



Public Employees for Environmental Responsibility (“PEER”)

Opposition and Suggested Revisions to Draft Rule, F.A.C. Chapter 18-21: Sovereign Submerged Land Management

February 12, 2003

Executive Summary. Beginning in Summer, 2001 and at the request of PEER Members in Florida and within federal agencies with co-jurisdiction over coral reef marine environmental resources, PEER initiated a campaign to address public policy initiatives which posed an existing or future threat to the nearshore coral reefs between Cape Canaveral and the Florida Keys. One of these threats is the landing of fiber-optical cables which adversely intrude on the health of nearshore ecosystems. Today PEER files evidence indicating that the proposed “South Broward Gap” is not a ‘gap’ in the sense of a ‘space’ or ‘break’ in the coral reef, but rather it possesses – at a minimum – three areas which may contain significant environmental resources. Compare Exhibit A, Diagram_FDEP’s Six Proposed Gaps with Exhibit B, Close-Up_South Broward Gap [both attached].

PEER has been an interested party in the State of Florida’s rulemaking to revise F.A.C. Chapter 18-21, which will govern the letting of easements over Florida’s sovereign submerged lands for the purpose of landing telecommunications fiber-optic cables. As advocacy for a ‘greener’ rule than the Draft 18-21 Rule issued on December 11, 2002, PEER proposes the following. Below is the text of the Draft 18-21 Rule issued by Florida Department of the Environmental Protection (“FDEP”) and reviewed by the Governor and Cabinet as Trustees of Florida’s Internal Improvement Trust Fund last month. Based on PEER’s own review of the evidence of an alleged “gap” in the nearshore coral reef, ***PEER recommends the Governor reject the South Broward gap until a complete survey of the endangered environmental resources is conducted.***

Other proposed revisions include:

* Complete removal of all designated ‘gaps’ and the substitution of permitting for any area between Indian River County and Broward County, so long as the telecommunications cables are laid via directional drilling in a manner which prevents and/or mitigates ‘frack-outs’;

* Removal of the corporate welfare provision lowering the easement price to be paid by the telecommunications company for the right to cross public lands; the current Draft is \$339.34/foot below the valuation used in United States v. Great Lakes Dredge & Dock Co., 259 F.3d 1300 (11th Cir. 2001). A PEER recommended increase to \$344.40/linear foot is based on the damages recovered by the federal government recovered for injuries to the Florida Keys National Marine Sanctuary. FDEP proposes charging applicants only \$5.06 per linear foot for 10 foot wide easements. That means that companies will be getting 10 square feet of easement for only \$5.06, or 0.015% of the Great Lakes Dredging & Dock Co. costs. The damage award in Great Lakes was \$34.44 per square foot. PEER proposes FDEP charge the same: 344.40 for 10 square feet;

* Removal of generous, open-ended easement terms and a limitation of easements to a ten (10) year time period;

* Requirement that easements only be granted in pursuit of bona fide projects, and not in pursuit of speculative deals;

* Requirement that scientific data required to be filed prior to the granting of an easement be collected and analyzed by independent, neutral professionals and not by consultants paid for by the corporate applicant;

* Requirement for independent, neutral third-party monitoring and damage control verification instead of use of consultants paid for by the corporate applicants;

* Requirement that all funds raised through easement fees be used for the mitigation of damage done to the reefs by the presence of fiber-optic cables.

No South Broward Gap? Based on review of the attached photographic evidence, PEER formally requests a complete survey of the marine environmental resources which will be impacted by the acts of the State of Florida – and any federal agency providing support for the State of Florida – in the area within one (1) nautical mile of the alleged “South Broward Gap”. See trapezoidal markings on Exhibit B, attached. LIDAR (Light Direction and Range) mapping is similar to side scan sonar. LIDAR, however, uses laser light instead of sound waves. The LIDAR survey was made from an airplane flying back and forth in parallel lines at low elevation (50 -100') over the ocean where the seafloor was to be mapped.

