 5, 1994

TO: R.B. "Chips" Shore, Clerk of the Circuit Court

FROM: Karen M. Collins, Director

Environmental Action Commission

SUBJECT: DRAFT AUDIT REPORT

Thank you for the opportunity to review and comment on the draft audit report on the Environmental Action commission, received in this office on September 23, 1994.

Attached are our detailed responses to the audit findings. I hope you will carefully consider our responses and incorporate them as appropriate in the final audit report.

We have also made minor corrections to parts of the audit text. A red-inked copy of this material is attached for your use.

Again, my compliments to you and your staff for your professionalism and cooperative attitude in working with us through this process.

KMC:hs

attachment

P.O. Box 1000, Bradenton, Florida 34206-1000

FAX: (813) 742-5996

I. OVERALL ADMINISTRATION

01. AN INTERLOCAL AGREEMENT DOES NOT EXIST BETWEEN MANATEE COUNTY AND THE EAC THAT DETAILS THE RESPONSIBILITIES FOR SERVICES EACH PROVIDES AND TO FORMALIZE THE RELATIONSHIP BETWEEN THE TWO PARTIES.

EAC: A draft BOCC-EAC Interlocal Agreement has been prepared by the Environmental Director and reviewed by the County Attorney's office. At this time, the draft is being reviewed by the Director of the Planning, Permitting and Inspections Department.

02. OVERALL COMBINATION OF PROGRAMS OF THE EAC HAS EVOLVED WITHOUT ADEQUATE EVALUATION OF LOCAL NEEDS OR COST/BENEFIT.

EAC: Although we agree with the audit report recommendation, the "finding" statement is not completely accurate. With the creation of the EAC in June 1991, existing programs of the Health Unit's Pollution Control Division were transferred to the EAC after discussions with the County Commission as to the merit of each of the programs. Thus, these programs were at that time deemed to be important in terms of local needs. However, it is correct that detailed cost/benefit analysis of each of the EAC programs has not been done.

03. THE EAC LACKS A TIME ACCOUNTING SYSTEM AND OTHER COST ACCOUNTING METHODS TO DETERMINE THE COST OF MAINTAINING THE VARIOUS PROGRAMS.

EAC: We are now developing a time accounting system, based on the Internal Audit office's forms and procedures, that will help us track the cost of maintaining the various EAC programs.

04. THE EAC HAS NOT DEVELOPED LOCAL LAWS AND REGULATIONS WHICH WOULD ALLOW LOCAL ENFORCEMENT ACTION FOR VIOLATIONS.

EAC: This statement is not completely accurate. Since its creation in June 1991, the EAC has adopted two specific regulations - the Air Pollution Code and the Open Burning Code - which allow enforcement action for violations. We agree that the EAC does need to enact a full body of local environmental law in order to afford the County the greatest degree of environmental protection. Staff is prepared to bring these draft regulations to hearing.

05. THE EAC'S COMPARISONS TO OTHER WEST COAST ENVIRONMENTAL PROGRAMS

EAC: We agree with the audit recommendation that EAC explore other revenue sources to reduce reliance on ad valorem taxes to the greatest extent possible. However, our past attempts to accomplish this have been hampered by the Commission's heretofore firm stance against raising fees or initiating new user fees. Another method of generating revenues in the form of user fees, the occupational license, has been repeatedly rejected by the Commission.

As for the percentage of administrative personnel, we have carefully examined our staffing needs in this respect and feel that the EAC's current programs and structure justify each of the administrative positions.

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06. QUALIFICATIONS OF THREE EMPLOYEES OF THE EAC DO NOT MEET JOB DESCRIPTION REQUIREMENTS AND TWO EMPLOYEES HOLD POSITIONS WHICH ARE UNDERENCUMBERED, A DISTORTION OF TRUE STAFFING NEEDS.

EAC: We are currently reviewing the status of each of the underencumbered positions, and will bring forward, within the next three months, appropriate changes in response to the audit finding.

