

FLORIDA PUBLIC
SERVICE COMMISSION

1991 JUL 19 PM 11:11

HIAWATHA

CONDOMINIUMS

July 17, 1991

Director, Division of Records & Reporting
Florida Public Service Commission
101 East Gaines St.
Tallahassee, Fl. 32399-0870

**ORIGINAL
FILE COPY**

Dear Sir:

R.E. [REDACTED] Exemption request

This is in response to your letter to Ben Bates, Jr. dated July 12, 1991. I am enclosing the information you requested, however there may be some question in reference to proof of ownership. I spoke to Patty Daniel and your lawyer, informing them that there is no deed recorded but rather a land description, location, and Corporate documents with each home owner being issued a deed for their individual residence. Therefore I have enclosed material as per their instruction regarding the sewer plant and water well and treatment facility.

The Hiawatha is a 58 unit Homeowners Association, legal name Hiawatha Management, Inc. as per Fla. Statute 718. Each owner pays a monthly maintenance fee which includes maintenance of all common elements of which the sewer and water facilities are a part. The present Board of Directors are as follows:
Ben Bates, Jr. - Chairman, Bonnie Gardner - Vice Chairman
Al Barrineau - Secretary, Robert Moore - Treasurer
Lawrence Hayes - Director at large.

Sincerely,

Erma Morgan
Erma Morgan, Resident Mgr.

DOCUMENT NUMBER-DATE
07357 JUL 19 1991
PSC-RECORDS/REPORTING

MINUTES OF THE FIRST MEETING
OF INCORPORATORS
OF
HIAWATHA MANAGEMENT, INC.

The first meeting of the incorporators of HIAWATHA MANAGEMENT, INC., a corporation not for profit, organized under the laws of the State of Florida, was held at the office of the corporation, Old Hart Point Brick Road, East Palatka, Florida, 32031, on March 23, 1981, pursuant to a written Waiver of Notice signed by all of the incorporators of the corporation.

The following incorporators were present in person at said meeting:

James H. Millican, Jr.
William G. Haile
Eula R. Hammond

Upon motion duly made and carried, James H. Millican, Jr. was elected Chairman of the Meeting and Eula R. Hammond was elected Secretary of the Meeting.

Thereupon the Secretary presented a written Waiver of Notice signed by all of the incorporators of the corporation, which Waiver of Notice was ordered to be filed as a part of the Minutes of this Meeting.

The Chairman reported that the Certificate of Incorporation of the corporation was filed in the office of the Secretary of State, State of Florida, on the 18th day of March, 1981, and upon motion duly made, seconded and un-animously carried, a certified copy of such Certificate of Incorporation was ordered to be inserted in the Minute Book

of the corporation as part of the record of this meeting and of the permanent records of the corporation.

The Secretary of the meeting then presented a full set of By-Laws for the regulation and management of the affairs of the corporation, the same being read Article by Article, and unanimously adopted as the By-Laws of the corporation, and made a part of the permanent records of the corporation and included as part of the Minutes of the meeting.

Thereupon, upon motion, it was regularly moved, seconded, and carried that the seal of the corporation as exhibited be adopted as the official seal of the corporation, an imprint of said seal being impressed on the margin of these Minutes.

Upon motion duly made, seconded and carried, James H. Millican, Jr.'s designation as Resident Agent of the corporation and the filing of the necessary Certificate of such designation with the Secretary of State, State of Florida, at Tallahassee, Florida, was affirmed.

The Chairman brought up the subject of the different reserves and reserve accounts set forth and detailed in the Proposed Estimated Annual Operating Budget for THE HIAWATHA, a condominium, and the association (this corporation). It was pointed out that HIAWATHA MANAGEMENT, INC., is the owner of all the units in THE HIAWATHA, a condominium, and therefore constitutes the sole member, or 100 per cent of the members of this association (HIAWATHA MANAGEMENT, INC.). It was moved and seconded (HIAWATHA MANAGEMENT, INC., by Mrs. Eula R. Hammond it's duly authorized officer, casting all it's votes for the motion, as owner of all units in the aforementioned condominium) and unanimously carried to provide and fund no reserves in the operating budget for THE HIAWATHA, a condominium, and this association, for this fiscal year and each subsequent fiscal year until this action be recinded by a vote of the majority of the members of this association present at a duly called meeting of the association, all in conformance with, and pursuant to Section 718.112(2)(k), **Florida Statutes** and Section 5 of the Declaration of Condominium of THE HIAWATHA, a condominium.

Upon motion duly made, seconded and carried, the Directors by and through the proper offices of the corporation, were authorized and empowered to negotiate for the purpose and procurement of all property and equipment necessary to manage the condominium project of THE HIAWATHA, a condominium, and otherwise to engage in all of the business authorized by the Charter of the corporation.

MINUTES OF THE FIRST MEETING
OF THE BOARD OF DIRECTORS
OF
HIAWATHA MANAGEMENT, INC.

The first meeting of the Board of Directors of HIAWATHA MANAGMENT, INC., a corporation not for profit, organized under the Laws of the State of Florida, was held at the offices of the corporation at Old Hart Point Brick Road, East Palatka, Florida, 32031, on March 23, 1981, pursuant to a written Waiver of Notice signed by all of the members of the Board of Directors of said corporation, which Waiver of Notice was ordered to be filed with the Minutes of this Meeting.

The following Directors were present in person at said Meeting:

James H. Millican, Jr.
William G. Haile
Eula R. Hammond
Howard Gardner, Jr.
Herbert A. Wilson

being all of the members of the Board of Directors.

James H. Millican, Jr. acted as Chairman of the Meeting and Eula R. Hammond acted as Secretary.

The following officers were nominated and unanimously elected as officers of the corporation:

James H. Millican, Jr.-----President
William G. Haile-----Vice-President
Eula R. Hammond-----Secretary-Treasurer

to act for the ensuing year, or until their successors are

duly elected and qualified, and such officers were there-
upon instructed to immediately commence the performance of
their duties.


There being no further business to come before the
meeting, the same was duly and regularly adjourned.


