

12 173
ALAN HARDY PRATHER, CHARTERED

ATTORNEY AT LAW

1806 MANATEE AVENUE WEST
BRADENTON, FLORIDA 34205
(813) 748-3732

January 18, 1994

Sheila Benz, Director of Planning
Tampa Bay Regional Planning Council
9455 Koger Boulevard
St. Petersburg, Florida 33702-2491

Re: City Of Bradenton; DRI #172 - Bradenton Municipal
Marina/Ordinance No. 2505

Dear Ms. Benz:

Please find enclosed a certified copy of the above-referenced Ordinance No. 2505 adopted by the City Council on December 8, 1993. This Ordinance amends Ordinance No. 2409, the Development Order for the expansion of the Bradenton Municipal Marina.

If additional information is needed, do not hesitate to contact me.

Very truly yours,

ALAN HARDY PRATHER, CHARTERED



Alan Hardy Prather

bp

Enclosure

cc: Jerry L. West
Ruth B. Seewer
Douglas E. Robison

ORDINANCE NO. 2505

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING DEVELOPMENT ORDER (ORDINANCE NO. 2409) OF THE CITY OF BRADENTON MUNICIPAL MARINA EXPANSION, A DEVELOPMENT OF REGIONAL IMPACT (DRI), PURSUANT TO CHAPTER 380, FLORIDA STATUTES; MAKING CERTAIN FINDINGS OF FACT AND CONCLUSIONS OF LAW; INCORPORATING MODIFICATIONS TO THE DEVELOPMENT ORDER FOR THE MUNICIPAL MARINA EXPANSION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Miller Enterprises, (Applicant) acting pursuant to a certain Development Agreement with the City of Bradenton, Florida, filed on 5th day of November, 1993, an Application for proposed changes to a previously approved Development Order regarding expansion of the Bradenton Municipal Marina, an existing development of regional impact, pursuant to Chapter 380, Florida Statutes; and,

WHEREAS, the proposed changes to the said Development Order have been reviewed by the Florida Department of Community Affairs (DCA) and the Tampa Bay Regional Planning Council (TBRPC) and determined not to be a substantial deviation under the requirements of Chapter 380, Florida Statutes; and,

WHEREAS, the review of the proposed changes has occurred by the City Planning Department Staff and by its Planning Commission after a public hearing held on November 17, 1993 and, based on that review, the City of Bradenton has determined that the proposed changes are not a substantial deviation; and,

DK 1472 PD 6016 DK1 # 000686299

WHEREAS, pursuant to the City of Bradenton Land Use and Development Regulations the Application is required to be submitted to a public hearing before the City Council concerning action upon the proposed changes requesting the amendment to the Development Order; and,

WHEREAS, the City has given notice of the proposed action concerning the Application as required by law; and,

WHEREAS, after consideration of the action of the DCA, the TBRPC, and the City of Bradenton Planning Commission, and after receiving public comment at the public hearing before the City Council of December 8, 1993, and being further advised in these premises, the City Council has determined that it is in the best interest of the public health, safety and welfare, based upon the following findings of fact and conclusions of law, that this Ordinance be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, THAT:

FINDINGS OF FACT

1. The proposed changes relate to an existing Development Order (Ordinance No. 2409) (DRI No. 172) which approved an expansion of the existing City of Bradenton Municipal Marina located on the south bank of the Manatee River, west of the newly-constructed

BK 1422 PG 6017

Green Bridge involving the construction of marina slips to a maximum of two hundred twenty-five (225) slips, an increase in parking spaces to a total maximum of two hundred twelve (212) spaces and the addition of one thousand five hundred (1,500) square foot dockmaster's office.

2. The development is not located in an area designated as an Area Of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes.

3. The proposed changes do not unreasonably interfere with the achievement of the objectives of the adopted State Land Plan applicable to the area.

4. The proposed changes are consistent with the recommendations of the TBRPC submitted pursuant to review of the proposed changes and the original development.

5. The proposed changes and the development are consistent with the City's adopted Comprehensive Plan pursuant to Chapter 163, Florida Statutes, and with the City of Bradenton Land Use and Development Regulations.

6. The proposed changes to the development do not create any additional regional impact nor any regional impact that has not previously been reviewed by the TBRPC. The proposed changes and the development do not exceed any of the criteria constituting a substantial deviation which would cause the development to be subject to further development of regional impact review.

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7. The proposed change to the development seeking the extension of the date of build out by four (4) years and eleven (11) months is presumed not to create a substantial deviation.

8. The initiating of long-term water quality monitoring pursuant to a program which commences with the construction of the proposed additional wet storage facilities (docks), or any associated upland development or infrastructure supporting the additional wet storage facilities (i.e., dockmaster's office, fuel tanks, etc.) does not adversely affect or impact the environment in general nor the water quality of the Manatee River specifically.

9. The proposed changes have been reviewed by the DCA and by the TBRPC and determined not to create a substantial deviation.

CONCLUSIONS OF LAW

A. The Application for the proposed changes to the City of Bradenton Municipal Marina Expansion (Ordinance No. 2409) (identified as DRI No. 172) does not create any additional regional impact nor does the proposed changes exceed any of the criteria which constitute a substantial deviation set forth in Section 380.06(19)(b), Florida Statutes.

B. The proposed change to modify General Conditions No. 3, 4, 5 and 6 of the Development Order to extend the build out date by four (4) years and eleven (11) months is not a substantial deviation pursuant to Section 380.06(19)(c), Florida Statutes.

C. The proposed change to the Development Order to modify Special Condition No. 10 to require the initiating of long-term water quality monitoring in conjunction with the commencement of construction of the proposed additional wet storage facilities (docks) or any associated upland development or infrastructure supporting the additional wet storage facilities (i.e., dockmaster's office, fuel tanks, etc.) does not constitute an increase in development and is not a substantial deviation pursuant to Section 380.06(19)(f)5, Florida Statutes.

APPROVAL

The proposed changes to the Development Order for the Bradenton Municipal Marina Expansion are approved and the Development Order is amended hereby regarding the General Conditions and Special Conditions as set forth on Attachment "A" which is made a part hereof and incorporated herein by reference.

SEVERABILITY

In the event that any portion of this Ordinance is determined by a court of competent jurisdiction to be invalid, illegal or unconstitutional, such decision shall not affect the remaining portions of this Ordinance and those other provisions shall remain in full force and effect.

This is to certify that the foregoing is a true and correct copy of the document on file in my office.

Witness my hand and official seal this 13th day of January, 1994.

Paul Esquinaldo, Jr.
City Clerk and Treasurer

EFFECTIVE DATE, RECORDING AND TRANSMITTAL

This Ordinance shall become effective as provided for by law. The approval of this Ordinance (Amended Development Order) does not obviate or relieve the Applicant from any requirements for any permits or approvals that may be lawfully mandated or required by governmental entities or agencies that may be incidental to actual development. The City Clerk is authorized and directed to send a certified copy of this Ordinance (Amended Development Order), including all Attachments, to the DCA and the TBRPC. Furthermore, the Applicant, pursuant to the provisions of the City's Land Use and Development Regulations, is required to record a notice of the adoption of this Ordinance (Amended Development Order) with the Clerk of the Circuit Court for Manatee County, Florida.

PASSED, in regular session this 8th day of December, 1993.

First Reading: November 24, 1993
Advertised: November 23, 1993
Second Reading and Public Hearing: December 8, 1993

ATTEST: Paul Esquinaldo
City Clerk

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

By: Paul Esquinaldo
City Clerk/Deputy Clerk

By: Bill Evers
Bill Evers, Mayor

Approved As To Form
Alan H. Prather
Alan H. Prather, Special Counsel
(Miller Marina DRI)



BK 1422 PG 6V21

Proposed Modifications to DRI No. 172
Bradenton Municipal Marina Expansion

General Condition No. 3 is proposed to be amended as follows:

3. The development shall be subject to further review in the event significant development has not commenced within ~~three (3)~~ eight (8) years; provided, however, that this period shall be tolled until the applicant has received all necessary federal, regional, state and local permits and approvals required to commence development. The applicant shall proceed with due diligence to apply for and obtain all necessary approvals.

General Condition No. 4 is proposed to be amended as follows:

4. ~~December 31, 1993~~ November 30, 1998, is the date until which the City agrees that the property in the development area shall not be subject to downzoning, unit density reduction or intensity reduction unless the City finds that substantial changes in the conditions underlying the approval of the Development Order have occurred or that the Development Order was based on substantially inaccurate information provided by the City or that the change is clearly established by local government to be essential to public health, safety or welfare; provided, however, that this date shall be extended by any period of time from January 1, 1989 to the date that the applicant has received all necessary federal, regional, state and local permits and approvals required to commence development. The applicant shall proceed with due diligence to apply for and obtain all necessary approval

General Condition No. 5 is proposed to be amended as follows:

5. The development shall proceed in one ~~five (5)~~ ten (10) year phase based on current market conditions.

General Condition No. 6 is proposed to be amended as follows:

6. The Development Order shall terminate ~~December 31, 1993~~ November 30, 1998, which time reasonably reflects the time required to complete development; provided, however, that this date shall be extended by any period of time from January 1, 1989 to the date the applicant has received all necessary federal, regional, state and local permits and approvals required to commence development. The applicant shall proceed with due diligence to apply for and obtain all necessary approvals

DK 1422 PD 0022

Special Condition No. 10 is proposed to be amended as follows:

10. The proposed development is located within the Class III Waters of the Manatee River estuary. A semi-annual surface water quality monitoring program shall be ~~accomplished during construction and continuing until one year after completion of construction, as follows:~~ initiated upon commencement of construction of the proposed additional wet storage facilities, or any associated upland development or infrastructure supporting the proposed additional wet storage facilities. Once initiated, the monitoring program shall continue semi-annually until one (1) year after the completion of construction. The specific monitoring program to be implemented during dredging operations shall be determined by FDER based upon the particular method of dredging to be utilized. As established in FDER Consent Order 91-0479, and the subsequent modification to this Consent Order, hereto attached as Exhibit D, no on-site surface water quality monitoring shall be required during dredging if a closed pipeline hydraulic dredge system is utilized. The construction monitoring program shall include the following components:

a. The program shall include the ~~following analyses or use of existing data establishing such analyses:~~ submittal of the following background information utilizing previously obtained site-specific data, and other available data, as appropriate:

1) Establishment of baseline ambient water quality conditions and worst case (summer) conditions within the Bradenton Municipal Marina.

2) Correlation analysis of water quality changes with rainfall and other relevant natural and anthropogenic events.

b. The program shall include ~~a comprehensive sampling program including, at minimum, the sampling specified below:~~ the following sampling and quality control specifications:

1) Semi-annual (wet and dry season) monitoring at three stations within the Bradenton Municipal Marina, the locations of which are shown in Figure 15-2 of the Application for Development Approval. Samples are to be collected at the surface on each tide change (slack tide) over a diurnal period. The parameters to be monitored include:

- dissolved oxygen
- total and fecal coliforms
- chlorophyll-a
- anthropogenic hydrocarbons oil & grease

- total phenols
- total suspended particulates solids
- total organic carbon
- ammonia N
- total N
- kjeldahl N
- nitrate plus nitrite
- total P
- ~~inorganic P~~ orthophosphate
- biochemical oxygen demand (5-day)
- temperature
- salinity
- turbidity

~~Anthropogenic hydrocarbons will be sampled in accordance with DER specifications.~~

2) All water quality analytical methods and procedures shall be thoroughly documented and shall comply with ~~EPA/DER~~ EPA/FDEP Quality Control Standards and Requirements.