07. PERMIT FEES CHARGED DO NOT COVER THE COST OF ADMINISTERING THE WATER WELLS PROGRAM

EAC: The fiscal impact statement presented to the BOCC when the Program was transferred from HRS-Manatee County Public Health Unit showed that the approved fee structure (adopted by SWFWMD) would not provide the necessary revenue to completely fund the Program. Although the District law does allow for us to increase the fees so that the Program could be self-sufficient, the Commission opted not to increase the fees.

Sarasota County is currently reviewing their fee structure, and has presented scenarios which will allow the Program to collect fees that should cover its costs. We will look at Sarasota's study for applicability, and again request the Commission to authorize an increase in fees to cover program costs.

08. WELL COMPLETION REPORTS ARE NOT RECEIVED FROM THE CONTRACTOR ON A TIMELY BASIS AS REQUIRED BY THE TERMS OF THE WELL CONSTRUCTION PERMITTING AGREEMENT.

EAC: The rule requires that a Contractor submit a well completion report to the permitting authority within 30 days of well completion. The permits issued by EAC are valid for 6 months after issuance. It is the responsibility of the Contractor to provide the reports in a timely manner. Since EAC is not required to conduct site visits for all of the permits it issues, it is impossible to know exactly when the work is completed, therefore it is

impossible to ensure that the EAC receives the completion report as specified by the regulation.

To address this problem, the EAC has developed an informational letter that is sent to the Contractor during the month when the permit is due to expire (if we have not already received a completion report for that permit) to advise the Contractor of the permit expiration date and the date the completion report is due. (Please refer to Exhibit 1). If we identify a Contractor who is consistently late in submitting the completion reports, we can, through the SWFWMD permit tracking system, place the Contractor's name and license number on a permit denial list. He/she will be denied future permits until all deficiencies are corrected.

09. AN ENFORCEMENT PROGRAM HAS NOT BEEN ESTABLISHED AS REQUIRED BY THE AGREEMENT.

EAC: To establish an effective enforcement program, it is imperative that the rules and regulations be adopted locally and that enough information is available to estimate necessary resources needed to carry out the program efficiently. The current contract does not specifically state when the program must be implemented; however, the Water Well Permitting (WWP) staff is currently creating

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detailed standard operating procedures (SOPs) which will include requirements for an enforcement program. All draft program requirements will be reviewed by the County Attorney and SWFWMD before presentation to the Commission for adoption.

10. PERMIT FEES WERE TRANSFERRED FOR SITUATIONS NOT ALLOWED BY PROGRAM REQUIREMENTS.

EAC: In a few instances, if a Contractor hand-delivered or mailed a permit application with the \$50.00 construction fee and the conditions changed before the application was reviewed, the new / revised application was substituted. Currently, we have informed the Contractors who work in Manatee County that once our office receives and logs any application and fee, the application fee is neither transferable nor refundable.

The incident regarding the return of an \$80.00 check to a contractor was a very unique situation. An EAC clerical staff member received an application from a contractor for a livestock well along with a \$50.00 cash processing fee. Before the application was reviewed or processed the client spoke to WWP staff about the well construction and it was discovered that the use of the well should be "public supply" not "livestock". The public supply processing fee is \$130.00. The client and

contractor were instructed that before we could review the application we needed: the balance of the fee due (\$80.00) and the site drawings and specifications required for public supply wells. Following this notification, the contractor delivered a check for the balance due (\$80.00) and corrected the application. The client, however, was concerned about the water quality monitoring requirements of a public supply well and subsequently decided not to construct the well. Since we had not processed the application, the \$50.00 cash fee was credited to a new application and the \$80.00 check was returned to the contractor.

Our policy is that no fees are transferred or returned once EAC receives and logs an application.

