

EPC COMMISSIONERS

Kevin Beckner, *Chair*
Lesley "Les" Miller, Jr., *Vice Chair*
Victor D. Crist
Ken Hagan
Al Higginbotham
Sandra L. Murman
Mark Sharpe



Richard Garrity, PhD
Executive Director

Richard Tschantz, Esq.
General Counsel

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

MEETING AGENDA

APRIL 18, 2013

9 a.m.

*Commissioner's Board Room, County Center 2nd Floor
601 East Kennedy Boulevard, Tampa, FL*

INVOCATION AND PLEDGE OF ALLEGIANCE

REMOVAL OF CONSENT AGENDA ITEMS FOR QUESTIONS, COMMENTS, or SEPARATE VOTE

APPROVAL OF CHANGES TO THE AGENDA, IF ANY

I. PUBLIC COMMENT

Three (3) Minutes Are Allowed for Each Speaker (unless the Commission directs differently)

II. CITIZENS' ENVIRONMENTAL ADVISORY COMMITTEE

Summary of recent CEAC meeting by CEAC Chair

III. CONSENT AGENDA

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H. Select Performance Measure Goals for 2013.....	43
I. Authorization to Purchase EPC Laboratory Equipment	45

IV. PUBLIC HEARING

<u>NR Varela Property Owner, LLC, Section 1-7.203(7), Waste Management Rule Waiver Request</u>	47
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V. WASTE MANAGEMENT DIVISION

<u>Presentation of Green Star Certifications</u>	55
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VI. LEGAL & ADMINISTRATIVE SERVICES

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VII. AIR MANAGEMENT DIVISION

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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

MEETING AGENDA

APRIL 18, 2013

9 a.m.

*Commissioner's Board Room, County Center 2nd Floor
601 East Kennedy Boulevard, Tampa, FL*

VIII. EXECUTIVE DIRECTOR REPORT

- A. Earth Day (4/20/13) at USF Botanical Gardens
- B. Clean Air Fair (5/2/13) at Poe Plaza
- C. Drop-Box Concept for Virtual Board Agenda Documents

Any person who might wish to appeal any decision made by the Environmental Protection Commission regarding any matter considered at the forthcoming public hearing or meeting is hereby advised that they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based.

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An agency with values of environmental stewardship in a culture of fairness and cooperation.

MARCH 21, 2013 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, March 21, 2013, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Kevin Beckner and Commissioners Victor Crist, Ken Hagan, Al Higginbotham, Lesley Miller Jr., Sandra Murman, and Mark Sharpe (arrived at 9:11 a.m.).

▶ Chairman Beckner called the meeting to order at 9:02 a.m.

▶ INVOCATION AND PLEDGE OF ALLEGIANCE

CHANGES TO THE AGENDA

▶ Dr. Richard Garrity, EPC Executive Director reviewed the changes to the agenda. ▶ **Commissioner Murman moved the changes, seconded by Commissioner Crist, and carried six to zero.** (Commissioner Sharpe had not arrived.)

I. PUBLIC COMMENT

▶ Chairman Beckner called for public comment; there was no response.

II. CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

A. Summary of recent CEAC meeting by CEAC Chairman

B. Dr. Wayne Echelberger - In Memoriam

▶ Attorney Pamela Jo Hawley, CEAC Chairman, summarized recent CEAC activities and spoke about Dr. Echelberger. Comments followed.

III. CONSENT AGENDA

A. Approval of Minutes:

June 6, 2012

January 17, 2013

March 5, 2013

B. Monthly Activity Reports - January and February 2013.

C. Pollution Recovery Fund Report - January and February 2013.

THURSDAY, MARCH 21, 2013 - DRAFT MINUTES

- D. Gardinier Settlement Trust Fund Report - January and February 2013.
- E. Legal Case Summaries - February and March 2013.
- F. EPC 2013 Action Plans.
- G. First Amendment to the Executive Director's Employment Agreement and Concurrent Adoption of Board Policy on Reimbursement of Legal Expenses.
- H. EPC Hearing Officer Replacement.

▶ Chairman Beckner sought a motion to approve the Consent Agenda. **Commissioner Murman so moved, seconded by Commissioner Crist, and carried six to zero.** (Commissioner Sharpe had not arrived.)

IV. 33RD ANNUAL HILLSBOROUGH REGIONAL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS MERIT AWARD

▶ Mr. Edward Coppock, EPC, gave a presentation, as shown in background material, and recognized ▶ Ms. Margaret Parrish, Chamberlain High School student, who expounded on the project. ▶ Commissioners Higginbotham and Hagan made remarks. ▶ Commissioner Crist asked how the samples were taken. ▶ Following comments from Commissioner Miller, Ms. Parrish provided further project details.

V. LEGAL AND ADMINISTRATIVE SERVICES DIVISION

Final order hearing regarding the Baldor vs. EPC Boatlift Permitting Appeal, (EPC Case 12-EPC-015) - **Deferred to a subsequent meeting.**

VI. RESTORE ACT: SOUTHWEST FLORIDA REGIONAL ECOSYSTEM PLAN

▶ Dr. Garrity summarized the item, as displayed in background material.
▶ Ms. Holly Greening, executive director, Tampa Bay Estuary Program, distributed information and expanded on the item.

VII. ACTION PLAN UPDATE: VIRTUAL COMPUTER SYSTEMS AT EPC

▶ Mr. Shannon Parris, EPC, provided an overview on the item, as supplied in background material. ▶ Chairman Beckner wanted information on technology field applications.

VIII. ADVANCED LEADERSHIP DEVELOPMENT PROGRAM

Enforcement Assistance with Financial Hardship Requests

▶ Mr. Reginald Sanford, EPC, relayed the presentation, as furnished in background material. After dialogue, ▶ Chairman Beckner requested staff come back with the exact number of cases with unpaid fines and opportunities for uses in other County departments.

IX. AUTHORIZATION TO ADMINISTER STANDARD PROGRAMMATIC GENERAL PERMITTING - PENDING AGREEMENT WITH U.S. ARMY CORPS OF ENGINEERS

▶ Dr. Scott Emery, Director, EPC Wetlands Management Division, provided an update on the permitting approach. Remarks followed.

X. EXECUTIVE DIRECTOR REPORT

- A. EPC/Florida Department of Environmental Protection Meetings
- B. Announcement of Public Meeting, Lakes Horse, Raleigh, and Rogers
- C. Legislative Updates

▶ Dr. Garrity delivered the report. After recognizing Mr. Nicholas Cavallaro, EPC interim ▶ EPC General Counsel Richard Tschantz distributed information and gave the legislative update. ▶ Chairman Beckner inquired if Senate Bill 584 would have any effect on the Environmental Lands Acquisition and Protection Program. Responding to Commissioner Miller, Attorney Tschantz confirmed House Bill 901 was a companion bill. Talks occurred.

THURSDAY, MARCH 21, 2013 - DRAFT MINUTES

▶ There being no further business, the meeting was adjourned at 10:06 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

jh

DRAFT

**FY 13 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

MAR

A. Public Outreach/Education Assistance		
1	Phone calls	182
2	Literature Distributed	2
3	Presentations	7
4	Media Contacts	0
5	Internet	44
6	Host/Sponsor Workshops, Meetings, Special Events	1
B. Industrial Air Pollution Permitting		
1	Permit Applications received (Counted by Number of Fees Received)	
	a. Operating	1
	b. Construction	3
	c. Amendments / Transfers / Extensions	1
	d. Title V Operating:	0
	e. Permit Determinations	0
	f. General	7
2	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected)-(² Counted by Number of Emission Units affected by the Review):	
	a. Operating 1	13
	b. Construction ¹	2
	c. Amendments / Transfers / Extensions ¹	7
	d. Title V Operating ²	1
	e. Permit Determinations ²	1
	f. General	3
3	Intent to Deny Permit Issued	0
C. Administrative Enforcement		
1	New cases received	1
2	On-going administrative cases	
	a. Pending	1
	b. Active	1
	c. Legal	2
	d. Tracking compliance (Administrative)	9
	e. Inactive/Referred cases	0
	TOTAL	13
3	NOIs issued	0
4	Citations issued	0
5	Consent Orders Signed	0
6	Contributions to the Pollution Recovery Fund	\$0.00
7	Cases Closed	0
D. Inspections		