3) The monitoring results shall be submitted in the DRI annual report, as well as to ~~DER~~ FDEP and SWFWMD annually. Should the monitoring indicate that applicable state water quality standards are not being met, the violations clearly attributable to the marina construction and operation shall be reported to ~~DER~~ FDEP and, if possible, immediately corrected. Violations which cannot be corrected may necessitate an amendment to the Development Order. ~~The~~ Any such amendment shall address the demonstrable cause(s) of, and reasonable mitigation for, the violation, and shall be drafted and approved by the City of Bradenton and ~~DER~~ FDEP, subject to the substantial deviation provisions of Subsection 380.06 (19), Florida Statutes (1987).

FDER Consent Order 91-0479, and the subsequent amendment to this Consent Order, are jointly referred to as new "Exhibit D" to the Development Order, and are enclosed herein.

BK 1422 PG 6024

EXHIBIT "D"

FDER CONSENT ORDER OGC #91-0479 AND AMENDMENTS

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BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,

vs.

OGC FILE NO: 91-0479

CITY OF BRADENTON AND
MILLER PARTNERS, a Partnership,

Respondents.

APR 1 1991

SOUTHWEST DISTRICT
TAMPA

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Regulation ("Department") and City of Bradenton and Miller Partners ("Respondents") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondents admit the following:

1. The Department is the administrative agency of the State of Florida charged with the duty to protect Florida's air and water resources and to administer and enforce Chapter 403, Part VIII, Florida Statutes, Florida's Wetland's Protection Act, and the rules promulgated thereunder, Florida Administrative Code Title 17.

2. Respondents are persons within the meaning of Section 403.031, Florida Statutes.

3. City of Bradenton (the "City") is the owner of a parcel of land ("Property") located at the City of Bradenton Marina, at the Memorial pier and Barcarrota Boulevard in the Manatee River, Manatee County, Section 26 Township 34 South, Range 17 East.

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4. Miller Partners is a partnership and the lessee of the property. See Exhibit A for copy of the Development Agreement, Lease and Sublease between the City and Miller Partners.

5. The Department issued permit #411428569, to the City on October 14, 1988, to expand an existing 47 slip marina by adding 178 slips for a total of 225 slips. On April 18, 1990, and June 19, 1990, the Department granted two separate requests to modify the permit. The permit and modifications are attached as Exhibit B. Miller Partners constructed the expansion.

6. Respondents failed to comply with Department permit specific conditions. The Department issued Warning Notice #90-072-DF41SWD to the City on October 15, 1990, by certified mail, advising the City of the violations of permit #411428569. See Exhibit C.

7. In response to the above mentioned Warning Notice, the Respondents have proposed modifications to the original permit specific conditions. The Respondents and the Department resolved the remaining issues through meetings, correspondence and telephone conversations.

THEREFORE, having reached a resolution of the matter, Respondent, and the Department mutually agree and it is:

ORDERED:

8. Within 30 days of execution of this Consent Order, Respondent shall pay the Department \$7,800.00 in settlement of the matters addressed in this Consent Order. This amount includes a monetary settlement of \$6,800.00 for alleged violations of Section 403.161, Florida Statutes, and of the Department's rules and

\$1,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the Department of Environmental Regulation and shall include thereon the OGC number assigned to this Order and the notation "Pollution Recovery Fund". The payment shall be sent to the Department of Environmental Regulation, Southwest District Office, 4520 Oak Fair Boulevard, Tampa, Florida 33610-7347.

9. This Order modifies Specific Conditions #5, #6 and #15 of permit #411428569. These conditions are modified as follows:

5. An open clam shell dredge mounted on a backhoe may be used for the remaining dredging.

6. Dredging within the project limits may be conducted without the use of turbidity curtains.

15. In lieu of turbidity curtains, the Respondents shall implement a turbidity and ammonia monitoring program, as described and shown in attached Exhibit D. Weekly reports shall be submitted to the Department throughout the remaining mechanical dredging.

10. Specific Conditions #17 through #21 shall be added to permit #411428569 as shown below:

17. Spoil Material shall be placed directly into closed hopper barges for transport to the offloading area. No discharge of spoil or decant water shall be allowed from the closed hopper barges at any time during transport.

BK 1422 Pg 6028

18. The hopper barges shall be transported to the Old Green Bridge offloading area ("bridge area") adjacent to the seawall, immediately east of the Old Green Bridge abutment. The bridge area shall be completely surrounded by four foot turbidity curtains prior to the deposition of any spoil material or decant water. Spoil material shall be offloaded, using a dragline or a backhoe into the bridge area or directly into trucks if the spoil fluid content is low.

19. The bridge area shall be excavated and prepared pursuant to the specifications in attached Exhibit E. No Discharge of spoil, decant water, or stormwater runoff to waters of the state shall be allowed from the bridge area at any time.

20. Upon acceptable dewatering, such that no loss of water is observed when spoil material is handled, spoil material shall be removed from the bridge area with a dragline or backhoe and placed into dump trucks for transport to the Manatee Gateway permitted disposal area. Decant water remaining in the closed hopper barges shall be pumped into the bridge area, or directly into tanker trucks, and similarly transported to the disposal area.

21. Prior to the use of the bridge area, the Respondents shall perform a double ring infiltrometer test within the bridge area and submit the results to the Department. Based on the results of the infiltrometer test, Respondents shall provide a water balance demonstrating

BK 1422 Pb 6029

the ability of the bridge area to handle the anticipated volumes of flow from the dredging operation, such that all dredged materials and waters are retained within the bridge area. If the infiltrometer tests indicate that the bridge area has insufficient permeability, then the Respondents shall not offload spoil material there until modifications are made to the bridge area to ensure adequate permeability. Furthermore, to establish the background level for copper in the groundwater, a shallow well shall be installed down gradient from the bridge area and one baseline sample shall be collected and analyzed for copper. Following the resumption of dredging and deposition of spoil in the bridge area, two additional samples from the shallow well shall be collected and analyzed for copper, weekly for 2 weeks. The results of all groundwater analyses shall be submitted to the Department. If by the end of the 2 weeks there is an increase in copper above background then further monthly groundwater copper testing will be required until either the dredging project is completed, or copper in the groundwater reaches levels that meet or exceed 15 ug/l in which case all work must immediately cease.

11. The Respondents shall comply with the general and specific conditions including those modified herein, of permit #411428569. Additional Specific Conditions #18 through #21 shall not apply if the bridge area is not used by Respondents.

OK 1472 FD 0000

12. Effective immediately and henceforth, Respondents shall not conduct any dredging, filling or construction activities within the landward extent of waters of the state without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt from Department permitting requirements or authorized by this Consent Order.

13. Respondents agree to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements specified in Paragraph 8 of this Order. A separate stipulated penalty shall apply to each deadline that is missed. Within 30 days of written demand from the Department, Respondents shall make payment of the appropriate stipulated penalties to the "Department of Environmental Regulation" by certified check, cashier's check, or money order. Payment shall be sent to the Department of Environmental Regulation, Southwest District Office, 4520 Oak Fair Boulevard, Tampa, FL 33610-7347. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order.

14. Respondents shall allow authorized representatives of the Department access to the property at reasonable times for purposes of determining compliance with this Order and the rules and regulations of the Department.

15. All plans, applications, and information required by this Consent Order to be submitted to the Department should be sent to the Department of Environmental Regulation, Water Resources

Management, Southwest District Office, 4520 Oak Fair Boulevard,
Tampa, FL 33610-7347

16. Entry of this Order does not convey any authority involving the use of sovereign or other lands of the State. In order to ascertain whether any authority is needed to use sovereign lands, the Respondents must contact the Department of Natural Resources, Division of State Lands. A copy of this Consent Order will be furnished by the Department to the Department of Natural Resources, Division of State Lands.

17. The Respondents are hereby advised that Florida law states: "No person shall commence any excavation, construction or other activity involving the use of sovereign or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Natural Resources under Chapter 253, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement or other form of consent authorizing the proposed use." If such work is done without consent, a fine for each offense in an amount of up to \$10,000.00 may be imposed.

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

19 The terms and conditions as set forth in the Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

BK 1422 PG 6002

20. Respondents are fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$10,000.00 per offense, and criminal penalties.

21. Persons who are not parties to this Order but whose interests are affected by this Order have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative determination (hearing) on it. The petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the Respondent at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, Florida Statutes.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's

BK 1472 Pg 6003

action or proposed action; (f) A statement of which rules and statutes petitioner contends require reversal or modification of the Department's action or proposed action; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

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

A party who is adversely affected by this Final Order is entitled to Judicial Review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of Notice of Appeal with the Agency Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing

OK 1422 FD 0004

fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The Notice of Appeal must be filed within 30 days of rendition of the Order to be reviewed.

22. In the event Respondents fail to comply with the terms of this Consent Order and it is necessary for the Department to seek enforcement of the Consent Order in circuit court, then Respondents shall pay to the Department all investigative costs, court costs and expenses, and a reasonable attorneys fee incurred in obtaining a judgement from the court.

23. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 17-103.110(3), and it is final and effective on the date filed with the Clerk of the Department unless petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon timely filing of a petition of this Consent Order will not be effective until further order of the Department.

24. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violation of applicable statutes, or the rules promulgated thereunder.

25. The Department, for and in consideration of the complete and timely performance by Respondents of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order. Respondents waive its right to an

RK 1472 Pg 6000

administrative hearing pursuant to Section 120.57, Florida Statutes of the terms of this Consent Order. Respondents acknowledge its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.

26. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their director, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

EK 1422 PG 6036

3/26/91
DATE

3-25-91
DATE

FOR THE RESPONDENT:
Bill Evans
City of Bradenton

[Signature]
Miller Partners

DONE AND ORDERED THIS 23 day of July, 1991 in Florida.

SIGNED

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

[Signature]
Richard D. Garrity, Ph.D.
Deputy Assistant Secretary
Southwest District

Copies Furnished to:

Office of General Counsel
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to S120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Cara Byus 7/23/91
Clerk Date

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,

vs.

OGC FILE NO: 91-0479

CITY OF BRADENTON AND
MILLER PARTNERS, a partnership,

Respondents. /

AMENDMENT TO CONSENT ORDER

City of Bradenton and Miller Partners have requested to amend this Order to be able to substitute the ability to use a typical hydraulic pump for the use of a submersible hydraulic pump, to remove sediments at the dredge site. The intent of the amendment is to allow the project to proceed using the submersible hydraulic pump, while still allowing for the option to return to the previously approved mechanical dredging method, with all the appropriate monitoring requirements, if the submersible hydraulic method proves to not be feasible for some unforeseen reason.

The Department finds that the request is made in good faith and will result in a net benefit to the environment. It is therefore:

ORDERED that the following paragraphs to the CONSENT ORDER executed July 23, 1991 are amended to read as follow:

Paragraph 9, Specific Condition Number 5 is amended as follows: The remaining dredging may be completed using an open clam shell dredge, a submersible hydraulic dredging system pursuant to Exhibit F or a combination thereof.