11. PERMIT FEES WERE WAIVED IN VIOLATION OF THE AGREEMENT.

EAC: During the establishment of the Water Well Permitting program under the EAC, we were informed by both HRS-Manatee County Public Health Unit and SWFWMD that occasionally SWFWMD would construct a monitor well within the County As part of their Regional Observation and Monitoring Program (ROMP) and that the permit fee was waived. This waiver was based on Florida Statutes 373.109 (1987) which states: "When a water management district governing board implements a permit system under this chapter or one which has been delegated to it pursuant to s. 403.812 F.S. , it may establish a schedule of fees for filing applications for the required permits. Such fees shall not exceed the cost to the district for processing the application. **However, permit fees shall not be required from any governmental entity.**" Subsequent versions of this statute deleted the waiver sentence.

SWFWMD staff have been informed of this modification and that future permit applications must be accompanied with the appropriate processing fee.

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The audit report also states that personal permit fees (homeowner installing a shallow well on his/her own property) were waived. This waiver came directly from SWFWMD's Venice office. They currently do not charge for personal permits and we were directed by SWFWMD-Brooksville to follow SWFWMD-Venice policies and procedures. Upon contacting SWFWMD-Brooksville about this policy, it was stated that headquarters (SWFWMD-Brooksville) did charge for personal permits and it was unclear why SWFWMD-Venice did not. EAC currently charges for personal permits until the Water Management District resolves this discrepancy.

12. MONTHLY REPORTS ARE NOT SUBMITTED TO THE SOUTHWEST-FLORIDA WATER MANAGEMENT DISTRICT ON A TIMELY BASIS.

EAC: EAC is linked by computer to SWFWMD's permitting database. This allows us to act very much like a "branch office". WWP staff are in constant communication with SWFWMD and have provided the documentation required by the contract in a timely manner. The weekly and monthly mailings were sent to the appropriate parties without specific instructions or identification because everyone knew the routine and what was expected. In response to Internal Audit's recommendation, we are now sending the information under formal cover. (Refer to Exhibits 2a - 2d.)

13. PERMIT FEES WERE NOT DEPOSITED TIMELY AND APPLICATIONS WERE NOT DATE STAMPED WHEN RECEIVED.

EAC: Standard operating procedures have been developed to guide staff in complying with the terms of the Well Construction Permitting Agreement. Applications are date-stamped when received. All payments received are locked in a safe box located in the "vault" immediately after receipt. Payments received are picked up and deposited weekly as directed by the County's Treasury Management section.

14. MINIMUM STAFFING LEVELS SPECIFIED IN THE CONTRACT WERE NOT MAINTAINED.

EAC: We believe this situation- has recently been rectified with employment of an additional full-time Environmental Technician.

EAC response to Internal Audit's general comment on Pollutant Storage Tank System Compliance Verification Program:

Internal Audit found a general lack of contract compliance. In addition, [Audit] found weak internal controls in the reporting function.

EAC: We have successfully completed the primary requirements of every pollutant storage tank compliance contract awarded by DEP. This is evidenced by a record of receipt of payment of all monthly invoices and the DEP's continued interest in contracting with EAC from year to year. Additionally, DEP noted no deficiencies in a recent program audit. The fact that DEP concurs with the activities of their contractor signifies that the contractor is meeting the contract requirements. The lack of compliance mentioned by Audit has no substantial relevance.

15. REPORTING OF INSPECTIONS TO FDEP ARE NOT ALWAYS ACCURATE.

EAC: The audit specified 18 overstated inspections. A total of 597 inspections were conducted in the 1993 contract year. This establishes the fact that 97% of the total number of contract inspections were properly reported to DEP. This is a high degree of accuracy, considering the large number of inspection categories and facility types. Additionally, the contract did not specify a percentage completion rate as in subsequent years. The contract was based on estimates of various types of inspections. We ask that the finding reflect this 97% completion rate.

Concerning the telephone and unregulated facility inspections, none of these have been included on the PORS Report in 1994 nor will they be in the future. We believe that unregulated tanks have the same potential for environmental damage as regulated tanks, and although they are not included within the contract requirements, such tanks should be observed whenever possible. This represents an effort by the EAC to provide a greater degree of environmental protection in Manatee County.