**FY 13 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

		<u>MAR</u>
1	Industrial Facilities	12
2	Air Toxics Facilities	
	a. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	1
	b. Major Sources	6
3	Asbestos Demolition/Renovation Projects	25
E.	Open Burning Permits Issued	2
F.	Number of Division of Forestry Permits Monitored	65
G.	Total Citizen Complaints Received	118
H.	Total Citizen Complaints Closed	52
I.	Noise Complaints Received by EPC (Chapter 1-10)	89
J.	Noise Complaints Received by Sheriff's Office (County Ord. #12-12)	497
K.	Number of cases EPC is aware that both EPC & Sheriff responded	0
	a. World of Beers (Oct.)	
	b. Brass Mug (Dec.)	
	c. The Rack (Jan.)	
	d. Brass Mug (Feb.)	
L.	Noise Sources Monitored:	2
M.	Air Program's Input to Development Regional Impacts:	0
N.	Test Reports Reviewed:	23
O.	Compliance:	
1	Warning Notices Issued	5
2	Warning Notices Resolved	0
3	Advisory Letters Issued	0
P.	AOR'S Reviewed	0
Q.	Permits Reviewed for NESHAP Applicability	2
R.	Planning Documents coordinated for Agency Review	7

**FY 13 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

MAR

A. ENFORCEMENT

1.	New cases received	-
2.	On-going administrative cases	68
	Pending	1
	Active	21
	Legal	6
	Tracking Compliance (Administrative)	37
	Inactive/Referred Cases	3
3.	NOI's issued	-
4.	Citations issued	-
5.	Consent Orders and Settlement Letter Signed	-
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$ 500
7.	Enforcement Costs Collected (\$)	\$ 1,729
8.	Cases Closed	2

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	0
2.	FDEP Permits Reviewed	0
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	0
4.	Other Permits and Reports	
	County Permits Received	0
	County Permits Reviewed	2
	Reports Received (SW/HW + SQG)	9
	Reports Reviewed (SW/HW + SQG)	15
5.	Inspections (Total)	
	Complaints (SW/HW + SQG)	17
	Compliance/Reinspections (SW/HW + SQG)	32
	Facility Compliance	17
	Small Quantity Generator Verifications	104
	P2 Audits	0
6.	Enforcement (SW/HW + SQG)	
	Complaints Received	17
	Complaints Closed	19
	Warning Notices Issued	2
	Warning Notices Closed	4
	Compliance Letters	82
	Letters of Agreement	0
	Agency Referrals	2
7.	Pamphlets, Rules and Material Distributed	64

C. STORAGE TANK COMPLIANCE

1.	Inspections	
	Compliance	57
	Installation	14
	Closure	12
	Compliance Re-Inspections	5
2.	Installation Plans Received	4

**FY 13 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

MAR

3.	Installation Plans Reviewed	2
4.	Closure Plans & Reports	
	Closure Plans Received	1
	Closure Plans Reviewed	1
	Closure Reports Received	1
	Closure Reports Reviewed	4
5.	Enforcement	
	Non-Compliance Letters Issued	32
	Warning Notices Issued	-
	Warning Notices Closed	-
	Cases Referred to Enforcement	-
	Complaints Received	-
	Complaints Investigated	-
	Complaints Referred	-
6.	Discharge Reporting Forms Received	1
7.	Incident Notification Forms Received	1
8.	Cleanup Notification Letters Issued	1

D. STORAGE TANK CLEANUP

1.	Inspections	24
2.	Reports Received	48
3.	Reports Reviewed	46
	Site Assessment Received	4
	Site Assessment Reviewed	2
	Source Removal Received	1
	Source Removal Reviewed	1
	Remedial Action Plans (RAP'S) Received	3
	Remedial Action Plans (RAP'S) Reviewed	2
	Site Rehabilitation Completion Order/No Further Action Rec'd	4
	Site Rehabilitation Completion Order/No Further Action Revw'd	5
	Active Remediation/Monitoring Received	23
	Active Remediation/Monitoring Reviewed	18
	Others Received	13
	Others Reviewed	18

E. RECORD REVIEWS

18

F. LEGAL PIR'S

20

**FY 13 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

MAR

A. ENFORCEMENT

1.	New Enforcement Cases Received	-
2.	Enforcement Cases Closed	1
3.	Enforcement Cases Outstanding	39
4.	Enforcement Documents Issued	1
5.	Recovered Costs to the General Fund	\$ 85
6.	Contributions to the Pollution Recovery Fund	\$ 440