Using lasers, LIDAR technology has measured and recorded the range and distance of bottom from the airplane in and around the South Broward Gap. Since raised geographic irregularities on the sea bottom are closer to the plane than troughs, LIDAR can distinguish them from each other. This allows smooth bottoms – such as that formed by sand – to be distinguished from rugged bottoms. As in side scan sonar, the near side of a raised geographic irregularities on the bottom appears illuminated while the lee side is in a artificially produced LIDAR shadow. The effect, as seen on the attached image filed as Exhibit B, is a near photographic-quality image of the seabed in and around the alleged South Broward “gap”.

Where there are rugged geographic irregularities, there is often a varying amount of marine environment resources which are protected under both Florida and federal law. In aerial photographs of the area, PEER evidences rugged, marine resource-rich areas. Rugged bottom is also powerful evidence of the presence of limestone outcrops. Reef epifauna is almost always abundant on the submarine limestone outcrops off Broward County. The exceptions to this rule are not present at the alleged South Broward “gap”: high energy surfzone outcrops and low relief outcrops periodically covered with sand. The South Broward Gap is not close enough to shore for wave energy to limit reef development and the bottom appears to be even rougher — too rough for periodic burial — than the Summer, 2002 PEER study area where ancient reef fauna was found by direct observation during a series of eight (8) dives conducted by PEER Master Diver and Marine Biologist, Chuck Sultzman, of Vero Beach, Florida. See Exhibit C, Biological Data from PEER Dives, Summer 2002.

Based on analogies to PEER’s dives during Summer, 2002, the seafloor in shallowest portion (20-25') of the South Broward Gap is primarily limestone and that limestone has an abundance of reef life. This hardbottom may be *more* rugged than the PEER study site and, therefore, may have a greater abundance of ancient brain and star corals than the PEER study site. As such, at a minimum, the South Broward gap ought to be struck from the rule and at a maximum, the following changes ought to be made to the proposed text of Chapter 18-21.

PEER’s Recommendations:

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

DOCKET NO.: 01-10R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Sovereignty Submerged Lands Management 18-21

RULE TITLE: RULE NO.:

Definitions 18-21.003

Management Policies, Standards, and Criteria 18-21.004

Delegation of Authority 18-21.0051

Applications for Public Easement	18-21.009
Applications for Private Easement	18-21.010
Payments and Fees	18-21.011

PURPOSE AND EFFECT: This rulemaking is proposed by the Department of Environmental Protection, as staff to the Board of Trustees, to accomplish two purposes. First, it will establish criteria for the placement of telecommunication lines and conduits on sovereignty submerged lands along the coast of Florida and it will establish application and easement fees for such use. Second, it will clean up and update some other provisions related to all private and public easements on sovereignty submerged lands.

SUMMARY: The proposed amendments regarding telecommunication lines and conduits require a showing of proof of need for a landing; require conduits to be directionally drilled under nearshore resources and punch out where impacts to resources are avoided or minimized; prohibits installation in Miami-Dade County, south of Sunny Isles, and in Monroe County; limits the combined number of cables and conduits to six per landing site, but allows more if certain criteria are met; and establishes new application and easement fees for the cables and conduits. The rule also streamlines the processing of telecommunication lines that are located in special consideration areas. ~~Five special consideration areas are identified in Broward and Palm Beach Counties where gaps exist in the third reef; additional special consideration areas can be adopted into rule in the future. For telecommunication lines located in special consideration areas, the authorization for the project will be delegated to DEP; a sketch may be submitted in lieu of a survey, provided an as-built is submitted later; and two spare conduits per cable are allowed instead of one.~~ DEP is also proposing to assess application fees of \$15,000 for

private and public telecommunication lines, and a private easement fee of \$5.06 per linear foot (for a ten-foot wide easement and prorated for wider easements), which will be adjusted annually to changes in the consumer price index.