In response to the finding, EAC will more closely compare monthly PORS reports with the inspection logs, monthly listings, and inspection checklists.

16. FOLLOW-UP PROCEDURES FOR NON-COMPLIANCE LETTERS WERE NOT PROPERLY EVIDENCED IN THE FACILITIES CASE FILES.

EAC: The PST program utilizes an extensive compliance/enforcement database tracking system. The system was developed in-house under DBASE IV to provide inspectors with updated listings of facilities requiring follow-up. The elimination of a facility from this system is proof that the necessary actions were performed by the facility owner/operator. Nowhere in the contract does DEP specifically require evidence of follow-up procedures in the files.

PST inspectors will initial individual line items on the noncompliance letters upon receipt of appropriate documentation. This has been included within the section Draft SOP.

17. THE EAC DID NOT ALWAYS COMPLY WITH THE INSTALLATION INSPECTION PROCEDURES.

EAC: All reported PST installations in Manatee County were properly inspected in 1993. The site inspections were conducted by competent staff, with particular attention to sensitive stages of tank installations. All tanks installed during that period are in compliance with the construction requirements of the rule and do not pose a threat the environment.

Concerning the Installation and Removal Form, the items certified on this form by the contractor are also certified by our inspectors during the field

inspections. Although it may represent a duplication of effort, we acknowledge that it is required as part of the contract and have included its review in our section Draft SOP. As for the phone inspections, we fully understand that a site visit is required as part of the contract. This is not, however, an installation inspection problem, but rather a reporting one as already indicated in Finding #15 above. The items verified in those four (4) phone conversations did not constitute a reportable installation inspection. The inspector completed the installation form only to document the equipment installed at the facility.

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18. THE EAC DID NOT ALWAYS COMPLY WITH THE CLOSURE INSPECTION PROCEDURES.

EAC: An explanation regarding the Installation and Removal Form can be found in the response for #17 above. Responses for listed items are as follows:

a. The submittal of a closure assessment report is tracked as described in the response for #16 above. Although specifically required in the rule, a submittal within 60 days is not an enforceable item. The late submittal of these reports is the fault of the facility owner/operator, not EAC. For audit purposes, letters or conversation records will be included in the facility file to document appropriate follow-up.

b. We acknowledge that a small percentage of the thousands of pieces of correspondence, documents, etc. that pass through this program do not find their way to the correct file. However, we have in place separate log books containing copies of the various categories of correspondence (Standard, Noncompliance, Warning, etc.) issued by this office.

c. As with all inspections, we know that a site visit is required. Sometimes contractors remove tanks on holidays or other times when we cannot be on site to observe the tank removal. In these instances, we would have called the contractor and consultant to inquire as to the status of the site. We work closely with these people and typically trust their observations and judgement. For audit purposes, we will visit the site even if it is just to look at a filled in hole and complete the inspection form.

d. Based on detailed discussions with the inspector responsible for the closure inspections at the facilities in

question, it is apparent that the inspector may have received alternate notification that was not documented in the file. The compliance inspection represents a formal record of that notification. We do our best to accurately fill out the forms.

e. This is not a closure inspection procedure problem, but rather a reporting problem (noted in Finding #15 above). These types of inspections are no longer included on the PORS form.

19. THE EAC DOES NOT HAVE A SYSTEM IN PLACE TO VERIFY THE DISCHARGE REPORTING FORMS WERE PROPERLY FOLLOWED UP.

EAC: FDEP's requirements for FPLIRP inspections have evolved over the years. During this contract year, DEP allowed the submittal of a compliance inspection conducted up to 3 months before the discharge. Now they require a new compliance inspection for each FPLIRP claim. This may account for the 42.9% you reference.

Although the FPLIRP checklist is to be submitted within 10 days of the discharge, we are at the whim of the claimant. If we do not receive the proper documentation necessary to complete the form within that time frame, we do not send it DEP. The agency prefers the complete package. We welcome you to call Bill Truman, the DEP Insurance Administrator, to confirm this.