Etia R. Hammond, Secretary

(corporate seal)

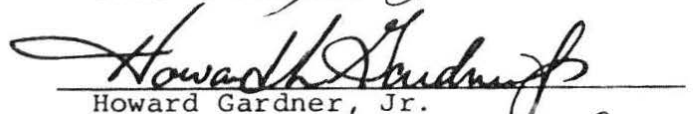
WAIVER OF NOTICE

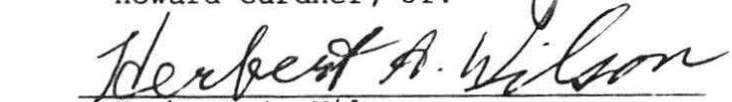
We, the undersigned, being all of the members of the Board of Directors of HIAWATHA MANAGEMENT, INC., a corporation not for profit, organized under the Laws of the State of Florida, do hereby severally waive all of the statutory requirements as to the notice of time, place and purpose of the Special Meeting of the Board of Directors of said corporation, to be held at the office of the corporation at Old Hart Point Brick Road, East Palatka, Florida, 32031, on the 23rd day of March, 1981, and hereby consent to the transaction of any business which may come before said meeting, or adjournment thereof, if any, and do hereby severally approve, ratify and confirm any and all action which may be taken at such meeting or adjournment thereof, if any.


James H. Millican, Jr.


William G. Haile


Eula R. Hammond


Howard Gardner, Jr.


Herbert A. Wilson

DATED this 20 day of March, 1984.

HIAWATHA MANAGMENT, INC.

By: Robert Barrett
Its President

Attest: Robert A. Changin
Its Secretary

CRESTONE SERVICE CORPORATION

By: John L. Millell
Its President
Vice

Attest: James B. Millell
Its Secretary

HEDSTROM & SMITH
ATTORNEYS AT LAW
P. O. DRAWER 1264
801 ST. JOHNS AVENUE
PALATKA, FLORIDA 32977

State of Florida



Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of HIAWATHA MANAGEMENT, INC., a corporation not for profit organized under the Laws of the State of Florida, filed on March 16, 1981, as shown by the records of this office.

The charter number for this corporation is 756788.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
18th day of March, 1981.



A handwritten signature in cursive script, appearing to read "George F. L.", written over a horizontal line.

Secretary of State

State of Florida

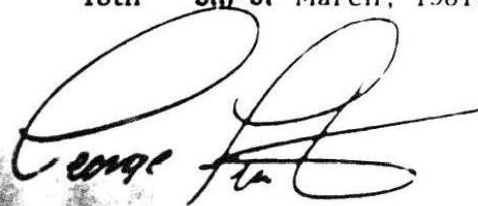


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Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
18th day of March, 1981.



Secretary of State

FILED
MAR 16 10 48 AM '81
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION
OF

HIAWATHA MANAGEMENT, INC.
(Non-Profit Corporation)

ARTICLE I

Name and Location

Section 1. The name of this corporation shall be Hiawatha Management, Inc., a Condominium, and the principal office shall be in Putnam County, Florida. The address of the corporation is Old Hart Point Brick Road, East Palatka, Florida 32031.

ARTICLE II

Purposes

Section 1. The purposes for which this corporation is formed are as follows:

A. To perform all of the acts and duties as are normally performed by an apartment complex manager, as to the property included in the Declaration of Condominium covering The Hiawatha, a Condominium, Putnam County, Florida, the real property included in said Condominium being more particularly described in Exhibit "A" attached hereto and by reference made a part hereof, and such acts and duties shall include, but are not limited to, the following:

- (1) To establish and collect assessments from the members for the purpose of operating, maintaining, repairing, improving, and administering said property and each member's interest in that property, and to collect and enforce liens for such assessments, by suit if necessary.
- (2) To provide from the proceeds of the assessments for the operation, administration, maintenance, repair, improvement, replacement, insurance and utilities for said property and to purchase and maintain such personal property for the condominium.

B. To carry out the obligations and duties required of the corporation and accept the benefits and privileges conferred upon it by the said Declaration of Condominium, and to receive the rights given the corporation by that Declaration or by separate conveyance.

C. To accomplish the foregoing purposes, the corporation shall have all corporate powers permitted under Florida law, and particularly but not by way of limitation Section 718.111, Florida Statutes (1980).

D. To hold membership in other non-profit corporations organized to operate and maintain recreational areas and access roads.

E. To maintain a class action for the benefit of the unit owners as well as act as representative of the unit owners with reference to litigation and disputes involving matters for which the corporation could bring a class action.

Section 2. The corporation shall have a lien on all family units to guarantee performance for the payment of all charges and the performance of all covenants under the terms and conditions of these Articles of Incorporation and the Bylaws.

ARTICLE III

Qualification of Members and Manner of Their Admission

Section 1. All persons owning a vested present interest, evidenced by the recordation of a proper instrument in the public records of said County, wherein the said Declaration of Condominium is recorded, in the fee title to any one of the units in said condominium, shall automatically be members and their membership shall automatically terminate when they no longer own such interest.

Section 2. Owners of each unit shall collectively be entitled to one (1) vote, except where a condominium unit is owned by the managing corporation, no vote shall be allocated for such condominium unit.

ARTICLE IV

Term of Existence

Section 1. This corporation shall have perpetual existence.

ARTICLE V

Names and Residences of Subscribers

<u>Name</u>	<u>Residence</u>
Mr. James H. Millican, Jr.	110 St. Johns Terrace, East Palatka, Florida 32031
Mr. William G. Haile	Route 2, Box 371 D St. Augustine, Florida 32084
Mrs. Eula R. Hammond	Esperanza Shores East Palatka, Florida 32031

ARTICLE VI

Management and Time of Election

Section 1. The affairs and property of this corporation shall be managed and governed by a Board of Directors composed of five (5) members.

Section 2. Directors shall be elected by the Voting Members in accordance with the Bylaws at the regular annual meeting of the membership of the corporation to be held at 7:00 p.m. on the second Monday in February in each year. Directors shall be elected to serve for a term of one (1) year. In the event of a vacancy, the elected Directors may appoint an additional director to serve the balance of said year.

Section 3. All officers shall be elected by the Board of Directors in accordance with the Bylaws at the regular annual meeting of the Board of Directors on the second Monday in February in each year, to be held immediately following the annual meeting of the membership. The Board of Directors shall elect from among the members a President, Vice-President, Secretary-Treasurer and such other officers as it shall deem desirable.

ARTICLE VII

Names of Officers

Section 1. The names of the officers who shall serve until the first election are as follows:

<u>Office</u>	<u>Name</u>	<u>Address</u>
President	Mr. James H. Millican, Jr.	110 St. Johns Terrace East Palatka, Florida 32031
Vice President	Mr. William G. Haile	Rt. 2 Box 371 D St. Augustine, Florida 32084
Secretary- Treasurer	Mrs. Eula R. Hammond	Esperanza Shores East Palatka, Florida 32031

ARTICLE VIII

Board of Directors

Section 1. The following five (5) persons shall constitute the first Board of Directors.

