FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

FACILITATED WORKSHOP TO CONSIDER AMENDMENTS TO DACS 13645—WOOD-DESTROYING ORGANISMS INSPECTION REPORT ADOPTED BY REFERENCE IN RULE 5E-14.142(2)(c)

FACILITATOR’S SUMMARY REPORT OF THE SEPTEMBER 15, 2005 WORKSHOP I

APOPKA, FLORIDA

Meeting Design & Facilitation By

Florida Conflict Resolution Consortium

Report By Jeff A. Blair
Florida State University

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http://consensus.fsu.edu
OVERVIEW OF WORKSHOP

THURSDAY, SEPTEMBER 15, 2005

Overview
The Florida Department Of Agriculture And Consumer Services, Division of Agricultural Environmental Services, is convening a series of three facilitated workshops to consider refinements to the DACS 13645, Wood-Destroying Organism Inspection Report form. It will be important to attend all three workshops, since the workshops will be iterative in nature, with the work products of each workshop forming the basis for subsequent workshops.

The workshop process will be inclusive with a focus on public participation. Each of the issues and options will be evaluated and ranked for acceptability by the workshop participants. Options enjoying a sufficient level of support will be discussed, refined, and re-ranked to enhance the level of acceptability. At the conclusion of the process, all viable options will have been thoroughly evaluated, and DACS should be in a position to draft a rule that takes into consideration the concerns and preferences of each of the key stakeholder/interest groups.

The key stakeholder/interest groups that have been encouraged to participate in the workshop process are as follows: pest control operators and their various state associations, the real estate industry, the insurance industry, a legal specialist in WDO related claims, consumer interests, and a participating representative for the Department of Agriculture. All members of the public are welcome to attend the workshops.

DACS Staff Present
Mary Cohen, Steve Dwinell, Phil Helseth, and Mike Page.

Meeting Facilitation
The meeting was facilitated by Jeff Blair from the Florida Conflict Resolution Consortium at Florida State University. Information at: http://consensus.fsu.edu/

Project Webpage
Information on the project, including agenda packets, meeting reports, and related documents may be found at the project webpage below:
http://consensus.fsu.edu/DACS/wdo.html

Workshop Schedule
Workshop I—September 15, 2005
Workshop II—October 25, 2005
Workshop III—November 17, 2005
Workshop Location
Mid-Florida Research And Education Center
2725 Binion Road—Apopka, Florida—407.884.2034

Workshop Objectives and Agenda
The Objectives of the Workshop were as follows:

• To Review Statutory Requirements (Chapter 482.226, F.S.) Related to WDO Inspection Report
• To Review Relevant Rule Language—5E-14.142(2)(c)
• To Review DACS 13645, Revised 02-04—WDO Inspection Report
• To Hear Participants Vision for a Successful Report Form
• To Identify Key Issues in DACS 13645—WDO Inspection Report—For Proposed Revisions
• To Identify Options for Addressing Key Issues
• To Test Level of Support for Preliminary Options
• To Identify Needed Next Steps and Agenda Items For Next Workshop

The Workshop Agenda was as follows:

• Welcome and Introductions
• Agenda Review and Workshop Guidelines
• Agency Perspective on Developing Proposed Report Form
  Review of Statute, Rule, WDO Inspection Report Form, and Agency Goals
  Clarifying questions
• Agency Clarification of Scope for Proposed Rule Development
  Clarifying questions
• Participants Vision of a Successful Report Form
• Identification of Key Issues that Need to be Addressed in the Report Form
  What are the key issues that must be resolved in order to enhance Form DACS 13645?
• Issues Clarification and Discussion
  Clarifying questions and preliminary discussion of key issues
• Identification of Possible Options to Address Key Issues
  What is the full range of available options to address each key issue?
• Discussion and Acceptability Ranking of Proposed Options
• Workshop Summary and Next Steps
  Next workshop agenda items, needed information, location, and date
Welcome and Introductions
Steve Dwinell, Assistant Division Director of the Division of Agriculture and Environmental Services, welcomed participants to the Workshop. Steve explained that this would be the first of three workshops that were iterative, with the work of each workshop forming the basis for the subsequent workshop. It was also emphasized, that since the workshops are iterative, it will be necessary to attend all three workshops.