Again, these activities are tracked according to the system outlined in our response to #16 above. We have instituted a DRF log book and included its usage in our section Draft SOP.

20. REGULATED STORAGE FACILITY CASE FILES WERE INCOMPLETE AND DID NOT ALWAYS CONTAIN REQUIRED INFORMATION REQUIRED BY THE CONTRACT TERMS.

EAC: At the end of 1993, this section conducted a file purge to eliminate extraneous file materials due to- limited space. . The contract did not specify the need to keep certain documents for a given length of time. We used discretion during the purge, being careful not to discard important documents (particularly those within enforcement files). For example, we

discarded inspection notification letters if an inspection was conducted and no major noncompliance items were noted. In response to audit findings, we will not purge files, but rather archive them in full.

We believe that a number of the deficiencies noted in your finding were due to removal and disordering of file materials by individuals reviewing the files as public record. Since the beginning of 1994, a specific protocol for assisting the public with file inquiries/ reviews has been included within our section Draft SOP. Additionally, the Draft SOP includes language pertaining to documentation and order of facility files.

21. THE EAC IS NOT COMPLYING WITH THE SMALL QUANTITY GENERATOR NOTIFICATION PROGRAM AS REQUIRED BY FLORIDA STATUTE 403.7234. IN ADDITION, MANATEE COUNTY DOES NOT CURRENTLY HAVE AN OCCUPATIONAL LICENSE ORDINANCE THAT WOULD HELP PAY FOR THE COST OF MAINTAINING THIS PROGRAM.

EAC: Your general statement that EAC is not complying with the Statute based on interviews with the management of EAC is incorrect. Clarification from the Internal Audit Office revealed two specific items: failure to send notifications by certified mail and failure to complete 20% of the assessment roll each year. Please note that certified mail is not required for notifications, only for follow-up noncompliance letters. Your explanation of the program and the history of EAC and Pollution Control confirms that EAC has taken every step necessary to complete the current five year cycle, which ends July 1995. Regarding the specifics of Section 403.7234, Florida Statutes, comments for individual paragraphs are as follows:

(1) EAC did not exist during the first year of the cycle, so we could not conduct the initial notification in 1990. We completed the assessment without dedicated staff in 1993.

(a) Our notification included details of SQG responsibilities.

(b) Our notification included a list of management alternatives and waste reduction opportunities.

(2) We conducted a mass mailing initially.

(3) Waste information is collected and submitted according to DEP guidelines.

(4) Despite Pollution Control's failure to complete the necessary verification inspections, EAC intends to complete 100% of the assessment roll by the end of this 5-year cycle.

(5) Collection of fines is not required under this section.

FDEP is completely satisfied with the procedures followed by EAC. We have implemented a successful program and intend to complete the five year cycle in full despite our establishment as an agency within that cycle.

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22. THE EAC IS NOT FOLLOWING SOME OF THE PROCEDURES REQUIRED BY THE APPROVED WORK PLAN IN THE COLLECTION AND PROCESSING OF SAMPLES OF BENTHIC ORGANISMS AS REQUIRED BY THE CONTRACT FOR BENTHIC MONITORING IMPLEMENTATION FOR THE TAMPA BAY NATIONAL ESTUARY PROGRAM.

EAC: The audit findings reflect the fact that the contract amount is insufficient to meet the "letter of the law" as spelled out in the work plan. However, we (as well as the National Estuary Program) feel that EAC staff are meeting the technical requirements of the work plan with existing assigned staff, while ensuring that this project pays for itself, and requires no ad valorem subsidy.

23. AN INTERLOCAL AGREEMENT DOES NOT EXIST BETWEEN THE EAC AND THE TAMPA BAY NATIONAL ESTUARY PROGRAM FOR IN-KIND SERVICES PROVIDED.

EAC: The local governments agreed to the National Estuary Program concept which included the sharing of resources and information. The proposed Comprehensive conservation and Management Plan (CCMP) will require the local governments to adopt certain action steps into their Comprehensive Growth Management Plans.

