

# Inspection Matters Including Best Management Practices

*January 13, 2009*

**Carlyn Kowalsky and  
Kirk L. Burns  
Office of Counsel**



## ITEMS FOR THE BOARD'S CONSIDERATION:

- **Best Management Practices Agreement**
- **All other “Inspection Matters”**
- **First Amendment regarding Easements and Relocation Agreement**

## LEASE AGREEMENT PROVIDES:

- **Fertilization of Premises must be in compliance with BMPs (§ 2.G);**
- **Application of pesticides, herbicides and agricultural chemicals shall comply with BMPs (§ 2.H); and**
- **Lessee shall adhere to all management practices described in BMPs (“Schedule 4”) (§ 2.J)**

## LEASE AGREEMENT FURTHER PROVIDES:

- Lessee shall not cause or permit disposal of any pollutants which violate Environmental Laws (¶ 18.D); and
- Lessee understands and that acknowledges Lessor's intended use for portions of the Premises as an Everglades restoration project and that it is imperative that Lessee's use of chemicals be monitored....

# THREE DIFFERENT BMP REGIMES

- 1. Phosphorus and Nitrogen (Schedule 4.1)**
- 2. Sugar Cane Production (includes row crops) (Schedule 4.2)**
- 3. Citrus BMPs (Schedule 4.3)**

## PHOSPHORUS AND NITROGEN

- **EAA farms to achieve 25 BMP points (Current Rule 40E-63 requirement)**
- **Non-EAA farms to achieve 35 BMP points (via ERP or consent agreement)**
- **To be implemented within 180 days after closing**
- **Total phosphorus discharges greater than 200 ppb and/or unit area loads greater than 1.2 pounds/acre trigger additional BMPs**
- **Required for all land uses and in addition to Cane and Citrus BMP requirements**

## SUGAR CANE AND CITRUS

- **Each farm to have farm-specific BMP Plan that includes:**
  - **Water Management Practices (i.e., prevent over-drainage)**
  - **Erosion Control**
  - **Pesticide Management**
    - **USFWS “No Application Periods” guidelines**
    - **Handling Practices**
    - **Record Keeping**
  - **Nutrient Management**
  - **Petroleum Management**

## BMP COMPLIANCE

- Annual Inspection for “hot spots”
- Inspection for ambient contamination
- Compliance test for new pesticides

## **STAFF RECOMMENDS THAT THE BOARD:**

- 1. Determine that due diligence "Inspection Matters" are satisfactory, including Best Management Practices Agreement; and**
- 2. Approve the First Amendment to Agreement for Sale and Purchase providing that the Easements and Relocation Agreement are a condition precedent to closing**