Agency Perspective on Developing Proposed Report Form
Steve Dwinell explained that DACS is interested in working with stakeholders to evaluate options for possible refinements to the current WDO Inspection Report form. The options evaluated during the workshop process would serve as input for any proposed rule development.

Agency Clarification of Scope for Proposed Rule Development
Steve Dwinell explained that the scope of the workshops is narrow in focus and limited to evaluating options for refinements to the WDO Inspection Reporting Form (DACS 13645).

Participants Vision of a Successful Report Form
The Wood Destroying Organism Inspection Report (WDOIR) is part of a process that provides information to prospective buyers and lenders regarding the condition of a structure relative to WDO infestations and damage.

Jeff Blair, workshop facilitator asked participants to express their vision for an optimum Wood Destroying Organism Inspection Report process.

Participants were asked to consider that it is five years from now and the revised Report Form is functioning wonderfully and to the Agency’s, industry’s, and public’s complete satisfaction.

*From your perspective, with the revised Report Form in effect, what does the WDOIR process now look like?*

*What, if anything, is different from the current process?*

Below are the participants vision statements:

- Andre Boutte – Florida Association of Realtors (FAR): areas that are not normally accessible could be inspected using new technology.
- Dennis Marchesano – PCO: consumers would better understand the form and what it means, education would be more effective, information would be provided to consumers, interpretations would be better understood, more information would be provided to the consumer.
• Jim Maurer – PCO: real estate professionals would better understood the document, consumers would better understand the form and process, DACS consumer information document on WDO report would be more widely used, and the form would have more information on it.

• Linda Thomas – PCO: the scope of inspection would be the first information provided on the form.

• Gil Livingston – PCO: there would be two reports, a WDI and Fungus report, and a data base would be available to see if another report had been done on that property.

• Jim Murphy – PCO: the report would be available on the web without a form on paper, a link to information on interpretation of form would be available immediately.

• Mike Beckers – PCO: having the information available electronically would be a big improvement.

• Phil Helseth – Agency (FDACS): there would be a requirement for transactions that the property purchaser gets to review the report with enough time to understand the results prior to closing.

• Pete Quartuccio – PCO: information on the number of times the structure was inspected would be available to the purchaser.

• Doc Nichols – PCO: inspections would be done with adequate equipment and all parties present for a more thorough inspection.

• Paul Sugrue – PCO: the technology exists to conduct detailed inspections, but time for inspection is not provided and the cost for inspection reports are not enough for these thorough inspections. The problem with form is that it is not being read thoroughly.

• Rex Thomas – PCO: the form is good, does not need to be changed a lot, but consumer information needs to be provided, the real estate professionals need to be educated.

• John Maurer - PCO: education would be improved, the treatment options listed, fungi would be off the form, and should reconsider types of insects to include in the inspection.

• Doug Vanderpoest – PCO: confusion exists among consumers and real estate professionals – especially lines 1 and 2, the distinction between evidence and live infestation is lost on many folks, lenders also need to be educated.

• Norman Goldenberg – PCO: need to remember that we are dealing with live insects, things change, need to require the PCO’s report to be given to the purchaser to avoid concealment issues, this would require a statutory change.

• Mary Cohen – Agency (FDACS): a data base would allow consumers to be provided with relevant information.

• Marcia Tabak – Florida Association of Realtors: there would be no insect damage due to improved technology and treatment practices.

• Gil L. – PCO: lenders also need to be involved in education process.

• D.R. S. – PCO: PCOs are pulling out of the WDO market. Vision is: better cooperation between real estate and PC industry to better serve consumers, no penalties for providing reports of infestation.

• J. Murphy – PCO: inspections and treatment should be separate.

• Phil Helseth – Agency (FDACS): two tiers of inspections would be available, a standard visual or a thorough/high tech version.

• Mike Page – Agency (FDACS): inspectors would be highly trained and certified for WDO inspections.
Identification of Key Issues that Need to be Addressed in the Report Form
Participants were asked to identify the issues that need to be addressed in the DACS 13645 WDO Inspection Report in order to make the vision statements a reality. Following are the issues identified by Workshop participants for evaluation:

- Misunderstandings could be addressed with information to recipient
- Training for inspectors
- Buyer of the structure needs to see the report
- Concealment of damage/evidence
- Areas of report that report damage need to be emphasized
- Clarify evidence of treatment
- Provide a place on the form for information on previous inspections by the company
- Fungi on report
- Clarification of visible evidence versus live infestation
- Previous inspections being reported to consumer
- Inspection graph tied to report
- Guidelines provided to consumer
- Clarity of information provided to the consumer
- Initial (signature box) of consumer that they read and understand scope of inspection
- Clarification of information that is not provided to the consumer
- Understanding by consumer that the report is not a guarantee, but is a report that is a snapshot in time
- Should a guarantee be provided by the company when inspection done?
- When the report is provided to the consumer
- Length of time the report is valid
- Resolving the issue of whether treatment is recommended on the report
- Use the NPMA form

Identification of Possible Options to Address Key Issues and Discussion and Acceptability
Ranking of Proposed Options
The issues were organized into related topics and participants were asked to propose a range of options for each issue. Participants were then asked to rank the acceptability of the options using a 4-point acceptability scale where 4 = acceptable, 3 = minor reservations, 2 = major reservations, and 1 = not acceptable. Following the ranking of options, participants were requested to express their reservations, if any, with the options. Below are the results of the options ranking exercise and participants reservations with each option evaluated:
Misunderstandings Could be Addressed by Providing Information to the Recipient.

Provide DACS document/NPMA document/information document and verification that the consumer read the information.

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<tr>
<th>4=acceptable</th>
<th>3= minor reservations</th>
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<tbody>
<tr>
<td><em>Initial Ranking</em> 9/15/05</td>
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<tr>
<td><em>Revised/Amend</em></td>
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Reservations:
- Not familiar with NPMA document.
- Consumers may not read document, and who will get the document and when.

Consumer Information/Understanding Issues.

*Guidelines be provided to the consumer.*

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<td><em>Revised/Amend</em></td>
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Reservations:
- Redundant with other information already provided, covered by first option.
- The Guidelines are written for inspectors, too much information for consumer.
- Guidelines should be referenced but not provided.

*Initial of consumer is required on the Form, indicating that they read and understand the scope of the inspection.*

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<td><em>Revised/Amend</em></td>
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Reservations:
- Locating the consumer for obtaining initials will be a problem
- Who is the consumer? Is it the requestor?
• How is the transaction affected if they do not sign?
• When is the initial required – at signing? Or when the report is given?

To Whom and When Information Should be Provided.

*The buyer of the structure needs to see the report.*

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Reservations:
No reservations with this option.

When Should the Report be Provided to the Consumer.

*The Report should be provided at the time of inspection.*

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Reservations:
• Should not be required to provide at the time of inspection.
• Report needs to go to prospective buyer – may not be there at the time of inspection.
• Not practical/feasible.

*The Report should be provided prior to closing.*

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<td>9/15/05</td>
<td>16</td>
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Reservations:
• If repairs are to be done, report needs to be provided earlier in the process.
• Recipient may not have time to review and consider depending on when report is received.
The Report should be issued within 24 hours of inspection.

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Reservations:
• Often required to provide report in a short time frame.
• Logistically impossible in some situations.
• Impractical and unnecessary.

PCO should be provided the name/address of buyer, and the Report mailed within 24 hours.

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Reservations:
• PCO should mail the report to address of potential buyer at some point, not necessarily within 24 hours.
• Can not get name/address of buyer in some cases.
• Impractical/not feasible.

The Report should be mailed or otherwise delivered to the prospective buyer within 2 business days.

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Reservations:
• Logistically not practical/possible.
The address of the prospective buyer is provided to PCO and Report provided to same.