In addition, the rulemaking will update and correct language in sections 18-21.009 and 18-21.010 related to easements: (1) it will change the noticing of public and private easements to owners within 500 feet of the easement boundary to match statutory requirement, and will allow the applicant to notice the project in lieu of the Board; (2) it will change the requirement to submit payment of the private easement fee at the time the application is submitted to when the easement is approved; and (3) it will clarify language regarding easement application and renewal fees.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A formal SERC has not been prepared. However, this rule will result in the increased application fee from \$200 to \$15,000 for private and public easements for telecommunication lines, including subsequent applications to install lines in existing conduits. This increased application fee is designed to better recover the actual costs to the Department to evaluate and process offshore telecommunication line applications. The easement fee of \$5.06 is fixed and is based on what DEP currently charges; it represents the appraised easement value and the enhanced upland property value.

Any person who wishes to provide information regarding a statement of estimated regulatory cost, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 253.03(7), FS.

LAW IMPLEMENTED: 253.002, 253.03, 253.034, 253.04, 253.115, 253.12, 253.77, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: February 13, 2003, Thursday, 6:00 p.m.

PLACE: DEP Southeast District Office, 400 North Congress Avenue, 2nd Floor Meeting Room, West Palm Beach, Florida (561/681-6649)

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting the Bureau of Personnel Services at (850) 245-2511. If you are hearing or speech impaired, please contact the Florida Relay Service by calling (800) 955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE: Jeanese McCree, Florida Department of Environmental Protection, Bureau of Beaches and Wetland Resources, 2600 Blair Stone Road—MS 2500, Tallahassee, FL 32399-2400, telephone (850) 245-8486, e-mail: jeanese.mccree@dep.state.fl.us, or facsimile (850) 245-8499.

THE FULL TEXT OF THE PROPOSED RULE IS:

18-21.003 Definitions.

When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(1) through (52) No change.

(53) "Telecommunication line" means any cable utilized for the purpose of transmitting such things as voice communications, video signals, Internet material, electronic mail, or data.

(53) through (57) Renumbered (54) through (58) No change.

Specific Authority 253.03(7) FS. Law Implemented 253.002, 253.02, 253.03, 253.1221, 253.67, 253.77 FS. History—New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83, 2-25-85, Formerly 16Q-21.03, 16Q-21.003, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 3-20-94, 10-15-98, 8-1-01, 12-11-01,_____.

18-21.004 Management Policies, Standards, and Criteria.

The following management policies, standards, and criteria shall be used in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereignty submerged lands.

(1) No change.

(2) Resource Management.

(a) through (k) No change.

(l) Applications for telecommunication lines received after [effective date of rule] that originate from or extend to locations outside of the state's territorial limits through the territorial sea including the area between mean high and mean low water lines and any associated conduits shall be subject to the following:

1. Installations shall be approved only where the applicant provides satisfactory evidence of a need by providing documentation in the form of:

~~a.~~ a contract to install telecommunication lines and associated conduits to an upland distribution network and stating the projected date of installation; ~~or~~

~~b. a letter of commitment from a company in the business of installing or using telecommunication lines for a line that will be installed and connected to an upland distribution network, functional for transmitting data, and on-line within a specified time frame once a conduit is made available.~~

2. Installations at individual landing sites are limited to no more than six telecommunication lines and conduits except where the applicant can affirmatively demonstrate, by certifying, at a public hearing before the department, that an independent assessment by a team of divers, consisting of at least one marine biologist and one cable deployment expert, concludes that the landing site will support a larger number of such lines and that the routing through the territorial sea will cause no more than unavoidable minimal individual and cumulative impacts .

3. No more than one empty conduit shall be installed per approved telecommunication line except in special consideration areas identified in this paragraph where two empty conduits may be installed per approved telecommunication line.