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1.	Permit Applications Received	11
	a. Facility Permit	2
	(i) Types I and II	-
	(ii) Type III	2
	b. Collection Systems - General	3
	c. Collection systems-Dry Line/Wet Line	6
	d. Residuals Disposal	-
2.	Permit Applications Approved	23
	a. Facility Permit	3
	b. Collection Systems - General	5
	c. Collection systems-Dry Line/Wet Line	6
	d. Residuals Disposal	-
	e. Final Construction Approval	9
3.	Permit Applications Recommended for Disapproval	1
	a. Facility Permit	-
	b. Collection Systems - General	-
	c. Collection systems-Dry Line/Wet Line	1
	d. Residuals Disposal	-
4.	Permit Applications (Non-Delegated)	-
	a. Recommended for Approval	-
5.	Permits Withdrawn	-
	a. Facility Permit	-
	b. Collection Systems - General	-
	c. Collection systems-Dry Line/Wet Line	-
	d. Residuals Disposal	-
6.	Permit Applications Outstanding	52
	a. Facility Permit	10
	b. Collection Systems - General	15
	c. Collection systems-Dry Line/Wet Line	27
	d. Residuals Disposal	-
7.	Permit Determination	5
8.	Special Project Reviews	1

**FY 13 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

MAR

a. Reuse	-
b. Residuals/AUPs	1
c. Others	-

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	12
a. Inspection (CEI)	3
b. Sampling Inspection (CSI)	9
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance	38
a. Inspection (RI)	16
b. Sample Inspection (SRI)	1
c. Complaint Inspection (CRI)	20
d. Enforcement Inspection (ERI)	1
3. Engineering Inspections	13
a. Reconnaissance Inspection (RI)	1
b. Sample Reconnaissance Inspection (SRI)	-
c. Residual Site Inspection (RSI)	-
d. Preconstruction Inspection (PCI)	-
e. Post Construction Inspection (XCI)	12
f. On-site Engineering Evaluation	-
g. Enforcement Reconnaissance Inspection (ERI)	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	1
a. Facility Permit	1
(i) Types I and II	-
(ii) Type III with Groundwater Monitoring	-
(iii) Type III w/o Groundwater Monitoring	-
b. General Permit	-
c. Preliminary Design Report	-
(i) Types I and II	-
(ii) Type III with Groundwater Monitoring	-
(iii) Type III w/o Groundwater Monitoring	1
2. Permits Recommended to DEP for Approval	-
3. Special Project Reviews	1
a. Facility Permit	1
b. General Permit	-
4. Permitting Determination	-
5. Special Project Reviews	27

**FY 13 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

MAR

a. Phosphate	6
b. Industrial Wastewater	9
c. Others	12

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	19
a. Inspection (CEI)	15
b. Sampling Inspection (CSI)	4
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance (Total)	18
a. Inspection (RI)	3
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	15
d. Enforcement Inspection (ERI)	-
3. Engineering Inspections (Total)	7
a. Compliance Evaluation (CEI)	7
b. Sampling Inspection (CSI)	-
c. Performance Audit Inspection (PAI)	-
d. Complaint Inspection (CRI)	-
e. Enforcement Reconnaissance Inspections (ERI)	-

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints	
a. Domestic	20
(i) Received	12
(ii) Closed	8
b. Industrial	14
(i) Received	7
(ii) Closed	7
2. Warning Notices	
a. Domestic	
(i) Issued	12
(ii) Closed	8
b. Industrial	
(i) Issued	7
(ii) Closed	7
3. Non-Compliance Advisory Letters	7
4. Environmental Compliance Reviews	
a. Industrial	59
b. Domestic	109

**FY 13 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

MAR

5. Special Project Reviews	14
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G. RECORD REVIEWS

1. Permitting Determination	
2. Enforcement	

**H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS
REVIEWED (LAB)**

1. Air division	66
2. Waste Division	-
3. Water Division	16
4. Wetlands Division	-
5. ERM Division	178
6. Biomonitoring Reports	-
7. Outside Agency	8

I. SPECIAL PROJECT REVIEWS

1. DRIs	4
2. ARs	-
3. Technical Support	2
4. Other	2

**FY 13 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

MAR

ASSESSMENT REPORT

Agriculture Exemption Report

# Agricultural Exemptions Reviews	-
# Isolated Wetlands Impacted	-
# Acres of Isolated Wetlands Impacted	-
# Isolated Wetlands qualify for Mitigation Exemption	-
# Acres of Wetlands qualify for Mitigation Exemption	-

Development Services Reviews Performance Report

# of Reviews	49
Timeframes Met	98%
Year to Date	98%

Formal Wetland Delineation Surveys

Projects	8
Total Acres	104
Total Wetland Acres	9
# Isolated Wetlands < 1/2 Acre	2
Isolated Wetland Acreage	0.21

Construction Plans Approved

Projects	13
Total Wetland Acres	29
# Isolated Wetlands < 1/2 Acre	1
Isolated Wetland Acreage	0.16
Impacts Approved Acreage	0.18
Impacts Exempt Acreage	0.16

Mitigation Sites in Compliance

Ratio	13/13
Percentage	100%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	0.50
Acreage of Water Quality Impacts	0.00
Acreage Restored	0.50

TPA Minor Work Permit

Permit Issued	15
Permits Issued Fiscal Year 2013	96
Cumulative Permits Issue Since TPA Delegation (07/09)	692

REVIEW TIMES

# of Reviews	304
% On Time	98%
% Late	2%

**FY 11 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

MAR

A. General

1.	Telephone conferences	632
2.	Unscheduled Citizen Assistance	479
3.	Scheduled Meetings	330
4.	Correspondence	1,133
1/ 5.	Intergency Coordination	321
1/ 6.	Trainings	28
1/ 7.	Public Outreach/Education	1
1/ 8.	Quality Control	102

B. Assessment Reviews

1.	Wetland Delineations	14
2.	Surveys	5
3.	Miscellaneous Activities in Wetland	14
4.	Mangrove	4
5.	Notice of Exemption	-
6.	Impact/Mitigation Proposal	12
7.	Tampa Port Authority Reviews	68
8.	Wastewater Treatment Plants (FDEP)	-
9.	Development Regn'l Impact (DRI) Annual Report	3
10.	On-Site Visits	88
11.	Phosphate Mining	3
12.	Comp Plan Amendment (CPA)	-
1/ 13.	AG SWM	-
	Sub-Total	

Planning and Growth Management Review

14.	Land Alteration/Landscaping	1
15.	Land Excavation	2
16.	Rezoning Reviews	10
17.	Site Development	21
18.	Subdivision	12
19.	Wetland Setback Encroachment	-
20.	Easement/Access-Vacating	-
21.	Pre-Applications	34
1/ 22.	Agriculture Exemption	1
	Sub-Total	
	Total Assessment Review Activities	

C. Investigation and Compliance

1.	Warning Notices Issued	8
2.	Warning Notices Closed	8
1/ 3.	Complaints Closed	35
4.	Complaint Inspections	44
5.	Return Compliance Inspections for Open Cases	41

**FY 11 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

MAR

6.	Mitigation Monitoring Reports	17
7.	Mitigation Compliance Inspections	36
8.	Erosion Control Inspections	46
9.	MAIW Compliance Site Inspections	19
10.	TPA Compliance Site Inspections	17
2/ 11	Mangrove Compliance Site Inspections	1
1/ 12	Conservation Easement Inspection	6

D. Enforcement

1.	Active Cases	11
2.	Legal Cases	2
3.	Number of "Notice of Intent to Initiate Enforcement"	1
4.	Number of Citations Issued	-
5.	Number of Consent Orders Signed	3
6.	Administrative - Civil Cases Closed	2
7.	Cases Referred to Legal Department	2
8.	Contributions to Pollution Recovery	\$ 2,555
9.	Enforcement Costs Collected	\$ 711

E. Ombudsman

1.	Agriculture	8
2.	Permitting Process & Rule Assistance	3
3.	Staff Assistance	6
4.	Citizen Assistance	4

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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 13 POLLUTION RECOVERY FUND
10/1/2012 through 3/31/2013**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 542,334	Artificial Reef	\$ 146,828	Minimum Balance	\$ 120,000	
Interest	\$ 1,467	Project Monitoring	\$ 32,514	PROJ. FY 14 Budgets	\$ 179,342	
Deposits	\$ 64,205	FY 13 Projects	\$ 25,000	Asbestos Removal	\$ 5,000	
Refunds	\$ 9,140					
Total	\$ 617,146	Total	\$ 204,342	Total	\$ 304,342	\$ 108,462