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Reservations:
- Should be the real estate professional’s responsibility to provide report to prospective buyer.
- Under current regulations the requestor is provided the Report.
- Out of PCO’s control/unenforceable by DACS.
- Real estate professional may not provide address to PCO.

Providing Clarification
- Areas of Report that reports damage needs to be emphasized
- Clarify evidence of treatment
- Clarity of information provided to consumer
- Clarification of information that is not provided to the consumer

Provide additional clarification language on report of finding sections 1 through 4.

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Reservations:
- This information should be on the back of form not on the front.
- Language needs to be more concise.

Combine sections 1 and 2 and then clarify the type of evidence/infestation.

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Reservations:
- Confusing to combine these two sections.
- Would need to see how this would work.
- If more than one organism found, this gets complicated.
- Clearer leaving the Form as is.
Use NPMA form approach to arrange information (Section 2 of NPMA-33).

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Reservations:
- Not familiar enough with the NPMA 33 form.
- Same information is on report but in different location – consumer would still have problems understanding either way.

Differentiate between insect and wood decaying fungi on report of findings section.

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<td>4</td>
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Reservations:
- Fungi are WDO’s.
- Too confusing – would result in two reports.
- Interpretation of the report is more important.
- Already covered by Section 3 of the report.

Add an area for description of evidence in Section 1.

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COMMENTS/RESERVATIONS:
- Unnecessary – guidelines already cover this for the PCO.
- NPMA form Section 2 already covers this.
- Not helpful to consumer by itself.
- May require too much more information to be added to the form.
Fungi—Reporting of Fungi on the Report

*Take fungi off the Report and remove from definition of WDO.*

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**Reservations:**
- If it is a WDO it should be reported.
- May be difficult to get statute changed.
- May result in missing drywood termite damage found when looking for fungi.

*Create a separate report for fungi.*

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**Reservations:**
- Would be more confusing than the current requirements.

**Inspection Graph (tied to WDO Report)**

*Provide a notation on form that graph/addendum is available.*

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<td>12</td>
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**Reservations:**
- This is too arbitrary. The graph should be required or not.
- Comments section already provides for this.
Require that a graph of location of evidence be a part of the form.

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Reservations:
- Creates additional time and expense for inspection process.
- Creates liability for un-reported evidence.
- Makes form unnecessarily large.
- Graph would have to be standardized.

Guarantee/Length of Time Issues
Increasing understanding by the consumer that the Report is not a guarantee, but is a report capturing a snapshot in time indicating what is observed at a given time.

Print in a bright color or reverse print (white letters on black background) the “no guarantee” clause or other visual technique verbiage.

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<tr>
<td>Initial Ranking 9/15/05</td>
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Reservations:
- Additional information already provided to consumer may cover this.
- This may be more confusing to the consumer.

Should DACS Require a Guarantee by the Company When an Inspection is Performed.

Treatment at no charge will be provided when an infestation occurs within of 90 days of issuing a Report with no infestation observed.

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Reservations:
- Concern about inspectors that report drywood, but are not qualified to treat.
- 90 days is too long.
- Should be a business decision and not regulated.
- Termite behavior can result in infestation within 90 days when no evidence was visible.
- Should be a treatment of the area of infestation.

**Treatment of area of infestation within 30 days of Report, if no infestation was found during inspection, for subterranean termites only.**

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Reservations:
- Should be a business decision and not a requirement.
- Could lead to repair of damage.

**Length Of Time Report Is Valid**
It was agreed/decided that this is not an issue to evaluate in the context of the Report Form.

**Should the Form Recommend Treatment**

*Form should recommend treatment when infestation or evidence is discovered as in Section 3 of NPMA form.*

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</tbody>
</table>

Reservations:
- Need to review NPMA form, this is a source of minor reservation for me.
- Lending institutions will rely on form – would be ok if for live infestation, but not evidence.
- This can be covered in the Comments section of the current form.
- Consumer may not be protected by this. Every structure should be protected anyway with a contract.
The Form should recommend type of treatment when infestation or evidence is discovered as in Section 3 of NPMA form.