4. Installations shall be prohibited south of Sunny Isles in Miami-Dade County and in all of Monroe County.

5. Conduits for telecommunication lines shall be directionally drilled under nearshore benthic resources, including the first reef and any other more inshore reefs off Southeast Florida, to the maximum extent practicable all exposed solid substrate to the outer edge of the easternmost reef platform within each proposed corridor and shall punch out in a location that avoids or minimizes impacts to benthic resources such as seagrasses and live bottom communities including corals and sponges.

b. A dive team shall be in the water to monitor the progress of drilling any time drilling is under weigh. If the dive team monitors, or any other person working on the project, notices evidence of frac-out, drilling must cease and appropriate measures must be taken to avoid further frac-out, such as backing out the drill bit 100 or more feet and redirecting the path of the drill bit.

a. Fluids used in drilling shall include biodegradable, non-toxic, fluorescent dies in a quantity and concentration sufficient to give divers monitoring the operation early warning of frac-outs.

6. Special consideration areas are designated for telecommunication lines and associated conduits located within the recognized reef gaps generally described as follows:

a. Lake Worth Gap (northern Palm Beach County), beginning at the easternmost end at N. Lat. 26 37.659/W. Long. 80 01.341 (south side) and N. Lat. 26 38.481/W. Long. 80 01.258 (north side), and extending perpendicular to shore in a 1,672 yard-wide gap to the mean high water line landward of the second reef terrace;

b. Boynton Beach Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 32.200/W. Long. 80 01.788 to N. Lat. 26 32.245/W. Long. 80 01.791, in a 90-95 yard wide gap to the mean high water line.

c. Delray Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 27.393/W. Long. 80 02.765 (south side) and at N. Lat. 26 27.641/W. Long. 80 02.726 (north side), and extending perpendicular to shore in a 508 yard-wide gap to the mean high water line;

~~d. Turtle Gap (southern Palm Beach County), beginning at the easternmost end at N. Lat. 26 22.672/W. Long. 80 03.224 (south side) and at N. Lat. 26 22.748/W. Long. 80 03.224 (north side), and extending perpendicular to shore in a 154 yard-wide gap to the mean high water line; or~~

~~e. South Broward Gap (southern Broward County), beginning at the easternmost end at N. Lat. 25 58.438/W. Long. 80 05.278 and N. Lat. 25 58.821/W. Long. 80 05.271 and extending landward on its southerly limits through the following points: N. Lat. 25 58.977/W. Long. 80 05.733, N. Lat. 25 59.132/W. Long. 80 05.997, and ending at N. Lat. 25 59.138/W. Long. 80 06.366, and landward on its northerly limits through the following points: N. Lat. 25 59.039/W. Long. 80 05.725, N. Lat. 25 59.205/W. Long. 80 06.060, and ending at N. Lat. 25 59.192/W. Long. 80 06.371.~~

(l) Renumber (m) No change.

(3) through (5) No change.

Specific Authority 253.03, 253.73 FS. Law Implemented 253.03, 253.034, 253.04, 253.041, 253.141, 253.51, 253.61, 253.68, 253.72, 253.74, 253.75, 253.77 FS. History — New 3-27-82, Amended 8-1-83, Formerly 16Q-21.04, 16Q-21.004, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 10-15-98, 12-11-01,_____.

18-21.0051 Delegation of Authority.

(1) No change.

(2) The Secretary of the Department of Environmental Protection and the Governing Boards of the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District are delegated the authority to review and take final

agency action on applications to use sovereignty submerged lands when the application involves an activity for which that agency has permitting responsibility, as set forth in the respective operating agreements between the Department and the water management districts identified in subsection 62-113.100(3), F.A.C., unless the proposed activity includes any of the following:

(a) through (b) No change.

(c) Private easements of more than 5 acres, except for the installation of telecommunication lines and associated conduits in special consideration areas designated in 18-21.004(2)(l), F.A.C., in which case, prior to taking final agency action for such installations, staff will provide the Board with notice and an opportunity to request that the application be placed on the Trustees agenda;

(d) The establishment of a mitigation bank-, into which shall be deposited all funds generated by the permit application process, except those funds actually spent on application processing. The funds in the mitigation bank shall be used exclusively for projects that primarily benefit benthic resources and sovereign submerged lands.

(3) through (4) No change.

Specific Authority 253.002 FS. Law Implemented 253.002 FS. History — New 10-12-95, Amended _____.

18-21.009 Applications for Public Easement.

(1) Applications for easements across sovereignty submerged land for public purposes such as utilities, bridges, and roads, shall include the following:

(a) through (c) No change.

(d) A detailed statement of proposed use and satisfactory evidence of need for installation of telecommunication lines and associated conduits that are subject to the provisions of 18-21.004(2)(l), F.A.C. If the applicant is a local governing body, the request shall be by official resolution or minutes;

(e) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. through 6. No change.

7. Including a legal description and acreage of the parcel sought.; However, for applications received after [effective date of rule] for telecommunication lines and associated conduits in special consideration areas designated in 18-21.004(2)(l), F.A.C., a sketch of the location of the installation shall be submitted provided that an as-built survey and legal description are submitted upon completion of construction. Such sketch shall be on NOAA nautical charts using the smallest scale available for the portion of the route shown;

(f) When noticing is required, the applicant shall provide a list of names and addresses, verified by the County Property Appraiser's Office, of all current property owners within a 500-foot radius of the proposed easement boundary in mailing label format. In lieu of the Board providing notice of application for easement to adjacent property owners in accordance with s. 253.115, F.S., an applicant may elect to send the notice, provided the notice is sent by certified mail, with the return-receipt card addressed to the Department;
~~Written comments from the Department of Environmental Protection, when applicable, in the form of:~~

~~1. permit appraisal or biological assessment; and~~

2. ~~letter of intent, if issued;~~

(g) A \$200.00 non-refundable processing fee. However, a \$15,000 non-refundable processing fee is required for each application to install telecommunication lines and associated conduits received after [effective date of rule] that are subject to the provisions of 18-21.004(2)(l), F.A.C., at a landing site, including applications to install telecommunication lines in previously authorized empty conduits. The processing fee for telecommunication lines and associated conduits shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase. The processing fee may be waived for state agencies established pursuant to Chapter 20, ~~F.S. Florida Statutes~~, and local governments; and

(h) No change.

(2) ~~No easement agreement shall exceed a term of ten years, but~~ easements are renewable, assignable and transferable, subject to approval by the Board under this rule; compliance with applicable statutes and rules of the Board in effect at the time of easement renewal; payment of a \$200.00 non-refundable processing fee; and payment of all fees assessed under rule 18-21.011, F.A.C.

(2) through (3) Renumbered (3) through (4) No change.

Specific Authority 253.03(7) FS. Law Implemented 253.03(11), 253.12 FS. History — New 9-26-77, Formerly 16C-12.09, 16Q-17.09, Revised 3-27-82, Formerly 16Q-21.09, 16Q-21.009, Amended 12-11-01,_____.

18-21.010 Applications for Private Easement.

(1) Applications for easements across sovereignty submerged lands for private purposes shall include the following:

(a) through (c) No change.

(d) A detailed statement of proposed use and satisfactory evidence of need for installation of telecommunication lines and associated conduits that are subject to the provisions of 18-21.004(2)(l), F.A.C.;

(e) No change.

(f) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. through 6. No change.

7. Including a legal description and acreage of the parcel sought; However, for applications received after [effective date of rule] for telecommunication lines and associated conduits in special consideration areas designated in 18-21.004(2)(l), F.A.C., a sketch of the location of the installation shall be submitted provided that an as-built survey and legal description are submitted upon completion of construction. Such sketch shall be on NOAA nautical charts using the smallest scale available for the portion of the route shown;

~~(g) Written comments from the Department of Environmental Protection, when applicable, in the form of:~~

~~1. permit appraisal or biological assessment; and~~

~~2. letter of intent, if issued;~~

~~(g)(h) When noticing is required the applicant shall provide a list of names and addresses, verified by the County Property Appraiser's Office, of all current property owners within a~~

