

**** MODEL ****

**CASE REPORT
AND
REQUEST FOR AUTHORIZATION TO FILE SUIT
SEEKING A TEMPORARY INJUNCTION**

CENTRAL FLORIDA DISTRICT

Type of Violation: Dredge and Fill

Date Submitted: July 10, 1989

1. **VIOLATORS:**

Ralph's Excavating, Inc.
5505 Fault Avenue
Stuart, Florida 33497

Monte T. McLean
3636 North Dixie Highway
West Palm Beach, Florida

2. **LOCATION OF VIOLATION:**

Lots 28, Forbidden Bay Subdivision
Palm City, Martin County, Florida

3. **NATURE OF THE VIOLATION:**

Ralph's is a Florida corporation that has been conducting a land clearing and excavating business in Martin and Palm Beach counties for the past five years. Ralph's was hired by the owner of Lot 28 in the Forbidden Bay Subdivision to place a fill pad and a road in wetlands adjacent to Bessey Creek which is a natural tributary to the North fork of St. Lucie River.

A Department investigation on July 6, 1989, documented that a fill pad and fill road were being placed in the "landward extent of waters of the State" by Ralph's without a Department permit. Ralph's filling activity has to date resulted in the loss of approximately 0.25 acres of wetland habitat. On July 6, 1989 the Department inspector informed Ralph's that conducting filling activity within the landward extent of waters of the state without a permit was in violation of Chapter 403, Florida Statutes and Rule 17-12, Florida Administrative Code.

During a follow up inspection of the site conducted on July 7, 1989, the Department inspector observed Ralph's continuing to conduct filling activities in the landward extent of waters of the state. During the inspection on July 7, 1989, Ralph's received by hand delivery a Warning Notice concerning the unpermitted filling activities he was conducting on Monet McLean's property. After receiving the Warning Notice, Ralph's continued to conduct its unpermitted filling activity. If Ralph's is allowed to continue its unpermitted filling activities, approximately 1.5 acres of quality wetlands will be lost.

(As described above, include in this section a clear explanation of the ongoing nature of the violation demonstrating the need for the entry of a temporary injunction)

4. RECOMMENDATION FOR RELIEF:

The district recommends that a complaint be filed in circuit court as soon as possible seeking a temporary injunction prohibiting any further unpermitted filling activity, a permanent injunction and civil penalties.

(It is not necessary that this section include a specific discussion of the penalties or other corrective action to be sought. A complaint can be filed in circuit court requesting penalties and corrective action generally. The specifics of relief other than the temporary injunction can be decided upon as the litigation or negotiations proceed.)

5. PROPERTY OWNER:

Monte T. McLean
3636 North Dixie Highway
West Palm Beach, Florida

6. ALL RELEVANT DOCUMENTS ARE ATTACHED

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

INVESTIGATOR

Review by _____
Program Administrator

I recommend filing an action in circuit court seeking the above described relief against the above described violators.

Director of District Management

The case described in the District's Case Report has sufficient legal merit to proceed.

Deputy General Counsel

The above referenced authorization to file suit is

_____ approved

_____ disapproved

DATE

CHIEF DEPUTY GENERAL COUNSEL