Paragraph 9, Specific Condition Number 15 is amended as follows: If mechanical dredging with an open clam shell dredge is performed without the use of properly deployed double-hung turbidity curtains, the Respondents shall implement a turbidity and ammonia monitoring program, as described and shown in attached Exhibit D. Weekly reports shall be submitted to the Department throughout the remaining mechanical dredging.

Paragraph 10, Specific Condition Number 17 is amended as follows: If mechanical dredging is used, spoil material shall be placed directly into closed hopper barges for transport to the offloading area. No discharge of spoil or decant water shall be allowed from the closed hopper barges at any time during transport. In the event that the Respondent changes from hydraulic to mechanical dredging, the Department shall be notified in writing at least 10 days prior to implementing mechanical dredging pursuant to this Order.

Paragraph 11 is amended as follows: The Respondents shall comply with the general and specific conditions of permit number 411428569, including those modified herein. Additional Specific Conditions number 18 through 21 shall apply only if the bridge area is used by Respondents as a spoil handling and dewatering area.

The following paragraphs and Exhibit F shall be added to the Consent Order:

27. If a hydraulic dredging system is used, spoil material shall be discharged from the dredge site directly into the disposal area via a pipeline. No transport of spoil via barges

will be permitted. No water or slurry shall be discharged from either the hydraulic dredging system, or the disposal area to waters of the State.

28. Persons who are to parties to this Amendment to Consent Order, but whose interests are affected by this Amendment to Consent Order have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative hearing on it. The petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Section 120.57, Florida Statutes.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's Amendment to Consent Order identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Amendment to Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Amendment to Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Amendment to Consent Order; (f) A statement of which rules and statutes

BK 1422 Pb 6039

petitioner contends require reversal or modification of the Amendment to Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Amendment to Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Amendment to Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, Florida Administrative Code.

29. This Amendment to Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 17-103.110(3), and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed

BK 1422 PG 0440

in accordance with Chapter 102, Florida Statutes. Upon timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

4/13/92
DATE

Bill Evers
Bill Evers, Mayor
City of Bradenton
Caller Service 25015
Bradenton, FL 34206

3-3-92
DATE

C. Donald Miller, Jr.
C. Donald Miller, Jr.
Miller Partners
1111 Third Avenue West
Suite 200
Bradenton, FL 33505

DONE AND ORDERED THIS 20 day of April, 1992 in Tampa, Florida.

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant to S120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

Cora Bunn 4/2/92
Clerk Date

Richard D. Garrity
Richard D. Garrity, Ph.D.
Director of District Management
Southwest District

Copies Furnished to:

Larry Morgan
Office of General Counsel
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

DNR
Division of State Lands
8402 Laurel Fair Circle
Tampa, FL 33610

USACOE
P.O. Box 19247
Tampa, FL 33686

Mark Friedman - DER Tallahassee

BK 1422 PG 6041

ENVIRONMENTAL CANAL & POND DREDGING, INC.
4900 MANATEE AVENUE WEST
SUITE 101
BRADENTON, FLORIDA 34209

EXHIBIT NUMBER F

D.E.R.

FEB 24 1992

TO: MERCILY TOLEDO-FDER

Southwest District Tampa

DATE: 12 FEB '92

RE: MILLER PROJECT, ADDITIONAL CONFIRMATIONS.

1) DISPOSAL AREA DIKE BLOWOUT POTENTIAL.

ENCLOSED SURFACE AREA OF DISPOSAL QUARRY POND = 4.3 MILLION SQUARE FEET (SF) = 617 MILLION SQUARE INCHES (SI)

DREDGE PUMP DESIGN OUTPUT H&H MODEL 40-4 WITH M30X2.0 MOTOR (SEE PUMP CURVE ATTACHED) = 270 GPM = 29.9 MILLION CUBIC INCHES/8 HR DAY (NOTE WE PLAN TO CHANGE TO AN H&H MODEL 2-37X6V-AR) TO OBTAIN IT'S ADDITIONAL ABRASION RESISTANCE, IT'S BUILT IN CUTTER HEAD MOUNTING, AND IT'S RESERVE CAPACITY WHICH WE WILL NOT BE UTILIZING ON THIS JOB DUE TO PIPE SIZE)

WATER LEVEL RISE/DAY ASSUMING NO TRANSPIRATION, EVAPORATION, PERCOLATION, OR RUNOFF = $29.9/617 = 0.05$ INCHES

WE UNDERSTAND THAT PONDS IN OUR AREA EVAPORATE 40 INCHES OF WATER PER YEAR OR 0.11 INCHES PER DAY, THUS THERE WILL BE NO NET RISE OF THE POND LEVEL FROM OUR INPUT AT DESIGNED OR MUCH HIGHER LEVELS. NOTE THAT IF WE INSTANTLY ADDED THE ENTIRE 20,000 CUBIC YARDS OF SAND AND THE 20,000 CUBIC YARDS OF WATER WE PLAN TO PUMP OVER 50 DAYS, THE POND WATER LEVEL WOULD ONLY RISE TWO AND ONE HALF INCHES. THUS IN OUR OPINION THERE IS NO DANGER OF DIKE OVER FLOW OR BLOW OUT FROM OUR INPUTS.

2) DISCHARGE PIPE LEAKAGE POTENTIAL.

FROM THE FLOW NOMOGRAPH YOU WILL NOTE THAT WE ARE DESIGNING FOR A 0.7 FT/100 FT DYNAMIC LOSS OF HEAD AND STATIC HEAD IS APPROXIMATELY 5 FT. THUS FOR 7,000 FT, OR 70 100 FT'S, DYNAMIC HEAD LOSS WILL BE 49 FT AND TOTAL HEAD LOSS WILL BE 54 FEET. THIS IS EQUIVALENT TO 23.6 PSI.

THE MAXIMUM PRESSURE WE HAVE OBTAINED FROM OUR GOULD MODEL 3405 BOOSTER PUMP HAS BEEN 175 PSI AT MAXIMUM FLOW. BECAUSE WE WILL BE OPERATING AT ROUGHLY 10% OF MAXIMUM DESIGN FLOW WE WILL BE PRODUCING CONSIDERABLY LESS PRESSURE. NONE THE LESS WE ARE CHOOSING SDR 9 WALL THICKNESS PIPE RATED AT 200 PSI AT THE PUMP. EACH 1,000 FT SECTION OUT WE WILL REDUCE WALL THICKNESS ONE SDR LEVEL AS DYNAMIC HEAD IS LOST.

HDPE PIPE LASTS SIX TIMES LONGER THAN STEEL ACCORDING TO CORPS OF ENGINEER'S TEST DATA. IT ALSO IS A LOT SLICKER AND HAS LESS HEAD LOSS.

WE WILL FUSE 20-50 FT LENGTHS TOGETHER TO FORM 1,000 FT MODULES AND FLANGE BOLT THE MODULES TOGETHER. FUSED JOINTS CARRY THE SAME PRESSURE RATINGS AS THE PIPE. FLANGES GOOD FOR 175 PSI WILL BE USED.

IN OUR EXPERIENCE LEAKAGE OCCURS AT THE THREADED FITTINGS AND PIPE STEMS OTHERS USE TO JOIN THEIR DISCHARGE PIPE.

BECAUSE WE ARE USING ONLY FUSED OR FLANGED JOINTS EACH GOOD FOR A WORKING PRESSURES HIGHER THAN OUR PUMP CAN PUT OUT, WE BELIEVE WE HAVE DESIGNED A LEAKPROOF, FOOL PROOF, DISCHARGE PIPE SYSTEM.

3) PIPE MOVEMENT POTENTIAL

HDPE PIPE SPECIFIC GRAVITY IS 0.94. WE CALCULATE THAT IT WILL TAKE TWO 40 LB CONCRETE BLOCKS EVERY 80 FEET TO HOLD THE PIPE AGAINST BOTTOM. WE PLAN TO USE 50 FT SPACING FOR SAFETY FACTOR AND CAN GO EVEN CLOSER IF NECESSARY. THE BLOCKS WILL BE PLACED AS SHOWN BELOW AND TIED TO THE PIPE. EACH SET OF BLOCKS WILL HAVE A FLOATING MARKER BUOY. PLEASE RECALL THAT IF EROSION IS NOT OCCURRING WATER VELOCITY IS NEAR ZERO AT THE BOTTOM. THE MANATEE IS AN OLD AND STABLE RIVER WITH ALMOST NO BOTTOM SCOUR OCCURRING

WE WILL PLACE THE WEIGHTS AT SUFFICIENTLY CLOSE INTERVALS TO PREVENT PIPE MOVEMENT IN EVEN THE WORST FLOOD TIDE.

4) DEPTH CONTROL

WE WILL BE UTILIZING A SIX FOOT LONG CUTTER BAR WITH GREATER CROSS SECTIONAL AREA THAN OUR PUMP. SPIRAL MOUNTED CUTTER TINES WILL MOVE THE CUT MATERIAL TO THE PUMP INTAKE. MATERIAL NOT IN CONTACT WITH THE CUTTERS WILL NOT ENTER THE PUMP. THE CUTTER AND PUMP ARE MOUNTED ON A 14 FT PIPE THAT PIVOTS FROM THE REAR OF THE DREDGE. THE FRONT END OF THE PIPE CARRYING THE PUMP AND THE CUTTER ARE SUSPENDED FROM THE FRONT OF THE DREDGE BY A CABLE GOING TO A HYDRAULIC WINCH.

DEPTH CUT WILL BE DETERMINED BY THE DEPTH OF THE CUTTER. DEPTH OF THE CUTTER AND DEPTH CUT WILL BE MONITORED MANUALLY AND DEPTH CUT WILL BE CHECKED ELECTRONICALLY BY FATHOMETER. (WE ARE FORTUNATE THAT THE CURRENT DOCKS ON THE EAST SIDE ARE AT PLUS FOUR ELEVATION. THUS A 12 FOOT ROD ATTACHED TO THE CUTTER CAN BE FREQUENTLY CHECKED VISUALLY WITH THE DOCK ELEVATION.

THE 1 IN 5 SLOPES PARALLEL TO THE STREET WILL BE CUT BY PROCEEDING PARALLEL TO THE STREET. THE CUTTER BAR AND PUMP WILL BE TILTED TO A 1 IN 5 ANGLE AND SIX FOOT WIDE STRIPS WILL BE CUT FROM THE OUTSIDE TO THE WALL AT THE CORRECT DEPTHS REQUIRED. RANGE MARKS SIX FEET APART WILL BE

FOLLOWED TO INSURE THE DREDGE STAYS IN LINE WITH THE STRIP BEING DREDGED.

