\*\* MODEL\*\*

CASE REPORT

CENTRAL FLORIDA DISTRICT

(SAMPLE)

Type of Violation: Dredge and Fill

Date Submitted: April 17, 1993

1. Violators: [*Include all potential violators. These usually include at least property owners, storage tank owners, and facility operators, but may also include corporate officers in charge of the operations which led to the violations, contractors which did the work, etc.*

*Explain the relationships between the violators and why you think they should be included*.]

 Richard and Pat F. Mossey (Owners of property)

 325 Country Club Place

 Sarasota, FL 32779

 Business Phone: xxx-xxxx

 Home Phone: xxx-xxxx

 William Casey (Contractor on job)

 xxxxxxxxxxxxxxxxxx

 Sarasota, FL xxxx

 Business Phone: xxx-xxxx

2. Location Of Violation:

 325 Country Club Place

 Sarasota FL 32779

3. NATURE OF THE VIOLATION: [*Describe the violations in general and then identify each one specifically and state the facts that support the violation, including the witnesses and documents that provide evidence supporting the violation*]

 This case involves dredging and filling without a permit and in violation of a permit at the homeowner’s waterfront property. DEP determined the property is jurisdictional on inspections in August 13, 1991 and July 14, 1992. In May 1991, DEP received an application for the construction of a dock. The permit was issued. On a subsequent inspection, DEP discovered that the dock was not built according to the permit, the Mosseys had constructed a seawall, had filled behind the seawall and had removed mangroves without a permit. A warning notice was sent to the Mosseys on September 15, 1991. The Mosseys have had a number of meetings with DEP but the parties have never agreed to a consent order.

 1st violation: Violation of a permit. [Cite Rule, if appropriate]

 Permit # xxxxxxxxxxxxxxxxxxxx (attached) authorizes the construction of a 1200 sq. ft. L-shaped dock. The Mosseys built a 1400 sq. ft. Y-shaped dock. All witnesses observed this.

 The pilings are creosote and not pressure-treated. (Specific Condition #4). All witnesses.

 2nd Violation: Construction without a permit.

 The Mosseys constructed a 100 foot seawall within the landward extent of the Gulf of Mexico. Jurisdiction was determined by the presence of mangrove stumps behind the wall. This was in the original permit application but was never authorized. All witnesses.

 3rd Violation: Filling without a permit.

 The Mosseys filled approximately 1000 sq. ft. behind the seawall within DEP’s jurisdiction. All witnesses.

 4th Violation: Mangroves

 Approximately 24 red mangroves were removed without a permit. Fernandez and Johnson on 2/14/93 dug through the fill and determined the number of trees cut.

4. ADDITIONAL INFORMATION

 [for *underground storage tank systems be sure to list the installation date, tank category, tank and piping construction detail, method of release detection, size and content of tanks, and if site is eligible for cleanup program*]

 There was an oily sheen emanating from the seawall on several of the inspections. Witnesses were Sgt. Rock and Fernandez. See inspection reports. Some of the fill included old refrigerators and washing machines. This may be a solid waste violation. All witnesses.

 Mosseys will claim that this was all the contractor’s fault and that much of the filling was done before they moved in. The contractor denies this.

 The Mosseys were warned by letter dated July 5, 1991, by the local program that the work required a permit from DEP.

5. POTENTIAL WITNESSES: [*Be as inclusive as possible and indicate if the witness has anything interesting to show or tell. Briefly describe what the witness can testify to*.]

 Mr. and Mrs. Nosy Neighbor (video tape and photographs)

 xxxxxxxxxxxxxxxx

 xxxxxxxxxxxxxxxx, FL

 Phone: xxx-xxxxBetty Rogers (extensive File on contractor)

 Local Program

 Phone: xxx-xxxx

 William Casey (Dock Contractor)

 xxxxxxxxxxxxxxxxxxx

 xxxxxxxxxxxxxx, FL

 Phone: xxx-xxxx

 Sgt. Rock (interviews with all neighbors, photos)

 FL Game and Freshwater Fish Officer

 Phone: xxx-xxxx

 Ann Fernandez & Bill Johnson (Fernandez was permitter on project)

 DEP D & F inspectors

 DEP SWD Office

6. RECOMMENDATION FOR CORRECTIVE ACTION [Do not include a specific penalty amount in this section. Do include any novel corrective actions you think are appropriate.]

 The District requests that a complaint be filed seeking restoration of the wetland and reconstruction of the dock, penalties and costs and expenses.

7. SETTLEMENT NEGOTIATIONS [Describe the negotiations so far and any interesting developments. Include our demands and the violator’s responses. Also describe why a case has not been pursued for a while, if appropriate.]

 The parties met on three times but were unable to agree on the appropriate restoration or the penalty. The Mosseys wanted to keep everything the way it had been built and pay $2,000. DEP wanted the wall and fill removed and a $10,000 penalty.

 Meetings were held with the violators on 8-19-92, 10-13-92, 11-14-92.

8. ATTACHMENTS [Be inclusive but please cull the files and discard copies of documents. Let the attorney decide whether or not a document is important.]

Entire Enforcement file (without extra copies of documents and consent order drafts)

Entire File for permit #xxxxxxxxxxxxxxxxxxxxx (without extra copies of documents)

Local Program file

Game Commission File

Copies of Photographs

Property deed

At minimum include the following:

Inspection reports showing all pertinent violations

Correspondence to and from violator(s)

Telephone conversation records

Notes from enforcement meetings

Copies of photographs dated, and include detailed captions explaining what violation the picture is to support

Copies of contracts, reports, inventory records, release detection records, etc. and related to the violation

Property Records – provide a copy of the deeds showing property ownership covering the timeframe the violations were ongoing

Previous NOVs, final orders, consent orders, complaints, final judgments, etc.

All other documentation the District believes would be useful as evidence or historical reference when dealing with the violator

9. OTHER INFORMATION [Include in this section other information which may be important but doesn’t fit elsewhere. When in doubt, include the information. This is a good place to include apparent weakness of the case.]

 William Casey may have ignored the instructions of the Mosseys and built the seawall longer and further waterward than they wanted. It’s not clear from talking to them what his instructions were. According to Rogers, Casey has done similar things on other jobs.

 Fernandez is not exactly sure when the mangroves were cut. She can state that they were cut within the last year. The Mosseys bought the property in May, 1992 and swear that there were no mangroves when they moved in. The Neighbors insist there were.

 The information in this Case Report is complete and accurate to the best of my knowledge, information and belief.

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 DEP INSPECTOR

I recommend filing an action against the violator(s) described above.

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Director of District Management Date

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Deputy Secretary, Regulatory Date

**AUTHORIZATION TO SUE**

**OFFICE OF GENERAL COUNSEL**

Recommended Action and supplemental comments:

*[Includes concise opinion on merits of proposed action]*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Senior Attorney

Date:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Deputy General Counsel

Date:

FINAL APPROVAL:

\_\_\_\_\_ APPROVED \_\_\_\_\_\_\_\_ DISAPPROVED

Frederick L. Aschauer, Jr.

General Counsel

Date:

Comments: