

MIAMI-DADE COUNTY DEPARTMENT)
 OF ENVIRONMENTAL RESOURCES)
 MANAGEMENT)
)
 Complainant)
)
 V.)
)
 Trebloc Corp.)
)
)
 Respondent)
)
 _____)



CONSENT AGREEMENT

This Agreement, entered into by and between Miami-Dade County DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT (hereinafter referred to as DERM), and Trebloc Corp. (hereinafter referred to as the Respondent), pursuant to Section 24-5(15)(c), Miami-Dade County Environmental Protection Ordinance, shall serve to redress violations of Chapter 24 of the Code of Miami-Dade County at the site, located at, near, or in the vicinity of SW 184 Street and Old Cutler Road, Miami, Miami-Dade County, Florida and further described as folio nos. 30-6003-001-0013, 30-6002-000-0020, 0030, 0050, 0060 and 0120.

DERM finds and the Respondent admits the following:

FINDINGS OF FACT

1. DERM is an agency of Miami-Dade County, a political subdivision of the State of Florida, which is empowered to control and prohibit pollution and protect the environment within Miami-Dade County pursuant to Article VIII, Section 6 of the Florida Constitution, the Miami-Dade County Home Rule Charter and Section 403.182 of the Florida Statutes; and

2. DERM's investigations at the subject property have revealed that clearing and filling of wetlands and the alteration and destruction of mangrove trees and other wetland vegetation has occurred on site in violation of Chapter 24, Miami-Dade County Environmental Protection Ordinance; and

3. The Respondent hereby consents to the terms of this Agreement without either admitting or denying the allegations made by DERM in the Notice of Violation and Orders to Cease and Desist issued in conjunction with this cause; and
4. In an effort to expeditiously resolve this matter and to insure compliance with Chapter 24, Miami-Dade County Environmental Protection Ordinance, and to avoid time consuming and costly litigation, the parties hereto agree to the following, and it is ORDERED:

RESTORATION REQUIREMENTS
(DEBRIS REMOVAL & GRADING)

5. The Respondent shall within thirty (30) days of the effective date of this Agreement, submit to DERM for review a plan for the removal and proper disposal of vegetative debris from within the impacted wetland areas. Said plan shall include a detailed description of the methods and equipment that will be used to remove the vegetative debris and proposed off-site location for debris disposal. DERM shall approve, approve with modifications, or disapprove said plan. Upon receipt of written approval by DERM, the Respondent shall implement and complete said plan in accordance with the timetables and any modifications specified in the plan approval.
6. The Respondent shall within fifteen (15) days of completion of the vegetative debris removal specified above, submit to DERM for review a topographic survey of the impacted wetland areas. The survey shall be signed and sealed by a professional engineer or professional land surveyor licensed in the State of Florida. The survey shall include ground elevation measurements (in feet and tenths of feet) collected on ten (10) foot centers throughout the impacted wetland areas as well as within adjacent unimpacted areas for a minimum distance of twenty (20) feet. The survey shall be accompanied by a report comparing elevations in the impacted wetland areas to wetland elevations immediately surrounding the areas of impact to determine whether topographic modifications are necessary to ensure success of the restoration project outlined in paragraph 7 below. If the Respondent or the Respondent's consultant determines that topographic modifications (i.e.

grading, leveling, etc.) are necessary, the report shall outline the methodology proposed for restoring the area to the appropriate wetland elevation and include a timeframe for implementation of the subject work. DERM shall review the survey and wetland elevation report and shall approve, approve with modifications or disapprove the wetland elevation report. Upon receipt of DERM's written approval, or approval with modifications, the Respondent shall implement the corrective actions and shall complete the grading work (if deemed necessary) within fourteen (14) days of said approval.