PROJECT		Project Amount	Project Balance
FY 10 Projects			
#09-02 - Effects of Restoration on Use of Habitat	EPE30443	\$ 84,081	\$ 16,725
		\$ 84,081	\$ 16,725
FY 12 Projects			
Bahia Beach Mangrove Enhancement	EPE30449	\$ 56,700	\$ 56,700
Fertilizer Rule Implementation	EPE40206	\$ 50,000	\$ 33,735
USGS Partnership	EPE30450	\$ 25,000	\$ 18,750
		\$ 131,700	\$ 109,185
FY 13 Project			
USF Fertilizer Study Peer Review	EPE40207	\$ 25,000	\$ 25,000
		\$ 25,000	\$ 25,000
			\$ 150,910

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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 13 GARDINIER SETTLEMENT TRUST FUND
10/1/2012 - 3/31/2013**

Fund Balance as of 10/1/12	\$ 61,274
Interest Accrued	127
Disbursements FY 13	-
	<hr/>
Fund Balance	\$ 61,401
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	\$ 61,401
	<hr/>
Total Encumbrances	\$ 61,401
	<hr/>
Fund Balance Available	<u><u>\$ -</u></u>

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18, 2013

Subject: Monthly Legal Case Summary

Agenda Section: Consent Agenda

Division: Legal and Administrative Services

Recommendation: None, informational update.

Brief Summary: The EPC Legal Department provides a monthly summary of its ongoing civil, appellate, and administrative matters.

Financial Impact: No Financial Impact anticipated; information update only.

Background: In an effort to provide the Commission with timely information regarding legal challenges, the EPC staff provides this monthly summary. The update serves not only to inform the Commission of current litigation but may also be used as a tool to check for any conflicts they may have. The summary provides general details as to the status of the civil and administrative cases. There is also a listing of cases where parties have asked for additional time in order to allow them to decide whether they will file an administrative challenge to an agency action (e.g. – permit or enforcement order), while concurrently attempting to seek resolution of the agency action.

List of Attachments: Monthly EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT

April 2013

I. ADMINISTRATIVE CASES

James Baldor [12-EPC-015]: On October 24, 2012, the Appellant, James Baldor, filed a request for an extension of time to file an Appeal challenging the Denial of Application for Minor Work Permit #53790. The extension has been granted and the Appellant filed an appeal in this matter on December 28, 2012. The appeal was transferred to a Hearing Officer on January 15, 2013, EPC filed a Motion for Summary Recommended Order and on February 20, 2013, the Hearing Officer ruled in favor of the EPC. The matter will be heard at the May 2013 regular EPC meeting for consideration of a Final Order. (AZ)

J.E. McLean, III and RaceTrac Petroleum, Inc. [12-EPC-014]: On October 24, 2012, the Appellants, RaceTrac Petroleum, Inc. and the property owner, filed a request for an extension of time to file an Appeal challenging the Executive Director's denial for wetland impacts on the corner of Lumsden and Kings Avenue. The extension was granted and the Appellants filed an appeal in this matter on December 7, 2012. A Hearing Officer has been assigned and conducted a case management conference. The parties are preparing for a hearing in this matter. (AZ)

Tampa Electric Company, Polk Power Station, Polk 2-5 Combined Cycle Conversion Project: [12-EPC-016]: EPC is a commenting agency and potential administrative party to this DEP power station siting certification permit application and hearing.

Joseph and Jennifer Ferrante [12-EPC-006]: On May 7, 2012 the EPC received a Request for Variance or Waiver from Joseph and Jennifer Ferrante. The Applicant is requesting a waiver from a provision within the Submerged Lands Management Rules of the Tampa Port Authority regarding setback encroachments. A public hearing is scheduled for September 20, 2012 to consider the variance. The hearing was continued until further notice. (AZ)

II. CIVIL CASES

Gregory Hart and Karin Hart vs. EPC [2DCA Appeal #2D13-1097; EPC Case #13-EPC-003]: On March 4, 2013, the Appellants filed a Notice of Appeal to the Second District Court of Appeal. On March 26, 2013 the EPC filed a Motion to Dismiss. An Order of the Court is pending with regard to EPC's Motion to Dismiss. (RM)

Oak Hammock Ranch, LLC, James P. Gill, III, as Custodian [12-EPC-018]: On December 28, 2012 EPC was served a lawsuit regarding the Upper Tampa Bay Trail Wetland Impact Approval. The EPC has filed its Answer and affirmative defenses to the lawsuit. (AZ)