24. AN INTERLOCAL AGREEMENT DOES NOT EXIST BETWEEN THE EAC, MANATEE COUNTY AND THE SARASOTA BAY NATIONAL ESTUARY PROGRAM FOR IN-KIND SERVICES PROVIDED.

EAC: The local governments agreed to the National Estuary Program concept which included the sharing of resources and information. The proposed Comprehensive conservation and Management Plan (CCMP) will require the local governments to adopt certain action steps into their Comprehensive Growth Management Plans.

25. THE EAC IS PERFORMING LABORATORY SERVICES FOR SARASOTA COUNTY WITHOUT AN INTERLOCAL AGREEMENT.

EAC: Manatee and Sarasota Counties were jointly assisting the Sarasota Bay NEP establish baseline water quality conditions for the bay. In the middle of the study, Sarasota County was no longer capable of performing some laboratory activities, so the EAC offered to complete the testing at

no cost so that the integrity of the monitoring program was not compromised. A purchase order was generated by Sarasota County and they were invoiced for services until the end of the project.

The EAC is currently working on a fee schedule for services which will include laboratory testing. In the future all outside work performed by the laboratory will conform with the approved fee schedule.

26. INTERNAL CONTROLS FOR COLLECTION OF REVENUE FOR OPEN BURNING ARE WEAK.

EAC: We agree that a new fee schedule is required.

We had planned to propose a revised fee schedule after the open Burning Code was enacted. A management decision was made to begin the open burning permitting program immediately after adoption of the Open Burning Code, utilizing the 1981 fee schedule. However, the 1981 fee schedule does not integrate well with the new open burning permit program. The 1981 fee schedule only allowed us to charge a fee after we had issued the permit. We had no means to charge for work activity prior to permit issuance.

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27. OPEN BURNING PERMIT FEES ARE BASED ON ACREAGE ACCORDING TO THE APPROVED FEE SCHEDULE. TESTING REVEALED THAT PERMITS ARE NOT ALWAYS ASSESSED ACCORDING TO THIS FEE SCHEDULE.

EAC: This problem is also due to our not having a new fee schedule for the Open Burning rules.

The 1981 fee schedule only addressed land clearing burning, not yard trash burning. Thus, we had to find a way to adapt the land clearing burning fee to yard trash burning. The fees were based on total acreage being cleared by burning. To resolve this problem, an interpretation was made that all yard trash burning be considered less than one acre for the sake of the 1981 fee schedule. A internal memo was developed which stated this interpretation. The justification for this adaptation is that the quantity of material in a yard trash burn is typically less than that which would be generated from one acre of cleared land.

28. THE EAC DOES NOT HAVE WRITTEN POLICIES AND PROCEDURES FOR THE PROCESSING OF OPEN BURNING PERMIT APPLICATIONS.

EAC: Agree. We plan to have a complete Standard Operation Procedure (SOP) within 90 days.

29. THE OPEN BURNING PERMIT APPLICATION FORM IS POORLY DESIGNED TO ALLOW SUFFICIENT INFORMATION TO ALLOW ACCOUNTABILITY OF THE PERMITTING PROCESS.

EAC: The Open Burning application form has been updated effective 9/94 per the auditors' recommendations. (Please refer to Exhibit 3.)

30. EAC ADMINISTERS THE GRANT BETWEEN MANATEE COUNTY AND THE STATE OF FLORIDA'S DEPARTMENT OF NATURAL RESOURCES WITHOUT AN INTERLOCAL AGREEMENT FORMALLY ASSIGNING THIS RESPONSIBILITY.

EAC: Amendment #1 to the grant agreement between FDEP and Manatee County was executed on April 26, 1994. This amendment identifies EAC as the contact agency for the agreement. (Please refer to Exhibit 4.) However, there is no formal interlocal agreement between the County and EAC.