<u>Name</u>	<u>Residence</u>
Mr. James H. Millican, Jr.	110 St. Johns Terrace East Palatka, Florida 32031
Mr. William G. Haile	Rt. 2, Box 371D, St. Augustine, Florida 32084
Mrs. Eula R. Hammond	Esperanza Shores, E. Palatka, Fla.
Mr. Howard Gardner, Jr.	Moritani Point, E. Palatka, Fla. 3203
Mr. Herbert W. Wilson	Mulholland Park, Palatka, Fla. 32077

ARTICLE IX

Bylaws

Section 1. Bylaws for the corporation shall be initially adopted by the First Board of Directors set out in Article VIII above, of the corporation; during the first year of existence of the corporation, the Board of Directors shall have the power and authority to alter and amend the Bylaws by a majority vote of such Board; thereafter, the Bylaws of this corporation may be made, altered, amended, or rescinded as set out in said Bylaws.

ARTICLE X

Amendment to Articles of Incorporation

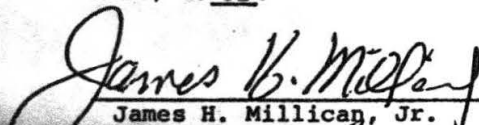
Section 1. These Articles of Incorporation may only be amended by a majority vote of the members of the First Board


of Directors, set out in Article VIII above, of the corporation for the first year of existence of the corporation; thereafter, any ten (10) members of the corporation may propose amendments to the Articles of Incorporation, provided, however, that an affirmative vote of eighty per cent (80%) of the qualified Voting Members of the corporation shall be necessary to adopt such proposed amendments.

ARTICLE XI

There shall be no dividends paid to any of the members nor shall any part of the income of the corporation be distributed to its Board of Directors or officers. The corporation may pay compensation in a reasonable amount to its members, directors and officers for services rendered, may confer benefits upon its members in conformity with its purposes and, upon dissolution or final liquidation, may make distributions to its members as permitted by the Court having jurisdiction thereof; and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

WITNESS the hands and seals of the incorporators in the aforementioned County, State of Florida, this 17th day of February, A.D., 1981.

 (SEAL)
James H. Millican, Jr.

 (SEAL)
William G. Haile

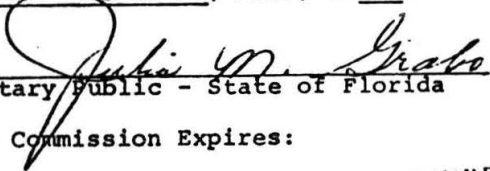
 (SEAL)
Eula R. Hammond

STATE OF FLORIDA
COUNTY OF Putnam

BEFORE ME, the undersigned authority, personally appeared James H. Millican, Jr., William G. Haile & Eula R. Hammond, to me well known to be the subscriber(s) to the foregoing Articles of Incorporation of Hiawatha Management, Inc.

who being by me first duly sworn, acknowledged that they signed the same for the purposes therein expressed.

WITNESS my hand and seal in the County and State aforesaid, this 17th day of February, A.D., 1981.


Notary Public - State of Florida

(Notary Seal)

My Commission Expires:

Notary Public, State of Florida
My Commission Expires

A tract of land situated in the Elihu Woodruff Grant, Section 38, Township 10 South, Range 27 East, being a part of lands described in Deed Book 130, page 485 of the public records of Putnam County, Florida, and being more particularly described as follows:

Beginning at a concrete monument at the Northwesterly corner of lands described in O.R. Book 298, page 1678 of said public records and (1) run thence Southerly, along call #6 of said lands, a distance of 485.0 feet, more or less, to the waters of the St. Johns River, passing through a concrete monument set at a distance of 450.0 feet. Return to the point of beginning and (2) run thence Westerly, along line #10 of lands described in Deed Book 237, page 578 of said public records, a distance of 37.06 feet to a concrete monument at the Westerly end of call #10 of said lands. (3) Thence Northerly, along line #5 of said lands, a distance of 124.3 feet to a cross cut on the Southerly curb of a 16.0 ft. brick roadway at the Northerly end of line #5. (4) Thence Westerly, along the Southerly line of said brick road, being along line #4 of lands described in Deed Book 237, page 578 and on a Westerly projection of said line, a distance of 492.0 feet, more or less, to intersect with a Northerly projection of the Easterly line of lands EXCEPTED in lands described in O.R. Book 78, page 700 of said public records. (5) Thence Southerly, along said Northerly projection, a distance of 311.1 feet, more or less, to a concrete monument at the Northeasterly corner of said excepted lands. (6) Continue Southerly, on a deflection angle left of $4^{\circ}17'20''$, from the Easterly line of said excepted lands, a distance of 200.5 feet, more or less, to the waters of the St. Johns River. (7) Thence Northeasterly and Easterly, meandering said waters, a distance of 625.0 feet, more or less, to the Southerly end of call (1) and to close.

TOGETHER WITH all rights of accretion, littoral or riparian rights appertaining thereto.

TOGETHER WITH an easement for ingress, egress and utilities over that certain brick road set forth in lands described in Deed Book 237, page 578 and extended Westerly to the Northwest corner of the above described lands, which easement to be used in common with the Grantors, their heirs and assigns.

TOGETHER WITH all of the right, title and interest of the Grantors in and to those easements described in O.R. Book 357, page 124 et seq., the effect being to prohibit the Grantors from using said easement except as they overlap the above described brick road.

All book and page references are to the Public Records of Putnam County, Florida.

EXHIBIT "A"

FILED

MAR 16 10 48 AM '48
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

CERTIFICATE DESIGNATING PLACE OF BUSINESS
FOR THE SERVICE OF PROCESS WITHIN THIS STATE
AGENT UPON WHOM PROCESS MAY BE SERVED.

In pursuance of Chapter 48.091, Florida Statutes, the following is submitted in compliance with said Act:

First - - That Hiawatha Management, Inc.

desiring to organize under the laws of the State of Florida
with its principal office, as indicated in the Articles of Incorporation at City of East Palatka, County of Putnam, State of Florida, has named James H. Millican, Jr. located at Old Hart Point Brick Road
(street address and number of building)
Post Office Box address not acceptable

City of East Palatka, County of Putnam
State of Florida, as its agent to accept service of process within this state.

ACKNOWLEDGEMENT: (Must be signed by designated agent)

Having been named to accept service of process for the above stated corporation, at place designated in this certificate, I hereby accept to act in this capacity, and agree to comply with the provision of said Act relative to keeping open said office.

By: James H. Millican, Jr.
James H. Millican, Jr.
(Resident Agent)

State of Florida



Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of HIWATHA MANAGEMENT, INC., a corporation not for profit organized under the Laws of the State of Florida, filed on March 16, 1981, as shown by the records of this office.

The charter number for this corporation is 756788.



CER 101 Rev. 12-80

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
18th day of March, 1981.

Secretary of State

AGREEMENT AND RELEASE

THIS AGREEMENT made between HIAWATHA MANAGEMENT, INC., a Florida association with it's place of business at East Palatka, Florida, "Hiawatha", and CRESTONE SERVICE CORPORATION, a Florida corporation with it's place of business at Palatka, Florida, "Crestone",

WHEREAS, the owners of Hiawatha Condominium at East Palatka, Florida, elected a Board of Directors and became entitled to receive, and did receive and accept on February 13, 1984, control of the condominium association, and further did receive and accept from Crestone those items set forth in Section 718.331, Florida Statutes (1983), and

WHEREAS, Hiawatha and Crestone have experienced disagreements over certain elements of the construction and/or maintenance of the condominium, including, but not limited to, the following:

1. Construction and maintenance of the drainage system as described in the proposal to rebuild same as contained in Exhibit "A" attached.
2. The pavement.

WHEREAS, the parties have reached an amicable resolution of their disagreements including the payment by Crestone to Hiawatha of a specific sum of money in exchange for a complete release by Hiawatha of any further responsibility or liability for maintenance and repair of all elements involved in the construction of the Hiawatha Condominium project, including, but not limited to, the specific areas set forth above and the parties are desirous of reducing their agreement to written form:

NOW THEREFORE, in consideration of the foregoing and for the mutual promises and covenants set forth below the parties agree as follows:

1. That Crestone shall pay to Hiawatha the cash sum

\$ 3944⁶⁸ + 160⁰⁰ Total 4124.68

2. That in consideration and exchange for said payment, receipt of which is hereby acknowledged, Hiawatha does fully release and forever discharge Crestone, its legal representatives, successors, and assigns of and from any and every claim, demand and cause of action whatsoever, which Hiawatha now has, or may hereafter have, whether known or unknown, against Crestone, for any loss, cost, impairment or damage, resulting from or in any manner connected with the repair or maintenance of the Hiawatha Condominium and its appurtenances.

3. That any funds due on warranty or insurance on the past damage to the outside lighting or electrical system shall be the property of Crestone.

4. That Hiawatha releases Crestone from further compliance with Paragraph 4 of Section 718.301, Florida Statutes (1983) EXCEPT that the financial records provided shall be reviewed by an independent certified public accountant as provided by Section 718.301 (4) c of Florida Statutes.

5. Except as otherwise provided herein, Hiawatha shall maintain its rights under the statutory warranties of Section 718.203, Florida Statutes.

6. For said consideration it is hereby further agreed: No promise or agreement not herein expressed has been made; this release is not executed in reliance upon any statement or representation made by Crestone or by any person employed by or representing Crestone; that said consideration is the sole and only consideration for this release and is accepted in full compromise, settlement and satisfaction of all and every such claim, demand and cause of action, involving the maintenance and repair of the Hiawatha Condominium and its appurtenances, and consequences thereof which may hereafter become known, develop or accrue, as well as those already known, developed or accrued; that the payment of said consideration is not to be construed as an admission of liability, all liability being expressly denied by said parties.

- e) Do no act that will cause insurance rates to increase, annoy others, or be termed illegal - Page 12
- f) Conform to By-Laws and Rules and see that guests do so - Page 12
- g) Allow the Association entrance into unit for legitimate purposes - Page 12
- h) Show no signs or notice of any type on unit or common property nor erect any outside antennas - Page 12
- i) Limited Common Elements reserved for use of units appurtenant thereto - Page 16

By-Laws of HIAWATHA MANAGEMENT, INC.:

- a) Board of Directors to control use of Common Elements - Page 6
 - b) Board of Directors to adopt and amend House Rules - Page 6
 - c) All units shall be utilized for residential purposes only - Page 7
 - d) An owner may not make alterations or modifications to his unit without first obtaining permission - Page 7
 - e) An owner may not block lobbies, vestibules, stairways, etc. with objects of any kind - Page 7
 - f) Maintain unit - Page 7
 - g) An owner shall grant access to his unit to representatives of the Association for repairs, etc. - Pages 7 and 8
 - h) An owner may not post any advertisement or poster on the project without Association permission - Page 8
 - i) Residents may not disturb others with noise from electronic equipment - Page 8
 - j) No hanging or cleaning from facades of project - Page 8
 - k) Garbage or trash must be placed in installations provided - Page 8
 - l) No pets outside of canaries, parrots, parakeets - Page 8
 - m) No installations may be made on the exterior of the project except as authorized by the Association - Page 8
 - n) No vehicle repair - Page 8
 - o) No commercial or recreational vehicles, trailers, motorcycles or boats may be parked, except temporarily - Page 8
11. ~~Sewage and waste disposable is provided on site by a sewage disposal package plant,~~ electricity is provided by Florida Power and Light Company, and water supply is provided by an on site well and water distribution system. Storm drainage is provided by on site retention with overflow into the St. Johns River.
12. The apportionment of common expenses and common elements was determined by the number of units contained in the condominium.
13. An estimated operating budget for the condominium and the Association and a schedule of unit owners' expenses is attached hereto as Exhibit "b" to this Prospectus.
14. A Title Insurance Policy will be furnished at the expense of the Developer to each Buyer after his Warranty Deed has been recorded. The following is a schedule of estimated closing expenses to be paid by the Buyer of a unit:
- a) Cash Sale:

Recording Deed	\$7.00
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which said violator may own an interest. Such assessment shall be considered a duly promulgated assessment under Section 5 hereinabove and the Association shall have all rights and remedies for collection of the same, as set out in said Section 5, including specifically, but not by way of limitation, the right to accelerate maintenance installments to become due during the remainder of such fiscal year and all lien rights as set out in said Section 5.

The failure promptly to enforce any of the provisions of this Declaration shall not bar their subsequent enforcement. All remedies provided herein are distinct and cumulative to any other right or remedy under this Declaration or afforded by law or equity, and may be exercised concurrently, independently or successively.

17. Modification of First Mortgages.

The first mortgages now encumbering the above described property and recorded amongst the Public Records of Putnam County, Florida in O. R. Book 397, Pages 37 thru 390, are hereby modified to be liens only on the respective condominium unit named in each such mortgage.

18. Sewer Plant Easement.

The Developer, for itself, its successors and assigns, hereby reserves a non-exclusive easement over that portion of the real property covered by this Declaration that is described with particularity in Exhibit "F" attached hereto, and by this reference made a part hereof. This easement shall be for the purpose of allowing Developer, its successors and assigns, to connect to, and thereby use in common with the unit owners in this condominium, the Sewage Treatment Plant located on the land described in said Exhibit "F". In consideration for any said connection or hook-up to, or use of, such Plant, Developer, its successors or assigns, shall pay to Hiawatha Management, Inc., its pro rata share of maintenance and future replacement costs of said Plant, and said Association shall, for unit owners in this condominium, be authorized to collect said monies, which shall be deposited with all other maintenance funds, and enter into any and all agreements regarding the Plant, its use, management and maintenance, with Developer or its successors or assigns.