RESTORATION REQUIREMENTS
(PLANTING & NATURAL RECRUITMENT)

7. The Respondent shall within ninety (90) days of the effective date of this Agreement, submit a plan to DERM for review, for the restoration of the affected areas of the site. For the purposes of this Agreement, the impacted wetlands have been separated into two distinct areas, one representing high quality wetlands and the other representing lower quality wetlands (See Attachment A). Said plan shall provide for the restoration of the impacted high quality wetland areas by replanting the areas with mangrove seedlings and in the low quality wetland areas to allow for natural recruitment. DERM shall review said restoration plan and approve, approve with modifications or disapprove said plan. Upon receipt of DERM's approval, Respondent or Respondent's consultant shall implement and complete the plan in accordance with the timetables specified in the plan approval. Be advised, the information provided on Attachment A referenced above, shall not be considered a determination by DERM on the landward extent of wetlands at the subject site nor shall it be considered a letter of interpretation by the Director of the Department of Environmental Resources Management as provided in Sections 24-58.1 (2) and (3) of Chapter 24 of the Code of Miami-Dade County. Said Attachment is not a survey and shall be utilized for reference purposes only in connection with this Agreement.

8. The Respondent or Respondent's consultant shall replant the impacted high quality wetland areas with mangrove seedlings that are planted on two (2) foot centers, nursery grown, and a minimum of two (2) years old (approximately two feet tall) at time of planting. Red

mangrove (*Rhizophora mangle*) seedlings shall be used in all areas where greater than 50% of the surrounding mangrove trees are red mangroves. White mangrove (*Laguncularia racemosa*) seedlings and black mangrove (*Avicennia germinans*) seedlings may be planted within those areas where greater than 50% of the surrounding mangrove trees are whites, blacks, and/or buttonwood trees (*Conocarpus erectus*). A minimum survivorship of 80% of the planted mangrove seedlings shall be maintained and the restored high quality wetland areas shall be maintained free of exotic and/or invasive vegetation at all times for a period of five (5) years after completion of the initial planting, or until such time that the Department determines that 100 percent mangrove canopy coverage has been achieved, whichever is longer. These criteria shall be applied separately to each discrete area (i.e. transect) restored pursuant to this Agreement. In the event that survivorship of mangrove seedlings planted in any individual transect falls below 80%, the Respondent or the Respondent's consultant shall take whatever steps are necessary to correct this deficiency within thirty (30) days of receipt of written notification by DERM of said deficiency.

9. The Respondent shall maintain the impacted lower quality wetland area free of exotic and/or invasive vegetation and allow for natural recruitment of native wetland species. At no time shall the exotic and/or invasive vegetative cover exceed 5% of the area. The following percentages of native wetland plant cover must be attained within the time frames set forth below.

After one (1) year – 30% native wetland species vegetative cover

After two (2) years – 60% native wetland species vegetative cover

After three (3) years – 80% native wetland species vegetative cover

These criteria shall be applied separately to each discrete area (i.e. transect) restored pursuant to this Agreement. If the targeted percentages of wetland vegetative cover are not met in any transect at the end of any of the three, year-long periods, the Respondent shall supplement the vegetative cover by planting the area with native wetland plant species in order to meet or exceed the target percentage of total native vegetative cover for that year. If supplemental planting is required, the Respondent shall submit a list of native wetland

plant species proposed for planting within the impacted lower quality wetland area with the monitoring report submitted at the end of each the three year-long periods. The Respondent shall conduct the supplemental planting within thirty (30) days of DERM's approval or approval with modifications of the proposed planting plan/list.