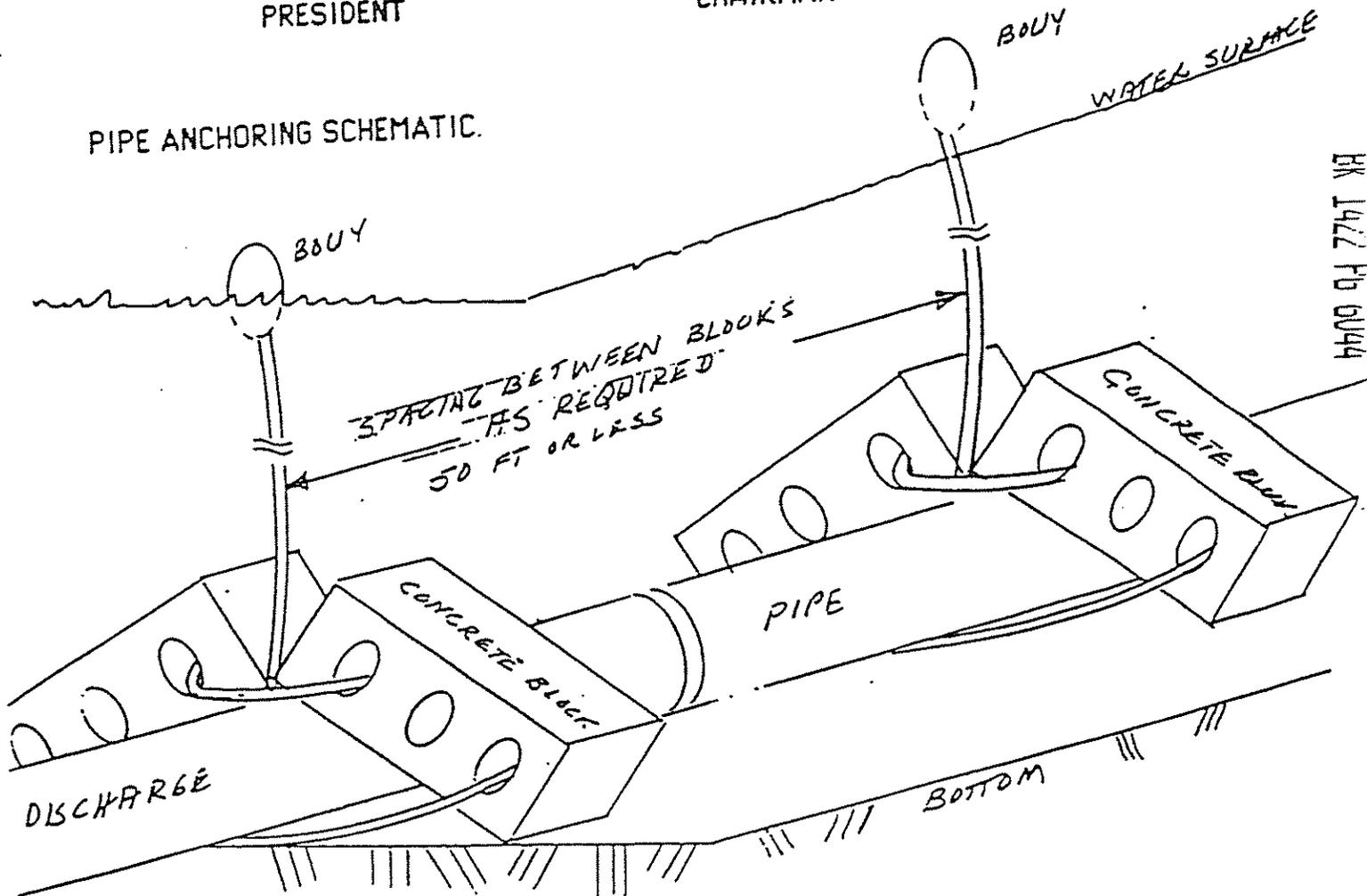
5) ANTI-LEAKAGE AND TURBIDITY COMMITMENT

WE CONSIDER OURSELVES TO BE ENVIRONMENTALISTS FIRST AND BUSINESSMEN SECOND. WE ARE FIRMLY COMMITTED TO CARRYING OUT THIS JOB IN AN ENVIRONMENTALLY SOUND MANNER THAT WILL CAUSE ALL TO RECOMMEND US TO OTHERS.


JOHN ADAMS,
PRESIDENT


DICK NEUENSCHWANDER
CHAIRMAN

PIPE ANCHORING SCHEMATIC.



ENVIRONMENTAL CANAL AND
POND DREDGING INCORPORATED

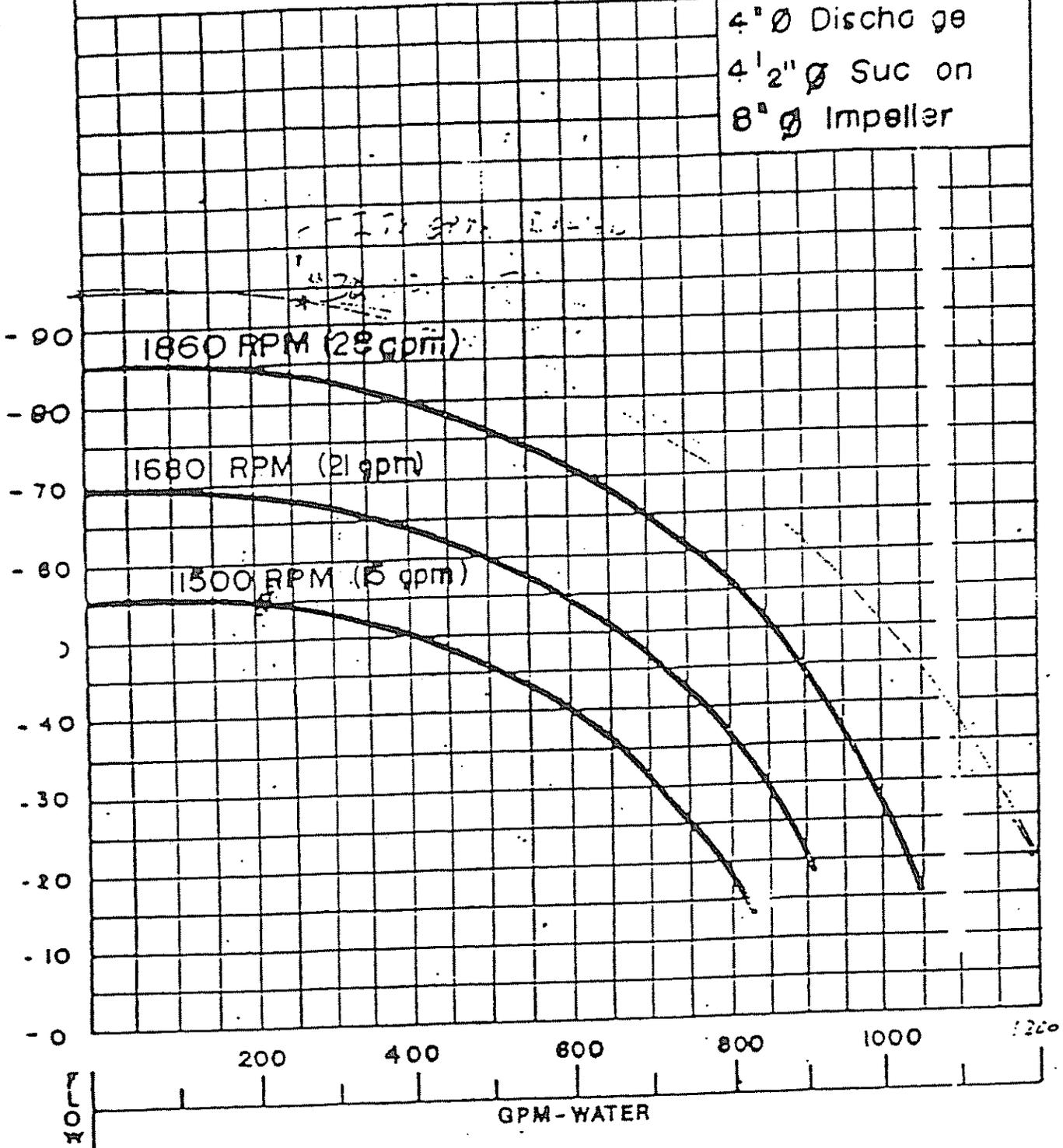


H & H PUMP CO.
 P.O. BOX 488
 CLARKSDALE, MS. 38614

MODEL: 40X4

IMPELLER: CF-3166

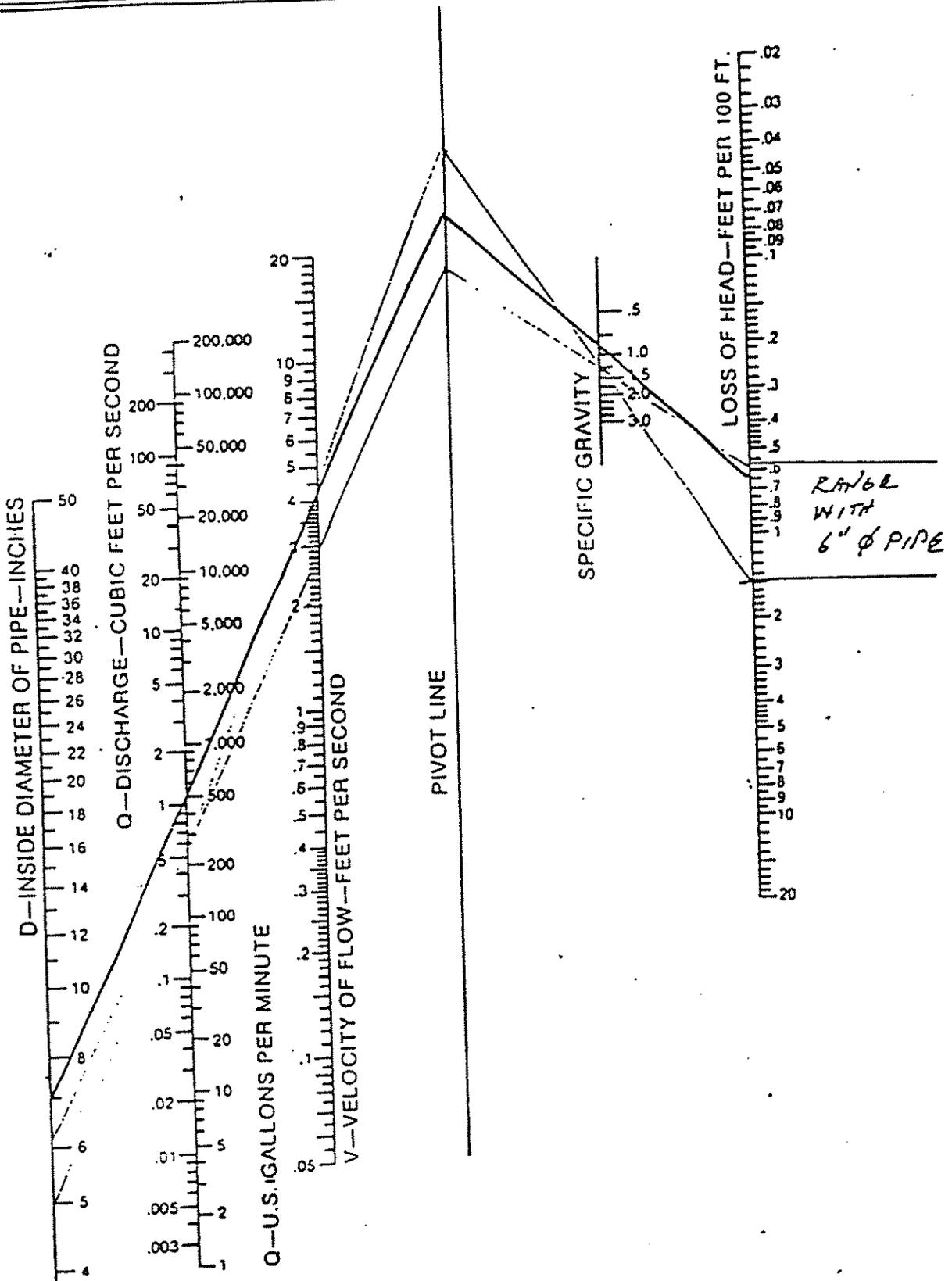
4" \emptyset Discharge
 4 1/2" \emptyset Suction
 8" \emptyset Impeller