It is specifically understood, however, that the Developer, its successors or assigns, shall only be allowed the use and benefits of this easement so long as the capacity of the Plant that exist at the time of the recording of this Declaration in the Public Records of the County need not be increased to facilitate such added use in the opinion of all Governmental Bodies having jurisdiction over such Plants, and only so long as it pays its pro-rata share of maintenance and costs set out above.

IN WITNESS WHEREOF, CRESTONE SERVICE CORPORATION has caused these presents to be signed in its name by its Vice-President,

such acquirer of title and its successors and assigns shall not be liable for the share of common expenses or assessments by the association pertaining to the condominium parcel or chargeable to the former unit owner of the parcel which became due prior to acquisition of title, unless the share is secured by a claim of lien for assessments that is recorded prior to the recording of such institutional first mortgage. The unpaid share of common expenses or assessments are common expenses collectible from all of the unit owners including such acquirer, its successors and assigns.

Any person who acquires an interest in a unit, except through foreclosure of "an institutional first mortgage", or a deed in lieu of foreclosure, as set out above, shall be personally liable, and jointly and severally liable with the grantor, for all unpaid assessments up to the time of the transfer of ownership without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. In the event a member exercises his rights of first refusal or redemption, hereinafter provided, said member shall be liable for the unpaid assessments against the Unit and shall have the right to deduct such sums from the first refusal or redemption price paid to the seller or transferor.

Any person purchasing or encumbering a Unit shall have the right to rely upon any statement made in writing by a corporate officer regarding assessments against Units which have already been made and which are due and payable to the Corporation, and the Corporation and the members shall be bound thereby. No action or suit shall be brought to enforce by foreclosure any lien arising under this Declaration after two (2) years from the due date of any assessment therefor.

The Corporation may at the time require owners to maintain a minimum balance on deposit with the Corporation to cover future assessments. Said deposits shall be uniform for all units, in accordance with the proportional amounts set out hereinabove, and shall in no event exceed three (3) months' assessment.

No unit owner may be excused from the payment of his share of the common expenses of a condominium unless all unit owners are like wise proportionately excused from payment, except in the following cases:

(a) Developer is excused from the payment of the share of the common expenses and assessments related to its units for a period of time beginning with the recording of this Declaration of Condominium and terminating no later than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. However, the developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners.

(b) Developer is excused from the payment of its share of the common expenses which would have been assessed against its units until whichever one of the following conditions first occurs:

- 1) Three (3) years after fifty percent (50%) of the units have been conveyed to purchasers;
- 2) Three (3) months after ninety percent (90%) of the units have been conveyed to purchasers;
- 3) When all of the units have been completed and some of them have been conveyed to purchasers and none of the others are being offered for sale by the Developer in the ordinary course of business;

Prior to, or not more than 60 days after, the time that unit owners other than the developer elect a majority of the members of the Board of Directors of the association, the developer shall relinquish control of the association and the unit owners shall accept control. Simultaneously the developer shall deliver to the association all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the items, if applicable, enumerated in F.S. 718.301 (4) (a) 1. thru 5. (n).

In addition, simultaneously with turning over the management of the condominium project to the owners through their Association, or prior thereto at the Developers option, the Developer shall deliver, and the Association accept delivery of, a General Warranty Deed to Unit B-116 and in consideration therefor the Association shall pay to Developer in cash the sum of \$ 51,960.00 or if a mortgage in like amount shall exist on said unit the sale shall be consummated by an assumption of said mortgage.

6. Sale, Rental, Lease or Transfer.

Prior to the sale, rental, lease or transfer of any interest in a Unit and Lot A to any person, the owner of said Unit shall notify the Board of Directors of the Corporation, in writing, of the name and address of the person to whom the proposed sale, rental, lease or transfer is to be made, and such other information as may be required by the Board of Directors of the Corporation. The term, "transfer," as used herein, shall include any sale, rental, lease or transfer of any nature. Within five (5) days, by majority vote of a committee of three members of the Board of Directors, appointed specifically for this purpose by the President of the Corporation, shall either approve or disapprove of a proposed transfer, in writing, and shall notify the owner of its decision. In the event the committee fails to act or disapproves of the proposed transfer, and if the member still desires to so transfer, he shall, thirty (30) days before such transfer, give written notice to the Secretary of the Corporation of his intention to transfer on a certain date, and the bona fide price and other terms thereof, and the Corporation, through one of its officers, shall promptly notify the members of the date, price and terms. Members shall have the first right over non-members to accept such transfer at the bona fide price and on the terms contained in the notice, provided they so notify the Secretary of the Corporation in writing of acceptance at least ten (10) days before the date of the intended transfer, which information the corporation shall promptly forward to the owner. In the event the member giving notice receives acceptance from more than one member, preference shall first be given to the members owning a Unit contiguous to the Unit being transferred, but if all other conditions are equal, it shall be discretionary with the member giving notice to consummate the transfer with whichever of the accepting members he chooses, and nothing hereinabove shall be construed as precluding a group of members from purchasing a Unit.

In the event the member giving notice receives no written notice from any member accepting his price and terms of the proposed transfer, on or before ten (10) days before the day given in the notice as the day of the transfer, then that member may complete the transfer within a reasonable time of the day and at the price or terms given in his notice, but at no other price or terms without repeating the procedure outlined above. In the event a member makes a transfer without first complying with the terms hereof, any other member shall have the right to redeem from the transferee, subject to termination, according to the provisions hereof. The member's or members' redemption rights

in the ordinary course of business;

and during said period of time the Developer hereby guarantees that the assessment for common expenses of the condominium assessed against the individual unit owners and their respective units shall not increase over a total monthly amount of NINETY DOLLARS and 00/100 (\$90.00), and Developer agrees to pay any amount of common expenses incurred during that period and not produced by the assessments at said guaranteed level receivable from other unit owners. Developer may, however, during such period of time, elect to no longer pay any amount of common expenses incurred and not produced by the assessments at the guaranteed level receivable from other unit owners but, rather, pay its share of the common expenses which would be assessed against its units.