MITIGATION REQUIREMENTS

10. The Respondent shall within thirty (30) days of the effective date of this Agreement, submit to DERM for review, a mitigation plan for unauthorized impacts to 10.7 acres of wetlands at the subject property. Said mitigation shall consist of wetland creation/restoration and shall be required at the following ratios: Mitigation for the 5.64 acres impacted within the lower quality wetland areas shall be performed at a minimum ratio of 1:1. Of the 5.06 acres of impacts that have occurred within the higher quality wetland areas, 4.39 acres shall be mitigated for at a minimum ratio of 3:1 and 0.67 acre at a minimum ratio of 5:1. A higher mitigation ratio will apply for any mitigation that is to be performed off-site or for out-of-kind mitigation. DERM shall review the mitigation plan and shall approve, approve with modifications or disapprove said plan. Upon receipt of DERM's written approval, or approval with modifications, the Respondent or Respondent's consultant shall implement and complete said plan in accordance with the timeframes and any modifications specified in the approval.

MONITORING AND REPORTING REQUIREMENTS

11. The Respondent or the Respondent's consultant shall, for a minimum of five (5) years, submit to DERM for review, monitoring reports detailing the success or failure of both restoration and mitigation projects required pursuant to this Agreement. Separate baseline reports shall be submitted for both the restoration and mitigation projects within thirty (30) days of completion of the respective work. Monitoring reports shall be submitted every three months thereafter for the first two years. Biannual reports shall be submitted for each of the following three years or until such time that DERM determines that the respective restoration and/or mitigation work is/are deemed successful.

12. The Respondent agrees to apply for and obtain the appropriate Miami-Dade County DERM permit for any future work in, on, over, or upon tidal waters or wetlands, including but not limited to, any mangrove trimming or alteration, within Miami-Dade County prior to the commencement of the work.
13. If DERM disapproves the Respondent's plans or related documents as set forth in paragraphs 5, 6, 7, 9, 10 or 11 herein, the Respondent or the Respondent's consultant shall, within fourteen (14) days of receipt of the disapproval, meet with DERM to discuss those items which resulted in the disapproval and shall modify the plans or related documents to satisfy the requirements of DERM. The Respondent shall, within seven (7) days of the meeting, submit an acceptable plan or related document to DERM for review.

SAFETY PRECAUTIONS

14. The Respondent shall maintain the restoration/mitigation/enhancement site(s) during the pendency of this Agreement, in a manner which shall not pose a hazard or threat to the public at large or the environment and shall not cause a nuisance or sanitary nuisance or hazard to navigation as set forth in Chapter 24, Miami-Dade County Environmental Protection Ordinance.

SETTLEMENT COSTS

15. The Respondent hereby certifies that they have the financial ability to comply with the terms and conditions set forth herein and to comply with payments specified in this Agreement.
16. DERM has determined that, due to the extent of the violations on-site, which include but are not limited to those listed in paragraph 2 of this Agreement, a civil penalty of \$40,000.00 is appropriate.

17. The Respondent shall, within sixty (60) days of the effective date of this Agreement, submit to DERM a \$40,000.00 certified check, made payable to Miami-Dade County. The penalty payment shall be sent to Department of Environmental Resources Management, c/o Mark J. Pettit, 33 SW 2 Avenue, Suite #400, Miami, Florida, 33130. Said payment shall satisfy the civil penalty pursuant to paragraph 16 of this Agreement.
18. The Respondent shall, within thirty (30) days of the effective date of this Agreement, submit to DERM a \$3,418.00 certified check which shall serve to reimburse DERM for its administrative costs incurred in bringing this site into compliance and the administration and follow-up required pursuant to this Agreement. This payment shall be sent to Department of Environmental Resources Management, c/o Mark J. Pettit, 33 SW 2 Avenue, Suite #400, Miami, Florida 33130.