500-foot radius of the proposed easement boundary in mailing label format. In lieu of the Board providing notice of application for easement to adjacent property owners in accordance with s. 253.115, F.S., an applicant may elect to send the notice, provided the notice is sent by certified mail, with the return-receipt card addressed to the Department A list of names and addresses of all property owners within a 1,000 foot radius of the proposed easement area, verified by the County Property Appraiser's Office that these names came from the latest tax assessment rolls. The names and addresses shall be clearly typed and acceptable to the Department, preferably on labels suitable for mailing;

(h)(i) A \$200.00, non-refundable processing fee.; However, a \$15,000 non-refundable processing fee is required for each application to install telecommunication lines and associated conduits received after [effective date of rule] that are subject to the provisions of 18-21.004(2)(l), F.A.C., at a landing site, including applications to install telecommunication lines in previously authorized empty conduits. The processing fee for telecommunication lines and associated conduits shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase;

(j) through (k) Renumbered (i) through (j) No change.

(k)(l) Calculation of Payment for the value of the easement pursuant to 18-21.011(2), F.A.C. in the amount stated on an appraisal performed by an independent appraisal firm contracted by the applicant and approved by the department.

(2) Easements are renewable, assignable and transferable, subject to approval by the Board under this rule; compliance with applicable statutes and rules of the Board in effect

at the time of easement renewal; payment of a \$200.00 non-refundable processing fee; and payment of all fees assessed under rule 18-21.011, F.A.C.

(2) through (3) Renumbered (3) through (4) No change.

Specific Authority 253.03(7)(a) FS. Law Implemented 253.03(11), 253.12 FS. History — New 12-20-78, Formerly 16C-12.10 and 16Q-17.10, Revised 3-27-82, Formerly 16Q-21.10, 16Q-21.010, Amended 12-11-01,_____.

18-21.011 Payments and Fees.

(1) No change.

(2) Private Easements

(a) The fee for private easements, except for telecommunication lines and associated conduits that are subject to the provisions of 18-21.004(2)(l), F.A.C., shall be determined by an appraisal obtained by the applicant. The appraiser must be selected from the division's approved list of appraisers and the appraisal must be reviewed and approved by the division.

(b) In addition to standard appraisal requirements and procedures, the following factors shall be considered in determining the easement fee:

1. through 2. No change.

(b) The fee for private easements for telecommunication lines and associated conduits that are subject to the provisions of 18-21.004(2)(l), F.A.C., shall be a one-time fee of ~~\$5.06~~ \$344.40 per linear foot of telecommunication line or conduit as measured along sovereignty submerged lands from the limits of the territorial sea to first landfall on the mainland. This fee represents the easement value and the enhanced value for easements up to 10 feet wide, and shall be increased proportionally for easements of greater widths.

This fee shall also be applicable to easement modifications to the extent that such modifications increase the easement area and to easement renewals. The fee shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase. This fee shall not be applicable to applications to transfer or assign an easement.

(3) through (5) No change.

Specific Authority 253.03(7), 253.73, FS. Law Implemented 253.03, 253.115, 253.71, FS.

History — New 3-27-82, Amended 5-18-82, 8-1-83, 9-5-84, 10-20-85, Formerly 16Q-21.11, 16Q-21.011, Amended 1-25-87, 9-6-87, 3-15-90, 10-11-98, 10-15-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Stoutamire, Administrator

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:

David B. Struhs, Department of Environmental Protection, and the Board of Trustees of the Internal Improvement Trust Fund

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT AND SUMMARY PUBLISHED,

PURSUANT TO SEC. 120.551, F.S., IN THE DEPARTMENT'S OFFICIAL NOTICE

INTERNET SITE AT WWW.DEP.STATE.FL.US UNDER THE LINK TITLED "OFFICIAL

NOTICES," AND IN THE FAW: February 16, 2001.