Peter L. Kadyk/Eco Wood Systems, Inc. [11-EPC-007]: On August 18, 2011, the Commission granted authority to pursue appropriate legal action against Defendant Peter L. Kadyk/Eco Wood Systems, Inc. for failure to comply with the terms of a signed Consent Order to resolve Chapter 1-11 wetlands violations. A small claims action was filed but is still pending based on the failure to timely serve the respondent. (AZ)

6503 US Highway 301, LLC [LEPC10-021]: On November 4, 2010, the EPC Legal Department filed a Complaint for Civil Penalties and Injunctive Relief against the new owner Defendant 6503 US Highway 301, LLC. This case is a continuation of the previous action against SJ Realty for environmental violations at the former 301 Truckstop site on Highway 301. The parties are in negotiation to settle the matter. (AZ)

Greg and Karin Hart [LEPC10-004]: On March 18, 2010 the Commission granted authority to take legal action against the Defendants Mr. and Mrs. Greg Hart for various impacts to wetlands that are violations of the EPC Act, Chapter 1-11 (Wetland Rule), and a conservation easement encumbering the Defendants' property. On March 29, 2010, the EPC filed a civil lawsuit in Circuit Court. The case was consolidated with a related Hillsborough County case seeking an injunction to remove fill from a drainage canal. A second mediation on January 21, 2011, resulted in a very limited partial settlement with EPC and full settlement with the County. A jury trial was held the week of September 19, 2011. The jury returned a verdict in favor of the EPC. Defendants filed a motion for new trial and an appeal of the jury verdict. The appeal was dismissed as premature and the request for a new trial was denied. The Defendants then appealed the denial of a new trial, which was dismissed. A hearing was held on February 13 and 23, 2012, to impose corrective actions and penalties. A Final Judgment Against Defendants was entered on March 5, 2012, requiring Defendants to restore the wetland and pay penalties. Defendants filed a Motion for Relief from Judgment dated May 22, 2012 and the court denied the motion on July 30, 2012. On July 31, 2012, the court awarded the EPC reasonable trial costs. The Harts moved for re-consideration

of the Motion for Relief from Judgment denial and it was denied. The denial is under appeal. The EPC moved for contempt, but the Court ordered the EPC to conduct the wetland remediation and charge the Harts. (RM)

Charles H. Monroe, individually, and MPG Race Track LTD [LEPC09-017]: On September 17, 2009 the EPC Board granted authority to take legal action against Respondents for violations of the EPC Act and EPC Rule Chapter 1-11. A Citation was issued on June 29, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in Court. (AZ)

Dubliner North, Inc. [LEPC09-015]: On September 17, 2009 the Commission granted authority to take legal action against Respondent for violations of the EPC Act and EPC Rules, Chapter 1-10 (Noise). A Citation to Cease and Order to Correct Violation was issued on July 24, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in court. On May 5, 2010 the EPC filed a civil lawsuit in Circuit Court. The Defendant did not respond to the complaint, thus a default was issued on September 30, 2010. A trial was set for the week of May 9, 2011. The parties attended court-ordered mediation on April 22, 2011. A Mediation Settlement Agreement was entered on April 22, 2011. On August 8, 2011, the EPC filed a Notice of Voluntary Dismissal. Defendant has not complied with the terms of the settlement, EPC filed a motion to enforce the Settlement and a hearing was held on August 2, 2012 and a Judgment Against Defendant was entered. The Defendant paid the negotiated penalty, but corrective actions are pending. (RM)

U.S. Bankruptcy Court in re Jerry A. Lewis [LEPC09-011]: On May 1, 2009 the U.S. Bankruptcy Court Middle District of Florida filed a Notice of Chapter 13 Bankruptcy Case regarding Jerry A. Lewis. On May 26, 2009, the EPC filed a Proof of Claim with the Court. The EPC's basis for the claim is a recorded judgment lien awarded in Civil Court against Mr. Lewis concerning unauthorized disposal of solid waste. The EPC is preparing to seek relief from the bankruptcy stay to get an award of stipulated penalties from the state court. The site remains out of compliance with applicable EPC solid waste regulations. (AZ)

Grace E. Poole and Michael Rissell [LEPC08-015]: Authority to take appropriate legal action against Grace E. Poole and Michael Rissell for failure to properly assess petroleum contamination in accordance with EPC and State regulations was granted on June 19, 2008. The property owner and/or other responsible party are required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. (AZ)