VIOLATION OF REQUIREMENTS

19. This Agreement constitutes a lawful order of the Director of the Department of Environmental Resources Management and is enforceable in a civil or criminal court of competent jurisdiction. Violation of any requirement of this Agreement may result in enforcement action by DERM. Each violation of any of the terms and conditions of this Agreement by the Respondent shall constitute a separate offense.
20. In the event the Respondent fails to restore, remove, allow, maintain, submit, implement or complete those items listed in Paragraphs 5, 6, 7, 8, 9, 10, and 11 herein, the Respondent shall pay DERM a civil penalty of \$500.00 per day for each day of non-compliance and the Respondent shall be subject to enforcement action in a civil or criminal court of competent jurisdiction for such failure pursuant to the provisions set forth in Chapter 24, Miami-Dade County Environmental Protection Ordinance. Said payment shall be made by the Respondent to DERM within ten (10) days of receipt of written notification.
21. If the Respondent fails to comply with the requirements of Paragraph 12 above, the Respondents shall pay DERM a penalty of five thousand dollars (\$5,000.00) per violation

in addition to any applicable application and permit fee. Payment of said penalty shall not waive DERM's right to seek judicial imposition of damages, or civil or criminal penalties for violation of Chapter 24 of the Miami-Dade County Code.

MISCELLANEOUS PROVISIONS

22. The Respondent shall allow authorized representatives of DERM access to the subject property at reasonable times for purposes of determining compliance with this Consent Agreement and the rules and regulations set forth in Chapter 24, Miami-Dade County Environmental Protection Ordinance.
23. The Respondent agrees to notify any subsequent purchaser(s) of the subject property of the existence and provisions of this Agreement and to reserve and preserve in any contract of sale or documents of conveyance the right of the Respondent, or the Respondent's representative(s), to have access to the subject property for the purpose of complying with this Agreement and for the right of DERM to have access to the property as specified in Paragraph 22 above.
24. It shall be the responsibility of the Respondent or their consultant to locate and obtain permission from the owner of the off-site location for any mitigation or biological enhancement project that is proposed to be located off-site.
25. The Respondent shall obtain all required Federal, State and local regulatory permits necessary for any and all restoration, mitigation, and/or biological enhancement work to be performed pursuant to this Agreement.
26. DERM expressly reserves the right to initiate appropriate legal action to prevent or prohibit future violations of applicable statutes or the rules promulgated thereunder.
27. Entry of this Consent Agreement does not relieve the Respondent of the responsibility to comply with applicable federal, state, or local laws, regulations and ordinances.

28. Where timetables or conditions cannot be met by the Respondent due to circumstances beyond the Respondent's control, the Respondent shall provide written documentation to DERM, which shall substantiate that the cause(s) for the delay or non-compliance was not reasonably in the control of the Respondent. A determination of the reasonableness of the delay shall be made by DERM for the purpose of imposition of penalties pursuant to paragraph 20 herein.
29. This Agreement shall neither be evidence of a prior violation of this Chapter nor shall it be deemed to impose any limitation upon any investigation or action by DERM in the enforcement of Chapter 24, Miami-Dade County Environmental Protection Ordinance.
30. In consideration of the complete and timely performance by the Respondent of the obligations contained in this Agreement, DERM waives its rights to seek judicial imposition of damages or criminal or civil penalties for the matters alleged in this Agreement.
31. This Agreement shall become effective upon the date of execution by the Director, Environmental Resources Management, or his designee.

Jan 20, 2004
Date

Lillian de Maschett
Lillian de Maschett, Director
Trebloc Corp.

Before me, the undersigned authority, personally appeared Lillian de Maschett, who after being duly sworn, deposes and says that he has read and agreed to the foregoing.

Subscribe and sworn to before me this 22 day of Jan, 2004 by

Lillian de Maschett
(name of affiant)

Personally known _____ or Produced Identification
(Check one)

Type of Identification Produced: Passport



Lissis Ramos
My Commission DD261459
Expires February 21 2008

[Signature]
Notary Public

DO NOT WRITE BELOW THIS LINE - GOVERNMENT USE ONLY

2-3-04
Date

[Signature]
John W. Renfrow, P.E., Director
Department of Environmental Resources
Management