When unit owners other than the Developer own 15 percent or more of the units in the condominium that will be operated ultimately by the association, the unit owners other than the developer shall be entitled to elect two members of the Board of Directors of the association. Unit Owners other than the developer are entitled to elect not less than a majority of the members of the Board of Directors of the association:

(a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(c) When all the units that will be operated ultimately by the association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the developer in the ordinary course of business; or

(d) When some of the units have been conveyed to purchasers, and none of the others are being constructed or offered for sale by the developer in the ordinary course of business;

whichever first occurs. The Developer is entitled to elect at least one member of the Board of Directors of the association as long as the developer holds for sale in the ordinary course of business, at least five percent of the units in the condominium operated by the association.

Within 60 days after the unit owners other than the developer are entitled to elect a member or members of the Board of Directors of the association, the association shall call, and give not less than 30 days' nor more than 40 days' notice of, a meeting of the unit owners to elect the members of the Board of Directors. The meeting may be called and the notice given by any unit owner if the association fails to do so.

If the developer holds units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the developer:

(a) Assessment of the developer as a unit owner for capital improvements.

(b) Any action by the association that would be detrimental to the sales of units by the developer; however, an increase in assessments for common expenses without discrimination against the developer shall not be deemed to be detrimental to the sales of units.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
Post Office Box 1429
Palatka, Florida 32078-1429

Proof of ownership

PERMIT NO. 2-107-0176NV

DATE ISSUED AUGUST 12, 1986

A PERMIT AUTHORIZING:

USE OF GROUNDWATER FROM THE FLORIDAN AQUIFER FOR PUBLIC SUPPLY.

LOCATION:

Section 38, Township 10 South, Range 27 East
Putnam County

ISSUED TO:
(owner)

HIAWATHA MANAGEMENT
116 HIAWATHA COURT
EAST PALATKA, FL 32031

Permittee agrees to hold and save the St. Johns River Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This Permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes:

PERMIT IS CONDITIONED UPON:

See conditions on attached "Exhibit A", dated AUGUST 12, 1986

AUTHORIZED BY: St. Johns River Water Management District

Department of Resource Management

Governing Board

By: 

By: 

(Director)

(Assistant Secretary)

R. DUKE WOODSON

HENRY DEAN



"EXHIBIT A"

CONDITIONS FOR ISSUANCE OF PERMIT NUMBER Z-107-0176NV

HIAWATHA MANAGEMENT

DATED AUGUST 12, 1986

1. District authorized staff, upon proper identification, will have permission to enter, inspect and observe permitted and related facilities in order to determine compliance with the approved plans, specifications and conditions of this permit.
2. Nothing in this permit should be construed to limit the authority of the St. Johns River Water Management District to declare a water shortage and issue orders pursuant to Section 373.175, Florida Statutes, or to formulate a plan for implementation during periods of water shortage, pursuant to Section 373.246, Florida Statutes. In the event of a water shortage, as declared by the District Governing Board, the Permittee must adhere to reductions in water withdrawals as specified by the District.
3. Prior to the construction, modification, or abandonment of a well, the permittee must obtain a Water Well Construction Permit from the St. Johns River Water Management District pursuant to Chapter 40C-3, Florida Administrative Code. Construction, modification or abandonment of a well will require modification of the consumptive use permit when such construction, modification or abandonment is other than that specified and described on the consumptive use permit application form.
4. Leaking or inoperative well casings, valves, or controls must be repaired or replaced as required to put the system back in an operative condition acceptable to the District. Failure to make such repairs will be cause for deeming the well abandoned in accordance with Chapter 17.21.02(5), Florida Administrative Code and Chapter 373.309, Florida Statutes.
5. Permittee must mitigate any adverse impact caused by withdrawals permitted herein on legal uses of water existing at the time of permit application. The District has the right to curtail permitted withdrawal rates or water allocations if the withdrawals of water cause an adverse impact on legal uses of water which existed at the time of permit application. Adverse impacts are exemplified but not limited to:
 - (A) Reduction of well water levels resulting in a reduction of 10% in the ability of an adjacent well to produce water;
 - (B) Reduction of water levels in an adjacent surface water body resulting in a significant impairment of the use of water in that water body.
 - (C) Saline water intrusion or introduction of pollutants into the water supply of an adjacent water use resulting in a significant reduction of water quality; and
 - (D) Change in water quality in either impairment, or loss of use of a well or water body.
6. Permittee must mitigate any adverse impact caused by withdrawals permitted herein on adjacent land uses which existed at the time of permit application. The District has the right to curtail permitted withdrawal rates of water allocations if withdrawals of water cause an adverse impact on adjacent land use which existed at the time of permit application. Adverse impacts are exemplified by but not limited to:

- (A) Significant reduction in water levels in an adjacent surface water body;
 - (B) Land collapse or subsidence caused by a reduction in water levels; and
 - (C) Damage to crops and other types of vegetation.
7. The District must be notified, in writing, within 90 days of the transfer of this permit. All transfers are subject to the provisions of Section 40C-2.351, Florida Administrative Code, which states that all terms and conditions of the permit shall be binding of the transferee.
 8. A District-issued identification tag shall be prominently displayed at each withdrawal site by permanently affixing such tag to the pump, headgate, valve or other withdrawal facility as provided by Section 40C-2.401, Florida Administrative Code. Permittee shall notify the District in the event that a replacement tag is needed.
 9. If the permittee does not serve a new projected demand located within the service area upon which the annual allocation was calculated, the annual allocation will be subject to modification.
 10. On the tenth day following the month of record, permittee must submit to the District copies of the DER monthly water treatment plant reports on a monthly basis following the month of record. The permit number must be attached to all reports.
 11. Construction must be in compliance with Subsection 553.14, F.S.
 12. Permittee must enter into a contract with existing and new customers requiring them to install water conserving devices on shower heads, faucets and water closets. For existing users the water conserving devices must be installed within one year of issuance of permit. New users must have these devices installed at the time of construction in accordance with Subsection 553.14, F.S. New connections will not be allowed unless these devices are installed.
 13. This permit will expire 7 years from the date of issuance.
 14. Maximum annual withdrawals must not exceed 7.94 mgals.
 15. Maximum daily withdrawals must not exceed .044 mgals.
 16. Source Classification is confined or semi-confined aquifer.
 17. Use Classification is 100% household.



Henry Dean, Executive Director
Mildred G. Horton, Deputy Executive Director

POST OFFICE BOX 1429 • PALATKA, FLORIDA 32078-1429
904/328-8321

2133 N. Wickham Rd.
Melbourne, FL 32935-8109
(305) 254-1761

618 E. South St.
Orlando, FL 32801
(305) 894-5423

August 13, 1986

HIAWATHA MANAGEMENT
116 HIAWATHA COURT
EAST PALATKA, FL 32031

Phone 325-5580

SUBJECT: Consumptive Use Permit Z-107-0176NV

Enclosed is your permit as authorized by the Governing Board of the St. Johns River Water Management District on August 12, 1986. Permit issuance does not relieve you from the responsibility of obtaining permits from any federal, state, and/or local agencies asserting concurrent jurisdiction for this work.