<table>
<thead>
<tr>
<th></th>
<th>4=acceptable</th>
<th>3= minor reservations</th>
<th>2= major reservations</th>
<th>1= not acceptable</th>
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<tr>
<td><strong>Initial Ranking</strong></td>
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<td>2</td>
<td>16</td>
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<tr>
<td><strong>9/15/05</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Reservations:**
- Treatment type should not be specified.
- If no live infestation is discovered and treatment is not done there may be some liability to PCO.
- If treatment done is different than the recommendation, this could be a problem.
- Discovery of evidence (e.g., Drywood pellets) will often lead to a decision to treat even when live infestation was not discovered.
- Should provide list of treatment options instead.
- Could be addressed by consumer information proposals.

A fact sheet should be provided to the consumer and include a list of treatment options.

<table>
<thead>
<tr>
<th></th>
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<th>1= not acceptable</th>
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<tr>
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<td><strong>9/15/05</strong></td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

**Reservations:**
- Treatment options continue to change.
- Burdensome to change forms with new and changing information.
- How do you get information on the consumer.
- Not helpful information to the consumer. A recommendation from professional is what consumer needs.
- This should be a business decision and not regulated.
DACS Form 13645 and NPMA 33 Form

Replace the DACS Form 13645 with the NPMA 33 form in its entirety.

<table>
<thead>
<tr>
<th></th>
<th>4=acceptable</th>
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<th>1= not acceptable</th>
</tr>
</thead>
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<tr>
<td>Initial Ranking</td>
<td>9/15/05</td>
<td>1</td>
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**Reservations:**
- Can’t always get the signature of seller and buyer.
- Certain sections of DACS 13645 are better and should be retained.
- Can not list all of the conducive conditions required on the NPMA form.

Create an hybridized NPMA 33 and 13645 form, using best components from each document.

<table>
<thead>
<tr>
<th></th>
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<th>2= major reservations</th>
<th>1= not acceptable</th>
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</table>

**Reservations:**
- Not familiar with the NPMA 33 form.

Visible Evidence of Previous Treatment Issue

Include information on WDO contract that is in effect on the Form.

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Initial Ranking</td>
<td>9/15/05</td>
<td>1</td>
<td>0</td>
<td>0</td>
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</tbody>
</table>

**Reservations:**
- This is already covered by the seller’s disclosure requirements of the real estate contract.
- No way for the PCO to get this information.
ATTACHMENT I

FDACS—WDO Inspection Report Form Workshop I
September 15, 2005—Apopka, Florida
Meeting Evaluation Results

A 0 to 10 rating scale where a 0 means totally disagree and a 10 means totally agree was used.

1. **Please assess the overall meeting.**

9.1 The background information was very useful.
9.5 The agenda packet was very useful.
9.8 The objectives for the meeting were stated at the outset.
8.5 Overall, the objectives of the meeting were fully achieved.
8.9 Statutory Requirements Review.
8.9 Relevant Rule Language Review.
9.3 DACS 13645, Revised 02-04—WDO Inspection Report Form Review.
8.8 Participants Vision for a Successful Rule Exercise.
9.5 Identification of Options for Addressing Key Issues Exercise.
9.8 Acceptability Ranking of Options Exercise.

2. **Please tell us how well the facilitator helped the participants engage in the meeting.**

9.7 The participants followed the direction of the facilitator.
9.8 The facilitator made sure the concerns of all participants were heard.
9.8 The facilitator helped us arrange our time well.
9.8 Participant input was documented accurately.

3. **What is your level of satisfaction with the meeting?**

9.3 Overall, I am very satisfied with the meeting.
9.8 I was very satisfied with the services provided by the facilitator.
9.3 I am satisfied with the outcome of the meeting.

4. **What progress did you make?**

8.6 I know what the next steps following this meeting will be.
9.3 I know who is responsible for the next steps.

5. **Workshop Participants’ Evaluation Comments.**

- Very thorough beginning.
- Overall good job.
General Comments Submitted in Writing on Comment Form.