BK 1492 PG 6045

- 15 gpm M30 X 1.0 Motor
- 21 gpm M30 X 1.2 Motor
- 28 gpm M30 X 1.5 Motor
- 30 gpm M30 X 2.0 MOTOR
- 2000 psi Maximum Pressure

Handwritten notes:
 H&H PUMP CO.
 201-627-9631



BK 1472 PG 6046

PE 30 Industrial Piping System Pipe Data and Pressure Ratings

6/2/82

(Pipe weights are calculated in accordance with PPI TR-7)

PRESSURE RATING	255 psi SDR 7.3		200 psi SDR 9.3		160 psi SDR 11.5		130 psi SDR 13.5		110 psi DR 15.5		100 psi SDR 17.0		80 psi SDR 21.0		65 psi SDR 26.0		50 psi SDR 32.5		
	O.D. PIPE SIZE (INCHES)	MIN. WALL (INCHES)	WEIGHT (LB/FT)	MIN. WALL (INCHES)	WEIGHT (LB/FT)	MIN. WALL (INCHES)	WEIGHT (LB/FT)	MIN. WALL (INCHES)	WEIGHT (LB/FT)	MIN. WALL (INCHES)	WEIGHT (LB/FT)	MIN. WALL (INCHES)	WEIGHT (LB/FT)	MIN. WALL (INCHES)	WEIGHT (LB/FT)	MIN. WALL (INCHES)	WEIGHT (LB/FT)	MIN. WALL (INCHES)	WEIGHT (LB/FT)
1 1/4"	1.660	—	—	.151	.31	—	—	—	—	—	—	—	—	—	—	—	—	—	—
2"	2.375	.325	.91	.264	.76	—	—	—	—	—	—	—	—	—	—	—	—	—	—
3"	3.500	.479	1.90	.389	1.65	.318	1.39	.259	1.15	.93	.206	.93	—	—	—	—	—	—	—
4"	4.500	.616	3.27	.500	2.74	.409	2.30	.333	1.90	1.67	2.65	1.51	.214	1.26	—	—	—	—	—
5"	5.563	.762	5.00	.618	4.18	.506	3.51	.412	2.91	2.57	.327	2.35	.265	1.93	.214	1.50	—	—	—
6"	6.625	.908	7.09	.736	5.93	.602	4.97	.491	4.13	3.64	.390	3.34	.316	2.74	.274	2.50	.204	1.80	—
7"	7.125	—	—	—	—	—	—	—	—	—	.420	3.87	.340	3.17	.274	2.50	.220	2.09	—
8"	8.625	1.182	12.01	.958	10.05	.785	8.43	.639	7.00	6.16	.508	5.66	.411	4.64	.332	3.79	.265	3.05	—
10"	10.750	1.473	18.66	1.194	15.62	.978	13.10	.797	10.89	9.59	.633	8.00	.512	7.21	.413	5.07	.331	4.75	—
12"	12.750	1.747	26.25	1.417	21.97	1.160	18.43	.945	15.31	13.47	.750	12.36	.608	10.14	.490	8.26	.392	6.67	—
14"	14.000	1.910	31.64	1.556	26.40	1.273	22.20	1.037	18.44	16.24	.823	14.91	.667	12.22	.538	9.96	.431	8.05	—
16"	16.000	2.192	41.34	1.770	34.61	1.455	29.00	1.105	24.09	21.21	.941	19.46	.762	15.97	.615	13.02	.492	10.51	—
18"	18.000	2.466	52.31	2.000	43.79	1.636	36.69	1.333	30.40	26.05	1.059	24.65	.857	20.19	.602	16.40	.554	13.29	—
20"	20.000	2.740	64.57	2.222	54.05	1.818	45.30	1.481	37.64	33.13	1.176	30.42	.952	24.92	.769	20.34	.615	16.41	—
22"	22.000	—	—	2.444	65.41	2.000	54.02	1.630	45.56	40.09	1.294	36.81	1.048	30.19	.846	24.62	.677	19.87	—
24"	24.000	—	—	2.667	77.05	2.182	65.24	1.778	54.22	47.72	1.412	43.82	1.143	35.92	.923	29.29	.738	23.62	—
26"	26.000	—	—	2.889	91.35	2.364	76.50	1.926	63.63	56.02	1.529	51.40	1.238	42.13	1.000	34.39	.800	27.74	—
28"	28.000	—	—	—	—	—	—	2.545	80.79	64.94	1.647	59.62	1.333	48.86	1.077	39.89	.862	32.20	—
30"	30.000	—	—	—	—	—	—	2.727	101.94	74.56	1.765	68.45	1.429	56.13	1.154	45.78	.923	36.92	—
32"	32.000	—	—	—	—	—	—	2.909	115.99	84.88	1.882	77.86	1.524	63.83	1.231	52.10	.985	42.04	—
34"	34.000	—	—	—	—	—	—	—	—	95.03	2.000	87.91	1.619	72.06	1.308	58.79	1.046	47.44	—
36"	36.000	—	—	—	—	—	—	—	—	107.40	2.110	98.56	1.714	80.79	1.385	65.93	1.108	53.10	—

*Industrial PE (polyethylene) pipe sizes are identified by IPS (iron pipe size) diameters which designate the nominal diameter for 12" IPS and smaller pipe, and O.D. (outside diameter) for 14" IPS and larger pipe.

**Check with your PLEXCO sales office for availability of this item or other sizes not listed. Subject to minimum order quantities.

609 94 771

EXHIBIT "D"
Water Quality Monitoring Program for Mechanical Dredging

Materials

All turbidity measurements will be made on-site using a new factory calibrated HF Scientific, Inc. DRT-15C portable turbidimeter. The daily calibration and operation of this unit will be performed and documented as described in the owners manual. Surface samples will be collected directly from the top 10 cm of the water column by hand immersing the cuvette. Bottom samples will be collected from 20 cm off the bottom using a weighted 1-liter LaMotte water sampler, or equivalent equipment. Water from the sampler will be retrieved and poured directly into a cuvette for instrument reading.

Methods

during active dredging, surface and bottom turbidity measurements will be made hourly at five of ten total stations located around the boundary of the marina basin (see Figure 1). When the dredge is working in the east basin stations E-1 through E-5 will be sampled hourly on a rotational basis. Stations W-1 through W-5 will be sampled similarly when the dredge is working in the west basin. Prior to the initiation of each hourly sampling cycle, background samples will be taken from both the surface and bottom at a point approximately 500 feet north of the end of the Municipal Pier.

If at anytime, turbidity measurements indicate a value of 29 NTU or greater above the most recently measured background value, then the dredge operator will be immediately notified to stop work. Once work has stopped, turbidity measurements will continue to be taken as described above until values again fall to within 29 NTU above the previous background at all stations. At this time the dredge operator will be notified that it is safe to again begin work. The times that work was stopped and then restarted will be recorded.

In addition to hourly turbidity monitoring, a single surface grab sample will be collected daily at the point of dredging approximately one hour after dredging has commenced for that day, and analyzed for ammoniacal nitrogen (ammonia). Concurrent with the collection of the grab sample, the in-situ parameters of temperature, salinity, conductivity, pH, and dissolved oxygen will be measured at the point of dredging and at a point approximately 500-feet north of the end of the Municipal Pier - at the surface, mid-depth, and one-meter off the bottom. In-situ measurements will be made with a calibrated Hydrolab Surveyor II field meter.

DN 1491
DN 1492
DN 1493
DN 1494
DN 1495

Quality Control

Turbidity sampling will be supervised on-site by the dredging contractor and all field measurements and notes will be appropriately logged and submitted to the project engineer on a weekly basis. In addition, the project engineer will inspect the construction site once per week on a random basis to ensure compliance with the above procedures. Upon review and approval by the project engineer, weekly turbidity measurements will be submitted to FDER.

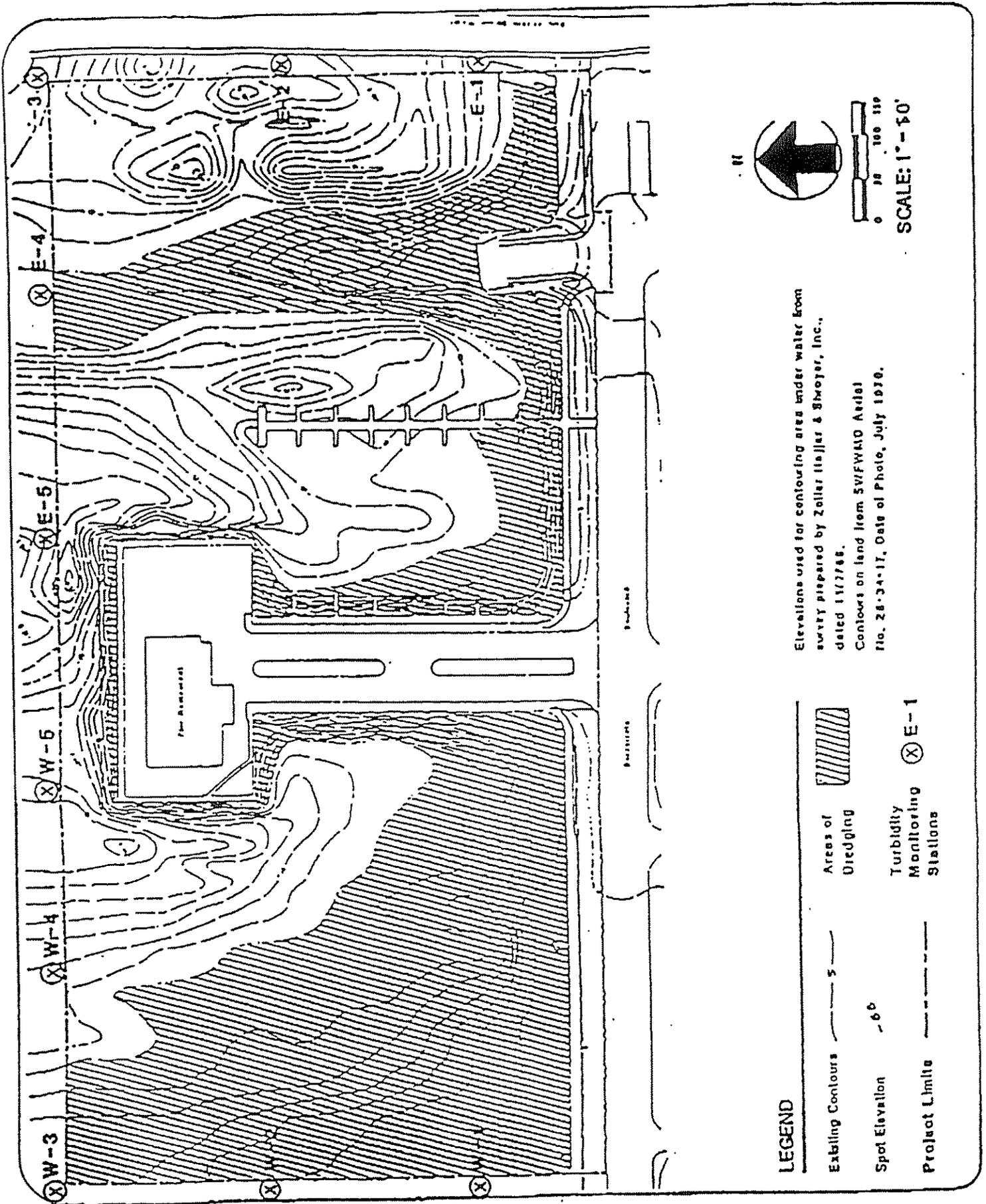
Ammonia samples and in-situ measurements will be collected by a qualified environmental technician. Ammonia analyses will be performed pursuant to standard methods acceptable to FDER under the approved CQAP of the selected laboratory. The results of the daily ammonia analyses and in-situ measurements will be submitted by the project engineer to FDER on a weekly basis during dredging.