31. THE EAC ADMINISTERS THE GRANT BETWEEN MANATEE COUNTY AND THE STATE OF FLORIDA'S DEPARTMENT OF ENVIRONMENTAL PROTECTION WITHOUT AN INTERLOCAL AGREEMENT FORMALLY ASSIGNING THIS RESPONSIBILITY.

EAC: Finding is accurate and recommendation is noted.

32. AIR AND WATER ENVIRONMENTAL CONCERNS DURING THE CONSTRUCTION PHASE OF RESIDENTIAL AND COMMERCIAL DEVELOPMENTS ARE NOT ALWAYS ENFORCED OR VERIFIED THROUGH FOLLOW-UP BY THE EAC.

EAC: The Natural Resources Management Division serves as liaison for EAC to the County's Planning, Permitting and Inspections (PP&I) Department for development review activities. This is primarily facilitated by EAC's role as a member of the Development Review Committee (DRC). Weekly meetings are held at PP&I offices, where new projects are discussed and "sign-off" of plans takes place.

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EAC staff's role in this process is primarily advisory. Internal tracking follows PP&I's project number and is triggered by the progression through the development process. Currently EAC has very limited staff for conducting inspections through the construction phase. EAC staff have typically relied on PP&I's inspection efforts to monitor compliance with those stipulations.

With positions recently filled in EAC's Water Quality Management Division, some opportunity for random construction inspections is afforded. (EAC's staffing structure did not contemplate staffing for compliance and enforcement. It was recognized that PP&I already performed this activity).

Certainly, there was an apparent lack of compliance with specific water quality protection and monitoring in those projects checked. Since that time, EAC and PP&I staff have sought to resolve those inconsistencies. The EAC staffing level does not allow us to conduct construction inspections on all development proposals we reviews.

33. RESIDENTIAL AND COMMERCIAL DEVELOPMENT PLANS THAT CALL FOR LONG-TERM, POST-CONSTRUCTION MONITORING AND MITIGATION EFFORTS ARE NOT ALWAYS IDENTIFIED AND NOT ALWAYS REVIEWED TO VERIFY STIPULATIONS AND MITIGATION EFFORTS HAVE BEEN COMPLIED WITH.

EAC: See comments to item #32 above.

34. SECURITY BONDS REQUIRED BY THE LAND DEVELOPMENT CODE FOR RESIDENTIAL AND COMMERCIAL DEVELOPMENTS AS A MEANS OF ASSURING COMPLIANCE WITH MITIGATION AND OTHER ENVIRONMENTAL STIPULATIONS ARE NOT BEING REQUIRED, TRACKED OR RELEASED TO ASSURE ENVIRONMENTAL CONCERNS ARE COMPLIED WITH BY DEVELOPERS.

EAC: Finding is accurate and recommendation is noted.

35. MANATEE COUNTY'S LAND DEVELOPMENT CODE REQUIRES MITIGATION FOR ALL WETLANDS IMPACTED BY DEVELOPMENT. STATE AGENCIES DO NOT REQUIRE MITIGATION IF AFFECTED WETLAND IS LESS THAN ONE-HALF ACRE. THE EAC REVIEWS IMPACTED WETLANDS OF LESS THAN ONE-HALF ACRE, BUT DOES NOT ALWAYS REQUIRE MITIGATION.

EAC: With Planning, Permitting & Inspections staff, we are looking at this Code requirement, and may in the near future recommend that the Code be amended to conform more closely with DEP and SWFWMD regulations.

36. INITIAL INVESTIGATIONS OF COMPLAINTS BY THE PUBLIC ARE NOT ALWAYS CONDUCTED WITHIN 24 HOURS OF THE COMPLAINT.

EAC: We are continually striving to meet this internal goal in 100% of the cases. However, at times our small staffing complement precludes immediate response.

NOTE: EXHIBITS REFERED TO IN THIS RESPONSE WERE NOT INCLUDED. FOR COPIES, PLEASE CALL RICHARD ORIENTI AT 941-708-6001