- This was great. I will try to get a lender to attend the next workshop.
- Companies performing WDO’s should not be allowed to treat, this is a gross conflict of interest. How is farming for treatment work benefiting the consumer. Should be separate ID cards.
<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
<th>Phone</th>
<th>Fax</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paul Sugare</td>
<td>Nozzle Wash</td>
<td>954-847-2584</td>
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<td><a href="mailto:psugare@nozzlereign.com">psugare@nozzlereign.com</a></td>
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<tr>
<td>Alex Bourrie</td>
<td>Watson Reality</td>
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<td>904-396-3635</td>
<td><a href="mailto:abourrie@watsonrealty.com">abourrie@watsonrealty.com</a></td>
</tr>
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<td>FDACS</td>
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<td>954-967-4631</td>
<td><a href="mailto:mchan@florida.state.gov">mchan@florida.state.gov</a></td>
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<td>COSFL</td>
<td>941-627-8733</td>
<td>941-627-3302</td>
<td><a href="mailto:pfouraty@sunlawn.net">pfouraty@sunlawn.net</a></td>
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<td>TERMINIX</td>
<td>954-753-2100</td>
<td>954-408-1312</td>
<td><a href="mailto:jmmercurio@terminix.com">jmmercurio@terminix.com</a></td>
</tr>
<tr>
<td>Maccia Tabak</td>
<td>DACS</td>
<td>407 539-0171</td>
<td></td>
<td><a href="mailto:mtabak@fwacs.state.fl.us">mtabak@fwacs.state.fl.us</a></td>
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<tr>
<td>Michael Bechters</td>
<td>CPCO</td>
<td>954-722-8806</td>
<td></td>
<td><a href="mailto:mbechters@cpcoweb.net">mbechters@cpcoweb.net</a></td>
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<tr>
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<td>954-652-7244</td>
<td><a href="mailto:rex.thomas@florida.state.gov">rex.thomas@florida.state.gov</a></td>
</tr>
<tr>
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<td>954-652-7244</td>
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<tr>
<td>James M. Moore</td>
<td>Middlton Lawn</td>
<td>407-944-1908</td>
<td></td>
<td><a href="mailto:jm.moore@middltonlawn.com">jm.moore@middltonlawn.com</a></td>
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<tr>
<td>Philip Nichols</td>
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<td><a href="mailto:phil.nichols@middltonlawn.com">phil.nichols@middltonlawn.com</a></td>
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<tr>
<td>Janet Murphy</td>
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<td><a href="mailto:janet.murphy@rokson.com">janet.murphy@rokson.com</a></td>
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<tr>
<td>Phillip Helseth</td>
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<td><a href="mailto:phhelseth@rokson.com">phhelseth@rokson.com</a></td>
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<tr>
<td>Norman Goldenberg</td>
<td>TERMINIX</td>
<td>904-766-1108</td>
<td>904-766-1235</td>
<td><a href="mailto:ngoldenberg@terminix.com">ngoldenberg@terminix.com</a></td>
</tr>
<tr>
<td>NAME</td>
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<tr>
<td>Jim Mauer</td>
<td>FPMA</td>
<td>407-657-0472</td>
<td><a href="mailto:Jim.Kest@uda.edu">Jim.Kest@uda.edu</a></td>
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<tr>
<td>Danny Macheado</td>
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<tr>
<td>Rick Allen</td>
<td>FPMA</td>
<td>850-864-3955</td>
<td><a href="mailto:rick@danapestcontrol.com">rick@danapestcontrol.com</a></td>
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<td>Oug</td>
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<tr>
<td>Dempsey Roberts</td>
<td>FPMA</td>
<td>352-226-2661</td>
<td><a href="mailto:d.sapp@c1apest.com">d.sapp@c1apest.com</a></td>
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</tr>
<tr>
<td>GIL Livingston</td>
<td>FPMA</td>
<td>954-410-8805</td>
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<tr>
<td>SP Termites</td>
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