Conditions

If weekly reports indicate frequent shutdowns (more than two per day) and persistent turbidity plumes (29 NTU above background for one hour or greater at any sampling station), then construction activities will be shutdown, and the project engineer will notify the contractor and the FDER to jointly discuss potential solutions to the problems.

If the ammonia analyses indicate concentrations of 0.10 mg/l or greater during two or more days during a given week (Monday through Friday) then dredging activities will be shut down, and the project engineer will notify the contractor and the FDER to discuss potential solutions to the problems. If ammonia concentrations do not exceed 0.10 mg/l during the first two weeks of resumed mechanical dredging, then the requirement for continued ammonia and in-situ profiling shall be waived.

BK 1472 PB 6049



LEGEND

- Existing Contours ——— 5 ———
- Spot Elevation ——— 6 ———
- Project Limits ——— ———
- Areas of Dredging 
- Turbidity Monitoring Stations 

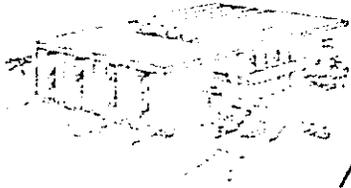
Elevations used for contouring area under water from survey prepared by Zeller Illjor & Shroyer, Inc., dated 11/7/88.
 Contours on land from SVFWMD Aerial Photo, 28-34-17, Date of Photo, July 1978.

↑

0 20 100 150

SCALE: 1" = 50'

FIGURE 1 - Location of turbidity monitoring stations.



CITY OF BRADENTON
BRADENTON, FLORIDA

813/748-0800

CALLER SERVICE 25015
33506-5015

May 2, 1988

Wally Price, Chief
Department of Community Affairs
Division of Local Resource Management
2571 Executive Center Circle East
Tallahassee, FL 32399

Re: DRI #172 Bradenton Municipal Marina
City of Bradenton

Dear Mr. Price:

Enclosed is a certified copy of the development order for the referenced project. The order was passed by City Council April 27th.

Sincerely,

Margaret J. Swanson
Margaret J. Swanson
Chief, Planning and Zoning

MJS:lu

cc: Sheila Benz, TBRPC
Betsy Bowman, Hopping Boyd, Green & Sons

ORDINANCE 2409

AN ORDINANCE APPROVING THE APPLICATION FOR DEVELOPMENT APPROVAL OF THE CITY OF BRADENTON MUNICIPAL MARINA EXPANSION AS A DEVELOPMENT OF REGIONAL IMPACT, PURSUANT TO CHAPTER 380, FLORIDA STATUTES; MAKING CERTAIN FINDINGS AND CONCLUSIONS OF LAW; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Applicant, the City of Bradenton (City), on August 26, 1987, filed an application for development approval of an expansion of the Bradenton Municipal Marina as a development of regional impact (DRI), pursuant to Chapter 380, Florida statutes; and

WHEREAS, the City furnished additional information concerning this application received December 7, 1987 and January 15, 1988; and

WHEREAS, the City has certified that it has furnished copies of the application and additional information to the state Department of Community Affairs; and

WHEREAS, on March 14, 1988, the Tampa Bay Regional Planning Council (TBRPC) issued a final report and recommendation concerning the marina expansion recommending approval with conditions; and

WHEREAS, the City has given notice of proposed action concerning the marina application required by law; and

WHEREAS, after consideration of the recommendations of the TBRPC, City of Bradenton Planning Commission and City staff and after public hearing pursuant to notice, the City of Bradenton City Council on April 27, 1988 made Findings of Fact and Conclusions of Law concerning the application.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRADENTON COUNCIL THAT:

FINDINGS OF FACT

1. The project is an expansion of the existing City of Bradenton Municipal Marina, located on the south bank of the

Manatee River, west of the U.S. 41 (Business) Bridge (see Exhibit A for a legal description of the entire marina). The proposed expansion would increase the existing 46 marina slips to a maximum of 225 slips, increase 124 existing parking spaces to 212 spaces and add a 1,500 square foot dockmaster's office. The project master plan is attached as Exhibit B.

2. The proposed development is not located in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes (1987).

3. The development does not unreasonably interfere with the achievement of the objectives of the adopted state land plan applicable to the area.

4. The development is consistent with the report and recommendations of the TBRPC submitted pursuant to Section 380.06(12), Florida Statutes (1987).

5. The development is consistent with the City's local comprehensive plan adopted pursuant to Chapter 163, Florida Statutes, and with local land development regulations.

6. The development will have the following regional impacts, as applicable:

a. A favorable impact on the economy of the region;

b. No significant impact on environment and natural resources; water, sewer, solid waste disposal, public schools or other public facilities; energy demand.

CONCLUSIONS OF LAW

The application for development approval as a DRI submitted by the City is hereby approved subject to the following general and special conditions:

GENERAL CONDITIONS

1. The application for development approval submitted August 26, 1987 and additional information received December 7, 1987 and January 15, 1988, and all commitments therein, summarized in Exhibit C,

shall constitute development conditions and restrictions, except as superceded by specific terms of this Development Order.

2. Any subsequent owner/developer or assignee shall be subject to the provisions of this development order.

3. The development shall be subject to further review in the event significant development has not commenced within three (3) years; provided, however, that this period shall be tolled until the applicant has received all necessary federal, regional, state and local permits and approvals required to commence development. The applicant shall proceed with due diligence to apply for and obtain all necessary approvals.

4. December 31, 1993, is the date until which the City agrees that the property in the development area shall not be subject to downzoning, unit density reduction or intensity reduction, unless the City finds that substantial changes in the conditions underlying the approval of the Development Order have occurred or that the Development Order was based on substantially inaccurate information provided by the City or that the change is clearly established by local government to be essential to public health, safety or welfare; provided, however, that this date shall be extended by any period of time from January 1, 1989 to the date the applicant has received all necessary federal, regional, state and local permits and approvals required to commence development. The applicant shall proceed with due diligence to apply for and obtain all necessary approvals.

5. The development shall proceed in one five (5)-year phase based on current market conditions.

6. The Development Order shall terminate December 31, 1993, which time reasonably reflects the time required to complete development; provided, however, that this date shall be extended by any period of time from January 1, 1989 to the date the applicant has received all necessary federal, regional, state and local permits and approvals required to commence development. The applicant shall proceed with due diligence to apply for and obtain all necessary approvals.

7. The official responsible for monitoring the development for compliance with the Development Order is the Director of the City Department of Planning and Development, who shall have the duty and authority to interpret the order and to take actions necessary to implement it.

8. An annual report shall be prepared by the City or its assignee in accordance with Section 380.06(15), (18), Florida Statutes (1987), and submitted to the state Department of Community Affairs, TBRPC and City Planning and Development Department no later than one year from the effective date of this ordinance and annually thereafter by the same date until buildout. The annual report shall contain:

a. Any changes in the plan of development, or in the representations contained in the ADA, or in the phasing for the reporting year and for the next year;

b. A summary comparison of development activity proposed and actually conducted for the year;

c. Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or developer;

d. Identification and intended use of lands purchased, leased or optioned by the developer adjacent to the original DRI site since the development order was issued;

e. An assessment of the developer's and the local government's compliance with the conditions of approval contained in the DRI development order and the commitments which are contained in the Application for Development Approval and which have been identified by the local government, the Regional Planning Council or the Department of Community Affairs as being significant;

f. Any known incremental DRI applications for development approval or requests for a substantial deviation determination that were filed in the reporting year and to be filed during the next year;

g. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;

h. A list of significant local, state and federal permits which have been obtained or which are pending by agency, type of permit, permit number and purpose of each;

i. A statement that all persons have been sent copies of the annual report in conformance with Subsections 380.06(15) and (18), Florida Statutes; and

j. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the developer pursuant to Subsection 380.06(15)(f), Florida Statutes, (1987).

k. In addition, the first annual report, after occupancy of any marina expansion, shall include a copy of the slip lease agreement containing information regarding, at a minimum, fueling and sanitation devices and procedures, manatee protection procedures, hurricane evacuation procedures and a hurricane damage probability statement. Any revised lease agreement shall be provided in subsequent annual reports.

9. Any change to the development shall be subject to the criteria set forth in Section 380.06(19), Florida Statutes (1987), and may constitute a substantial deviation subject to further DRI review.

SPECIAL CONDITIONS

Environment and Natural Resources

1. In the event that any species listed in Sections 39-27.003-.005, Florida Administrative Code, are observed frequenting the site for nesting, feeding, or breeding, proper protection/mitigation measures shall be employed immediately in cooperation with the Florida Game and Fresh Water Fish Commission (FGFWFC), the Florida Department of

Natural Resources (DNR) and the U.S. Fish and Wildlife Service.

2. The City shall promote awareness of, and shall cooperate with local and regional authorities having jurisdiction to issue hurricane evacuation orders. The City/marina management shall prepare a project-specific plan to ensure the safe and orderly evacuation of residents, restaurant guests, boat owners, and those employees who, for security or administrative reasons, are in the marina after an evacuation order is issued by ordering all buildings closed for the duration of a hurricane evacuation order; informing all employees, residents, and guests of any hurricane evacuation order and of evacuation routes out of the flood prone area and measures to be followed in the event of same; making all efforts to coordinate with and inform appropriate public authorities of building closings, security and safety measures, and evacuation plans; and posting public information and established procedures/plans for marina/boat safety.

3. All development shall comply with the appropriate FEMA requirements.

4. If the 7th Street East upland site, or any other upland site, is utilized for dredged spoil disposal, the soil conservation measures referenced on page 1-12 of the additional information received December 7, 1987, at minimum, shall be implemented. Due to the elevated baseline hydrocarbon content of the marina's sediments, dewatered spoil removed from the upland dewatering site shall be tested for applicable pollutants prior to removal in order to determine suitability for usage. These test results, as well as the proposed sites on which the dewatered spoil will be used as fill, shall be reported to the Soil Conservation Service, Department of Natural Resources and TBRPC for review and comment, and to the City of Bradenton, and Department of Environmental Regulation for permit

application review. This condition shall not apply if the Manatee Gateway site is utilized for spoil disposal.