In the event you sell your property, the permit will be transferred to the new owner if we are notified by you within ninety (90) days of the recording of the sale. Please assist us in this matter so as to maintain a valid permit for the new property owner.

The permit enclosed is a legal document and should be kept with your other important documents. Please read the permit carefully since you are responsible for compliance with any conditions which are a part of this permit. Compliance is a legal requirement and your assistance in this matter will be greatly appreciated.

According to Chapter 40C-2.401 and Section 6.4 of the Consumptive Water Use Handbook, a permanent tag will be issued by the District for well identification. The tag must be prominently displayed at the site of withdrawal by permanently affixing the tag to the pump, headgate, valve, or other withdrawal facility. Failure to display a permit tag shall constitute violation of a permit condition and may, if willful, be grounds for revocation of the permit. Please refer to your copy of 40C-2 for further clarification.

RALPH E. SIMMONS
Chairman - Fernandina Beach

JIM T. SWANN
Vice Chairman - Cocoa

LYNNE CAPEHART
Secretary - Gainesville

JOHN L. MINTON
Treasurer - Vero Beach

EDWAL H. OWEN, JR.
Jacksonville

FRANCES S. PIGNONE
Orlando

KELLEY R. SMITH, JR.
Palatka

SAM L. SWETT
Jacksonville

SAUNDRA H. GRAY
DeBary

HIAWATHA MANAGEMENT

Page Two

August 13, 1986

You will find enclosed a copy of the map submitted with your application, with each well's location and number identified. When placing the tag on the well, refer to this map to ensure proper well identification.

If you have any questions concerning your permit compliance information or the attached forms, contact Gail Gallagher, Division of Records, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32078-1429, telephone (904)328-8321.

Thank you for your interest in our water resources.

Sincerely,


Darnise T. Kemp, Director
Division of Records

DTK:gg

Enclosures: Permit
Map
Well Tag(s)

cc: District Permit File

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

FORM EN-1

PERMIT NUMBER: 2-107-0176NV

PERMITTEE: Hiawatha Management

Name

116 Hiawatha Court

Address

East Palatka, FL 32031

904-3255580

Phone Number

**NAME OF PERSON TO BE CONTACTED IN REFERENCE TO PERMIT CONDITIONS
FOR PERMITTEE**

Name

Address

Phone Number

Position

Proof ownership

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT)
OF ENVIRONMENTAL REGULATION)
Complainant,)
vs.)
HIAWATHA MANAGEMENT, INC.)
Respondent.)

IN THE OFFICE OF THE
NORTHEAST DISTRICT

OGC File No. 87-097

CONSENT ORDER

Pursuant to the provisions of Sections 403.121(2) and 120.57(3), Florida Statutes (F.S.) and Florida Administrative Code (FAC) Rule 17-103.110, this Consent Order is entered into between the State of Florida Department of Environmental Regulation ("Department") and Hiawatha Management, Inc. ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to control and prohibit pollution of air and water in accordance with Chapter 403, F.S., and rules promulgated thereunder. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a Florida Corporation and is a person within the meaning of Section 403.031(5), F.S.

3. Respondent owns and operates a 0.042 million gallon per day (MGD), permitted as 0.020 MGD, extended aeration sewage treatment plant ("plant"), with chlorination and effluent disposal to a drainfield serving Hiawatha Condominium Development. The plant is located off State Road 15 (U.S. Highway 17), East Palatka, Putnam County, Florida; Latitude 29°38'48", Longitude 81°36'51".

*NOTE
P.S.C.*

4. Respondent's certified operator of the plant submitted to the Department Monthly Operation Reports (MORs) for February 1985 through December 1985, January 1986 and February 1986, which demonstrated the plant's noncompliance with daily monitoring requirements by failing to report chlorine and pH five days per week, as required by FAC Rule 17-19.05. In addition, influent sampling for Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS) was not being conducted as required by FAC Chapter 17-19.

5. Respondent's drainfield was not functioning as designed, resulting in an unpermitted discharge of effluent to neighboring property and toward the St. Johns River which contained fecal coliform bacteria levels in excess of standards on the following dates:

<u>DATE</u>	<u>SAMPLE</u>	<u>Fec-Coli Bacteria</u> <u>per 100 ml</u>
9-2-86	15 RI	13,000
9-10-86	R-11 S-1	9,000
10-6-86	DF 1	3,000
10-6-86	DF 2	3,000
2-17-88	236-A	5,000
10-6-88	2416-KT20	24,000
10-6-88	2417-KT21	3,000
1-5-89	35-KT8	50,000

A copy of the sampling and analyses results is attached and incorporated herein as Exhibit I.

The above-referenced incident, constitutes a violation of Rule 17-6.060(1)(c)3.a., FAC, which requires that a basic level of disinfection shall result in not more than 200 fecal coliform values per 100 milliliter (ml) of effluent sample.

6. The Department issued Respondent Warning Notices NE-W-54-2755 dated January 29, 1986 and NE-W-54-3329 dated December 16, 1986 notifying Respondent that the drainfield was not functioning as designed, resulting in an unpermitted discharge.

7. The Department issued Respondent Notice of Violation OGC Case No. 87-0066 dated February 10, 1987, further notifying Respondent of violations noted in the Warning Notices and Respondent's failure to comply with applicable rules, regulations and standards.

8. Respondent submitted an application for construction of a new drainfield. On December 15, 1987, the Department sent out the Final Order of Denial for the Construction permit due to noncompliance with the Department's permitting requirements. On August 2, 1988, Respondent submitted a proposed compliance schedule of corrections to the Department. Again, the corrections submitted were unacceptable to the Department. Respondent is currently operating without a current and valid permit from the Department.

9. The Department and Respondent's engineer met on April 6, 1989 to discuss the past violations and problems. The engineer stated that Respondent had an agreement with the adjacent landowner to dispose of the effluent on his property via a new drainfield (50'x100'). The old drainfield could also be rebuilt to improve percolation.

10. The Department and the Respondent have met and discussed this matter on numerous occasions. As a result of these discussions, the issues raised herein have been resolved.