[Signature]
Witness

[Signature]
Witness

Figure 4

Fortune International

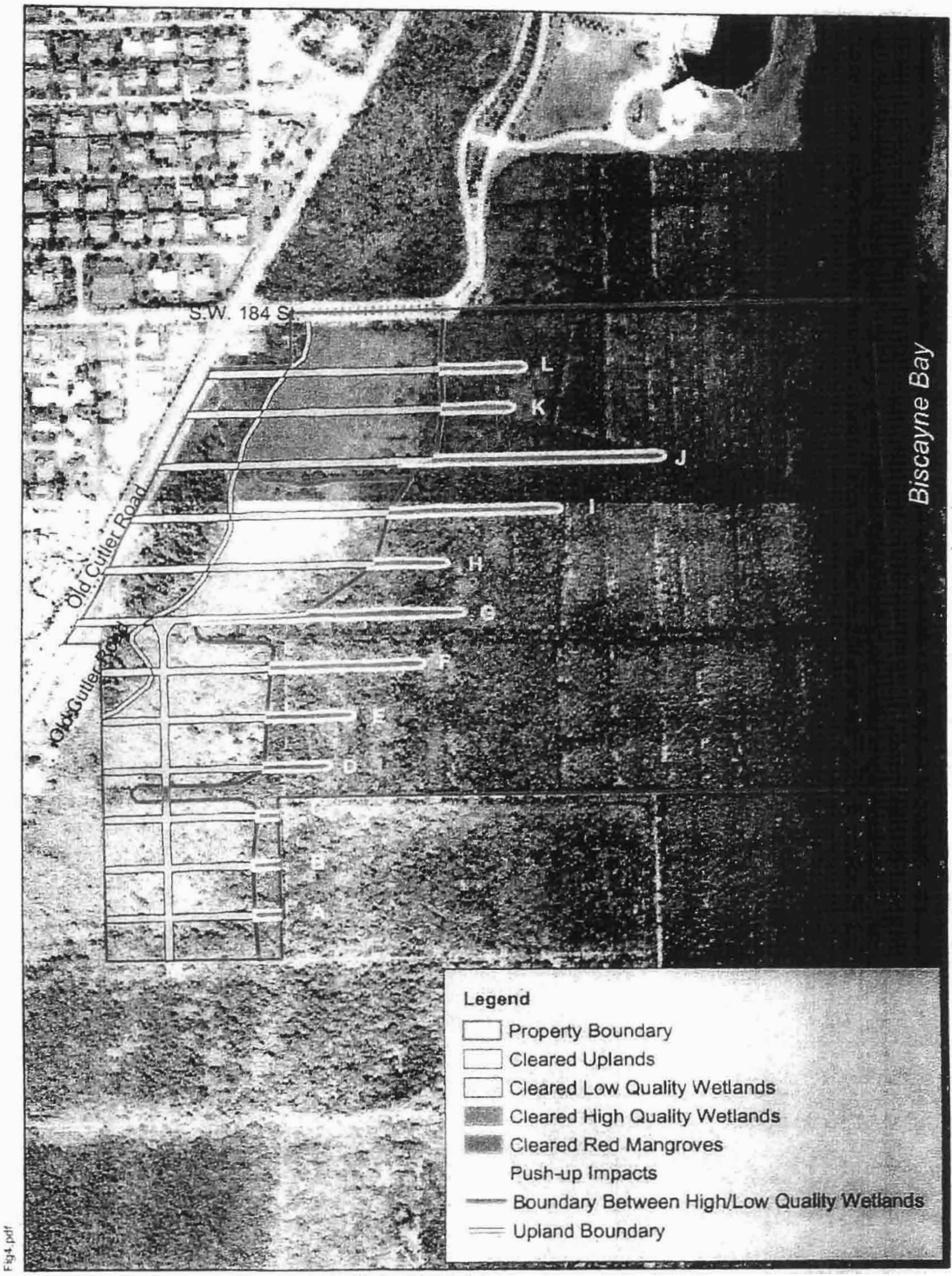


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