5. Any proposal to utilize disposal sites other than Manatee Gateway site or 7th Street East (shown on Revised Figure 41-2 of additional information by the applicant received January 15, 1988) shall be subject to a substantial deviation determination, and may require further review pursuant to Subsection 380.06(19), Florida Statutes (1987).

6. The City shall submit all proposed construction, filling, dredging and spoil disposal permit applications to TBRPC for review as part of the Intergovernmental Coordination and Review (IC & R) process. These shall also be submitted to the City of Bradenton, Department of Natural Resources, the U.S. Army Corps of Engineers (COE), the Department of Environmental Regulation (DER), the Southwest Florida Water Management District (SWFWMD) and the U.S. Fish and Wildlife Service, as mandated, for approval. The dredging and spoil disposal permit applications should include:

a. Specification of a backup disposal site in the event of toxic spoil material. Spoil shall be tested for toxic materials/heavy metals prior to disposal to assure its suitability for the intended purpose, and the route to the disposal site shall be identified.

b. A long-term spoil disposal commitment by the City which details anticipated frequency and amounts of maintenance spoil, and disposal site selection criteria.

c. Best Management Practices as recommended by DER, including the use of turbidity curtains, shall be required during dredging/construction operations.

d. Design specifications of the proposed 7th Street East spoil disposal site indicating dewatering and run-off control measures (only if the 7th Street East site is chosen).

7. The City or its assignee shall be the entity responsible for future maintenance dredging of the Bradenton Municipal Marina and its expansion.

8. The fueling and sewage pump-out facilities within the marina expansion shall be operated, or the operation supervised by the marina staff at all times and shall be properly illuminated during operation. Such facilities shall be locked or otherwise inoperative whenever a staff person is not present to supervise operations.

9. The permanent sewage pump-out station shall be operational prior to occupancy of the marina expansion. The facility shall be designed and conveniently located to serve the slips occupied by live-aboards, as well as all other lessees.

10. The proposed development is located within the Class III Waters of the Manatee River estuary. A semi-annual monitoring program shall be accomplished during construction and continuing until one year after completion of construction, as follows:

a. The program shall include the following analyses or use of existing data establishing such analyses:

1. Establishment of baseline ambient water quality conditions and worst case (summer) conditions within the Bradenton Municipal Marina.

2. Correlation analysis of water quality changes with rainfall and other relevant natural and anthropogenic events.

b. The program shall include a comprehensive sampling program including, at minimum, the sampling specified below:

Semi-Annual (wet and dry season) monitoring at three stations within the Bradenton Municipal Marina, the locations of which are shown in Figure 15-2 of the Application for Development Approval. Samples are to be collected at the surface on each tide change (slack tide) over a diurnal period. The parameters to be monitored include:

- ° Dissolved Oxygen
- ° Total and Fecal Coliforms
- ° Chlorophyll-a
- ° Anthropogenic hydrocarbons
- ° Total Suspended Particulates
- ° Total Organic Carbon
- ° Nutrients
 - Ammonia
 - Total N
 - Kjeldahl N
 - Nitrate and nitrite
 - Total P
 - Inorganic P
- ° Biochemical Oxygen Demand (5-day)
- ° Temperature
- ° Salinity
- ° Turbidity

Anthropogenic hydrocarbons will be sampled in accordance with DER specifications.

All water quality analytical methods and procedures shall be thoroughly documented and shall comply with EPA/DER Quality Control Standards and Requirements. The monitoring results shall be submitted in the DRI annual report, as well as to DER and SWFWMD annually. Should the monitoring indicate that applicable state water quality standards are not being met, the violations clearly attributable to the marina construction and operation shall be reported to DER and, if possible, immediately corrected. Violations which cannot be corrected may necessitate an amendment to the Development Order. The amendment shall address the cause(s) of and mitigation for the violation, and shall be drafted and approved by the City of Bradenton and DER, subject to the substantial deviation provisions of Subsection 380.06(19), Florida Statutes (1987).

11. The placement of limerock rip-rap (6 to 18 inches in diameter) to the Mean Sea Level line (MSL) along the existing seawall on a 2:1 slope shall be required.

12. The entire marina envelope and the area between the marina and the maintained navigation channel shall be designated a "no-wake" zone.

13. The City, or its assignee, shall implement the following commitments regarding protection of the West Indian manatee:

- Display manatee warning signs in and around the marina and manatee educational exhibits on the marina grounds. These exhibits shall contain basic information on manatee ecology, boater information and the DNR "Manatee Hotline" phone numbers.
- The idle speed zone within the marina envelope shall be enforced by marina personnel.
- Cooperate with, and assist, the DNR in developing a manatee protection plan for Manatee County.
- Consult DNR regarding the appropriate design and placement of educational exhibits and warning signs.
- Require the contractor to instruct all personnel associated with the project of the presence of manatees and the need to avoid collisions with manatees.
- Advise all personnel that there are civil and criminal penalties for harming, harassing or killing manatees which are protected under the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, and the Florida Manatee Sanctuary Act of 1978.
- Hold the City and/or contractor responsible for any manatee harmed, harassed or killed as a direct result of construction activities associated with the project.

- ° Schedule dredging and heavy construction operations between the months of January and May to minimize potential contacts with manatees.
- ° Require that all construction activities in open water shall cease upon the sighting of manatees within 100 yards of the project areas. Construction activities shall not resume until the manatees have departed the project area.
- ° Report all observed or reported collisions with manatees immediately on the "Manatee Hotline" (1-800-342-1821) and to the U.S. Fish and Wildlife Service, Jacksonville Endangered Species Field Station.
- ° Require the contractor to keep a log detailing sightings, collisions or injury to manatees which have occurred during the contract period and within the construction area.
- ° Submit a report, following project completion, summarizing the above incidents and sightings to the Florida Department of Natural Resources Marine Mammal Recovery Program and to the U.S. Fish and Wildlife Service.
- ° Install and maintain awareness signs at prominent locations within the construction area/facility, as specified by DNR. The applicant will send a project site plan to the DNR Marine Mammal Recovery Program. Temporary construction signs will be removed by the applicant when the project construction is complete. The signs shall be 3' X 4', 125 gauge 61TS aluminum, covered with white, engineer grade, reflective sheeting; black painted lettering; black screened-design; and orange, engineer grade, reflective tape border. The 3' X 4' signs shall be made in accordance with the specifications of DNR for such signs. Sign

installation specifications will be furnished to the applicant when sign locations are designated. Placement and installation of signs will be certified as to designated stations to DNR by the project Professional Engineer before the marina facility is in use. Signs and pilings will remain the responsibility of the owner(s) and will be maintained for the life of the marina in a manner acceptable to DNR.

14. In addition, the applicant shall accommodate the use of one slip at the marina by the DNR Marine Patrol, to assist in enforcing manatee protection and speed zones.

15. Any other manatee-related issues shall be addressed by the City in its application to the State Trustees of the Internal Improvement Trust Fund for a lease of submerged sovereignty lands related to the marina expansion.

16. No live-aboards shall be permitted west of the pier, as committed in the Application for Development Approval. The total number of live-aboards shall be limited to 25 percent of the total slips (56 slips), except where it can be demonstrated that the provision of upland facilities will support a greater number of live-aboards pursuant to local building codes; provided that no degradation of water quality shall occur as a result of said increase in live-aboards, and that use of the sewage pump-out facilities, in lieu of direct discharge, will be strictly enforced.

Public Facilities

17. Water-saving devices shall be required in the project as mandated by the Florida Water Conservation Act (Section 533.14, Florida Statutes (1987)) and native vegetation shall be utilized in any landscaping where feasible.

18. The expansion of the Bradenton Municipal Marina shall be designed and constructed with energy-saving

features. The energy conservation measures referenced on page 25-2 of the Application for Development Approval are specifically incorporated by reference. A report on those features employed shall be included in each annual report until buildout.

19. The City or its assignee shall assure the maintenance of the water supply systems within the project site.

20. The City or its assignee will be responsible for maintenance of the docks, piers, and parking areas.

21. The City or its assignee(s) or other governmental agencies with related jurisdiction, authority and responsibility are responsible for providing water, fire, police, EMS, rescue and spill cleanup services to the expansion of the Bradenton Municipal Marina. The City or its assignee shall provide police access to the development, as required.

22. The fire system shall meet the National Fire Protection Association's Section 303, "Marinas and Boatyards" requirements.

**EFFECTIVE DATE; TRANSMITTAL;
RECORDING; SEVERABILITY**

1. This ordinance shall become effective upon its adoption. Approval of this Development Order does not obviate the need for any permits or approvals that may be lawfully required by other governmental entities or agencies.

2. The City Clerk is authorized and directed within five (5) days of the effective date of this ordinance to send certified copies of this ordinance with copies of all attached exhibits to: Florida Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399 and TBRPC, 9455 Koger Blvd., Suite 219, St. Petersburg, Florida 33702.

3. The City shall record a notice of the adoption of this Development Order with the clerk of the circuit court for Manatee County, including a legal description of the property covered by the Development Order, its adoption by the City, the date of this Development Order, the location of where the Development Order may be examined and a statement that the Development Order constitutes a land development regulation applicable to the property.

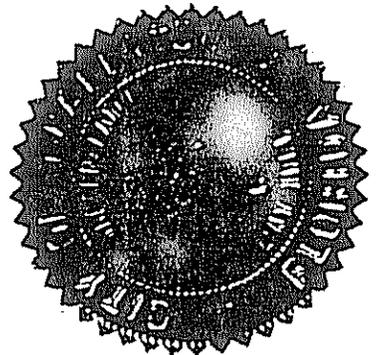
4. In the event that any portion of this ordinance is determined to be invalid, illegal or unconstitutional by a court or other entity with competent jurisdiction, such decision shall not affect the remaining portions of the ordinance, which shall remain in full force and effect.

PASSED IN REGULAR SESSION THIS 27 DAY OF April 1988.

Bill Evans
President, City Council

ATTEST:

J. Baldoni
City Clerk



APPROVED AS TO FORM:

William Christy
City Attorney

FIRST READING: 2-10-88

ADVERTISED: 2-14-88

SECOND READING: 4-27-88

APPROVED by me this 27 day of April, 1988.

Bill Evans
Mayor

Legal Description of Existing Bradenton Municipal Marina.