THEREFORE, having reached resolution of the matter, pursuant to Rule 17-103.110(3), FAC, Respondent and the Department mutually agree and it is,

ORDERED:

11. Within 21 days from the effective date of this Consent Order, Respondent shall have a qualified professional engineer, registered in the State of Florida, evaluate the new drainfield site for compliance

with design criteria and standards pursuant to FAC Chapter 17-6. The engineer shall, within 30 days from the effective date of this Consent Order, submit to the Department a report containing the results of his evaluation. Should the Department determine that the evaluation reveals inadequacies in the location that result in the drainfields failure to meet the requirements and/or to operate properly, Respondent shall within 45 days from receipt of notice from the Department, find a new location or improve the current location for the new drainfield to meet the requirements of the Department.

12. Within 15 days from receipt of notice of the Department's acceptance of the evaluation report on the new drainfield, Respondents engineer shall submit an application for the construction of the new drainfield to bring the facility into compliance with all applicable laws and rules. If the Department determines that Respondent's application is incomplete, Respondent's engineer will have 20 days to complete the application.

13. Upon issuance of the construction permit, Respondent shall have 60 days in which to commence construction of the new drainfield. The "Certification of Completion of Construction" DER Form 17-1.25 shall be submitted no later than 90 days from the issuance of the construction permit along with the complete facility record drawings by the engineer.

14. Immediately and henceforth, Respondent shall have the old drainfield checked daily for any overflow of effluent. Immediately upon observing any overflow from the old drainfield, Respondent shall begin pumping out effluent from the chlorine contact chamber and transporting the effluent to City of Palatka Wastewater Treatment

Plant until such time that the overflow will not reoccur. Any overflow from the drainfield shall immediately be disinfected and removed to prevent contact to animals and people.

15. Respondents engineer shall, upon completion of the new drainfield, correct and improve the old drainfield to prevent any further discharge of effluent at any time.

16. Immediately upon the effective date of this Consent Order, and henceforth, the facility shall continue to be operated under the terms of the expired Department permit D054-67980, attached and incorporated herein as Exhibit II, until a new Department permit is issued. Flow, pH and chlorine residual shall be monitored five (5) days per week.

17. Within 15 days from the effective date of this Consent Order, Respondent shall submit written verification to assure the Department that the sewage treatment plant will continue to operate under a Class C or higher certified operator three (3) non-consecutive visits per week. The sewage treatment plant shall be monitored for flow, pH and chlorine and all other applicable monitoring requirements set forth in FAC Chapter 17-19. These results shall be submitted to the Department's Northeast District Office on a monthly basis no later than the 15th day of the month following the month of operation. If the results of monitoring show noncompliance or violation(s) of Department rules or permit, Respondent shall immediately, but not

later than the following business day, report the problem to the Department as required by FAC Rules 17-4.13 and 17-6.130 and take necessary action to correct major problems and bring the plant into compliance with applicable state rules and regulations, within 30 days from the date the violation occurred.

18. Within 30 days from the effective date of this Consent Order, Respondent shall make payment in the amount of \$1,916.22 to the Department of Environmental Regulation. This amount represents payment of \$416.22 in investigative costs as outlined in Exhibit III, attached at incorporated herein, and \$1,500.00 in further settlement of the matters raised in this Consent Order. The total amount of \$1,916.22 shall be made payable to the Department of Environmental Regulation and shall be submitted in the form of a cashiers check or money order to the Department of Environmental Regulation, Northeast District, 3426 Bills Road, Jacksonville, Florida 32207.

19. Respondent agrees to pay the Department one hundred dollars (\$100.00) per day per violation for each and every day the Respondent fails to meet any of the deadlines or fails to comply with the requirements specified in this order. Failure to meet more than one deadline or requirements constitutes a separate violation for each failure. The Department shall notify Respondent of any alleged violation of this Consent Order by sending a written notice to Respondent.

20. Respondent shall have ten (10) days from the date of said Notice in which to reestablish compliance with the terms and conditions of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate amount to the Department by certified check, cashier's check or money order. Payment shall be sent via certified mail to the address in paragraph 13 of this Consent Order. The instrument used for payment shall carry the words "OGC 87-097". The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce the terms of this Consent Order nor waive the Department's right to seek the imposition of civil penalties and injunctive relief in a Court of competent jurisdiction pursuant to Sections 120.69, 403.121 and 403.131, F.S.

21. Any deviations of schedules or requirements of this Consent Order shall require prior Department approval.

22. For and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, the Department hereby waives its right to seek judicial imposition of additional civil penalties concerning the issues involved in this Consent Order.

23. Persons not parties to this Consent Order whose substantial interests are affected by this Consent Order have a right, pursuant to Section 120.57, F.S., to petition for an administrative determination (hearing) on it. The petition must conform to the requirements of

Chapter 17-103 and 28-5, FAC, and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 14 days of receipt of this notice. Failure to file petition within the 14 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

24. Respondent waives its right to an administrative hearing on the terms of this Consent Order under Section 120.57, F.S., and its right to appeal this Consent Order pursuant to Section 120.68, F.S.

25. Nothing herein shall be construed to limit the authority of the Department to undertake any action against any settling Respondent in response to or to recover the costs of responding to conditions at or from the site which may present an imminent hazard to the public health, welfare or the environment if:

A. The conditions were previously unknown to or undetailed by the Department;

B. The conditions result from the implementation of the requirements of this Consent Order;

C. Other previously unknown facts arise or are discovered after the entry of this Consent Order.

26. Entry of this Consent Order does not relieve Respondent of the need to comply with the applicable federal, state or local laws, regulations, or ordinances. The entry of this Consent Order does not abrogate the rights of substantially affected persons who are not parties to this Order, pursuant to Chapter 120, F.S.

27. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), F.S.

28. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000 per offense and criminal penalties.

29. Respondent shall allow all authorized representatives of the Department access to the property at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

30. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit future violations of applicable statutes or the rules promulgated thereunder not covered by the terms of this Consent Order.

31. No modification of the terms of this Consent Order shall be effective until reduced to writing and executed by both the Respondent and the Department.

32. All reports, plans, and data required by this Consent Order to be submitted to the Department should be sent to the Domestic Waste Compliance Enforcement Section, 3426 Bills Road, Jacksonville, Florida 32207 and to the Bureau of Operations, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

33. This Consent Order is final agency action of the Department pursuant to Section 120.69, F.S. and Rule 17-103.110(3), FAC, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

DATE

Mr. Ben Bates, President
Hiawatha Management, Inc.
Post Office Box G
East Palatka, Florida 32031

DONE AND ORDERED this _____ day of _____, in
Jacksonville, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

Ernest E. Frey, P.E.
Deputy Assistant Secretary
Northeast District
3426 Bills Road
Jacksonville, Florida 32207
Telephone: (904)798-4200

Copies furnished to:
Ben Bates
Edward E. Hedstrom
Office of General Counsel
Putnam County Public Health Unit