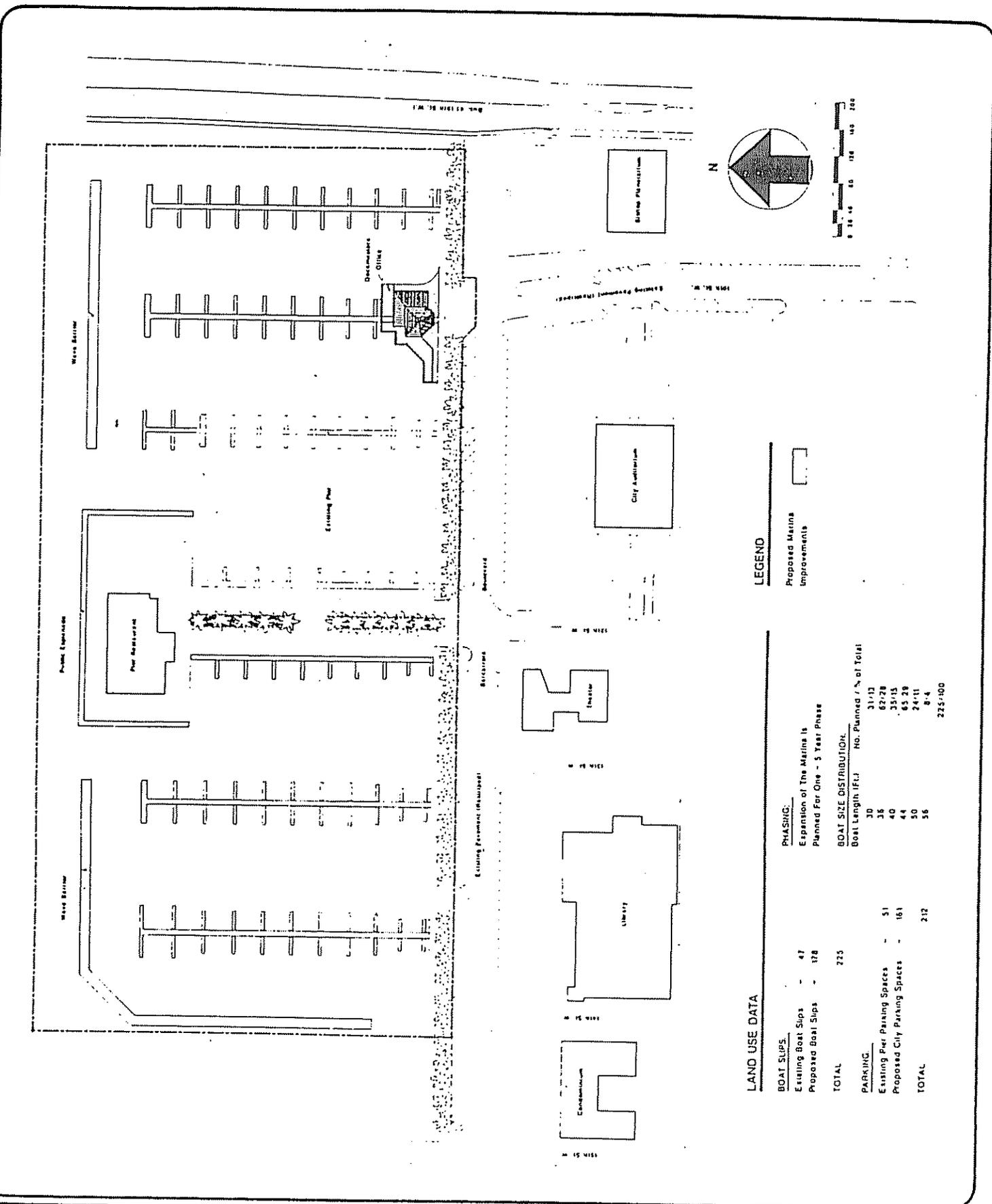
Begin at a point of intersection of North Bank of curb line on Barcarrota Boulevard and a line 50 feet West of and parallel to centerline of 10th Street West Bridge; thence run West along said North curb line 620 feet West to Point of Intersection of extended centerline of 13th Street West; then run north along the extended centerline of 13th Street West, a distance of 600 feet; then run East along a line 60 feet North of and parallel to North edge of seawall on North side of Pier 570 feet to point 50 feet perpendicular distance from centerline of bridge; thence run South along a line 50 feet West of and parallel to centerline of bridge a distance of 604 feet to point of beginning, lying and being in Section 26, Township 34 South, Range 17 East, Manatee County, Florida.

Legal Description of Lands Required for Expansion of Bradenton Municipal Marina (As depicted upon Conceptual Site Plan)

Begin at a point of intersection of North Bank of curb line on Barcarrota Boulevard and a line 50 feet West of and parallel to center line of 10th Street West Bridge; then run West along said North curb line a distance of 1045 feet, more or less, West to a point approximately 35 feet West of the Point of Intersection of the extended West pavement line of 14th Street West (as shown on the Conceptual Site Plan attached as Exhibit C); thence run North, a distance of 600 feet (this North/South line being parallel to and a minimum of 25 feet from the proposed floating wave barrier); then run East along a line 60 feet North of a parallel to North edge of seawall on North side of Pier 1328 feet, more or less, to a point 32 feet perpendicular distance from West side of the new 10th Street Bridge; then run South along a line 32 feet West of and parallel to the West side of the new bridge a distance of 600 feet, more or less, to a point of intersection with a line being an easterly extension of the North Bank of the Curb line of 1st Avenue West; thence West along said line and the North Bank of the curb line of 1st Avenue West, a distance of 205 feet, more or less; thence South, a distance of approximately 20 feet; thence West along a line approximately 20 feet South of and parallel to the North curb line of 1st Avenue West, a distance of 90 feet; thence Northwesterly, a distance of 20 feet, more or less, to the point of beginning, lying and being in Section 26, Township 34 South, Range 17 East, Manatee County, Florida.

(This description is not based upon a survey of the subject property. The distances and dimensions shown are based upon measurements taken from the Conceptual Site Plan shown in Map H and identified as "Master Plan of Bradenton Municipal Marina." It is acknowledged that the Conceptual Site Plan was developed through the use of the aerial photographs and therefore, upon actual survey of the expanded marina site, the foregoing legal description may change).

EXHIBIT A



LEGEND

Proposed Marina Improvements

LAND USE DATA

BOAT SLIPS		PHASING:	
Existing Boat Slips	Proposed Boat Slips	Expansion of The Marina Is Planned For One - 5 Year Phase	No. Planned / % of Total
47	178		
TOTAL	225		
PARKING:		BOAT SIZE DISTRIBUTION:	
Existing Per Parking Spaces	Proposed City Parking Spaces	Boat Length (ft.)	No. Planned / % of Total
51	161	30	31/13
		36	62/28
		40	35/15
		44	65/29
		50	24/11
		56	8/4
TOTAL	212		225/100

BRADENTON MUNICIPAL MARINA



Wade-Trim
Engineering Planning Landscape Architecture
Environmental Sciences

MASTER DEVELOPMENT PLAN

MAP H

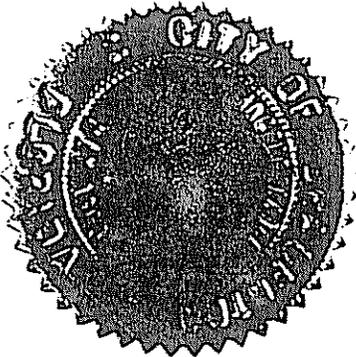
C E R T I F I C A T I O N

STATE OF FLORIDA)
COUNTY OF MANATEE)
CITY OF BRADENTON)

I, George S. Baldwin, City Clerk and Treasurer of the City of Bradenton, State and County aforesaid, do hereby certify that the attached is a true and correct copy of the following:

CITY OF BRADENTON ORDINANCE NO. 2409

as same appears of record on the records of this City of Bradenton the 29 day of April, 1988.



George S. Baldwin
George S. Baldwin
City Clerk and Treasurer

EXHIBIT C

DRI #172

THE EXPANSION OF THE BRADENTON MUNICIPAL MARINA

DEVELOPER COMMITMENTS

The following are developer commitments set forth in the Application for Development Approval (ADA) and Sufficiency Responses which shall be honored by the developer, except as they may be superceded by specific terms of the Development Order.

General Project Description

1. The project will be completed within one five-year phase, based on current market conditions. (ADA*, 12-1)
2. The wave barriers are to be fixed systems which are designed to allow sufficient tidal flow below the surface of the water and throughout the mooring area. (ADA, 12-1)
3. A landside sanitary pump out facility will be provided for use by all boats registered in the marina, and a fueling platform will be constructed adjacent to the dockmaster's office. (ADA, 12-1)
4. Potable water, electricity, telephone, and cable television will be provided to each slip. (ADA, 12-1)
5. As required by the City of Bradenton lease, no live-aboards will be permitted west of the Memorial Pier. (ADA, 12-1)
6. To accommodate the proposed marina expansion, the City of Bradenton will provide additional parking spaces by restriping the existing pavement along Barcarrota Boulevard and 10th Street West. (ADA, 12-12)
7. The site plan ultimately approved in the DRI process will constitute the basis for the submerged sovereign land lease application. No other circumstances resulting in substantial changes to the site plan are foreseen. (SRI, 1-6)

ENVIRONMENTAL AND NATURAL RESOURCES

Land

1. The data (from deeper core samples, if required by FDER) will be made available upon completion of this work. (SRI, 1-10)
2. Only two spoil disposal sites are under consideration - the Manatee Gateway shell pit and the 7th Street East upland site. (SRI, 1-12)

3. Since the submittal of the ADA, the primary dredge spoil disposal site is the Manatee Gateway site. (SRI, 1-6)
4. The disposal of dredge spoil in the Manatee Gateway site would not involve any effluent discharge to waters of the state. Turbidity screens would be used at the dredge site during all dredging operations. (SRI, 1-7)
5. If the dredge spoil is deemed to be unsuitable for deposition in the Manatee Gateway site, an alternate upland site has been proposed by the applicant. This three-acre parcel is located north of 7th Street East, along the south bank of the river, and is owned in entirety by the City of Bradenton. If this site is utilized, spoil material will be offloaded from barges into a bermed holding and dewatering area for drying. Effluent from the spoil material will be detained and properly treated prior to discharge to waters of the state. Once dried, the material will be trucked off and utilized as upland fill material where appropriate. (SRI, 1-7)
6. In addition, best-management-practices (e.g. hay bales) will be used to minimize erosion from the containment/dewatering site. (SRI, 1-12)
7. Approval for minor filling (less than 0.10 acres) [filling of submerged lands during reconstruction of the existing bulkhead at the old U.S. Business 41 bridge] will be obtained from FDER and USACE [Army Corps of Engineers] as part of the master dredge/fill permit. (SRI, 1-13) Clean fill material with a high sand content will be used for this purpose, however, it is not anticipated that this material will come from on-site. The material chosen to surround the underground fuel storage tanks will be carefully chosen to exhibit minimal corrosivity, and to meet all requirements of the FDER. (SRI, 2-12)

Water

1. No marine repair or maintenance facilities will be provided at the marina site. (ADA, 15-5)
2. Turbidity curtains will be used during all dredging activities to minimize temporary water quality degradation. (ADA, 15-4)
3. Decking around the proposed fuel pumps will be sloped landward to collect all extraneous spills. All fueling activities will be supervised by the Dockmaster. (ADA, 15-4)
4. The fuel tanks will be constructed underground in the upland associated with the land fall of the old U.S. Business 41 bridge. (ADA, 15-4)
5. The City of Bradenton will ultimately improve the quality of stormwater discharging to waters of the state through downtown redevelopment and compliance with Chapters 17-25 and 40-D(4), F.A.C. (SRI, 1-14)