Petrol Mart, Inc. [LEPC07-018]: Authority to take appropriate action against Petrol Mart, Inc. to seek corrective action, appropriate penalties and recover administrative costs for improperly abandoned underground storage tanks and failure to address petroleum contamination was granted on June 21, 2007. The owner of the property is insolvent and the corporation inactive; however, the Waste Management Division intends on obtaining a judgment and lien on the property for the appropriate corrective actions. The Legal Department filed a civil lawsuit on September 26, 2007. The defendant was served with the lawsuit on October 12, 2007. The Court entered a default on November 9, 2007 for the Defendant's failure to respond. The EPC Legal Department set this matter for trial on March 26, 2008. The Court ruled in favor of EPC and entered a Default Judgment against the Defendant awarding all corrective actions, penalties of \$116,000 and costs of \$1,780. In the event the corrective actions are not completed the court also authorized the EPC to contract to have the site cleaned and to add those costs to the lien on the property. PRF monies were allocated in November 2008 to assist in remediating the site. (AZ)

Tranzparts, Inc. and Scott Yaslow [LEPC06-012]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Tranzparts, Inc., Scott Yaslow, and Ernesto and Judith Baizan to enforce the agency requirement that various corrective actions and a Preliminary Contamination Assessment Plan be conducted on the property for discharges of oil/transmission fluid to the environment. The EPC entered a judicial settlement (consent final judgment [CFJ]) with Tranzparts and Yaslow only on February 16, 2007 (no suit was filed against the Baizans). The Defendants have only partially complied with the CFJ, thus a hearing was held on April 28, 2008, wherein the judge awarded the EPC additional penalties. A second hearing was held on January 25, 2010, for a second contempt proceeding and additional penalties. The Judge found the Defendants in contempt and levied stipulated penalties/costs, and a contempt order was executed by the judge on March 15, 2010 requiring the facility to temporarily shut down until the facility is remediated. On January 7, 2013 the EPC deemed the facility had met the CFJ-required remediation requirements, but other obligations are still due as are penalties and costs. (RM)

Boyce E. Slusmeyer [LEPC10-019]: On Sept 20, 2001 the EPC staff received authority to take legal action for failure to comply with an Executive Director's Citation and Order to Correct Violation for the failure to initiate a cleanup of a petroleum-contaminated property. The Court entered a Consent Final Judgment on March 13, 2003. The Defendant has failed to perform the appropriate remedial actions for petroleum contamination on the property. The EPC filed a lawsuit on October 7, 2010 seeking injunctive relief and recovery of costs and penalties. The EPC is waiting for the lawsuit to be served. (AZ)

III. PENDING ADMINISTRATIVE CHALLENGES

The following is a list of cases assigned to the EPC Legal Department that are not in litigation, but a party has asked for an extension of time to file for administrative litigation in an effort to negotiate a settlement prior to forwarding the case to a Hearing Officer. The below list may also include waiver or variance requests.

Sun Communities, Inc. [12-EPC-012]: On August 2, 2012, the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a Notice of Permit Denial. The request was granted and the Petitioner was initially granted until November 15, 2012 to file a petition in this matter, subsequently, two additional requests for extensions were filed by the Petitioner and the current deadline to file a petition in this matter is May 14, 2013. (RM)

Ralph Jensen, Gregory Young and Shelly Sharp [13-EPC-001]: On February 22, 2013 The Appellants filed a request for an extension of time to file an Appeal challenging the Executive Director's issuance of Minor Work Permit #52264(R1). The extension was granted and the Appellants have until March 28, 2013 to file an appeal in this matter. The Appellants did not file an Appeal and the case has been closed. (AZ)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18, 2013

Subject: Follow Up to ALDP Project - Enforcement Assistance With Financial Hardship Requests

Agenda Section: Consent Agenda

Division: Air Management Division

Recommendation: None - Informational Only

Brief Summary: At the March 2013 Board meeting, EPC staff presented a summary of an Advanced Leadership Development Program project that standardizes how the Agency deals with financial hardship claims in response to enforcement actions. The Chairman asked for the average number of financial hardship cases the Agency receives each year and for staff to contact other County departments and offer the evaluation methodology.

Financial Impact: No Financial Impact

Background: A few times each year, parties involved in an enforcement action claim they are unable to comply with the corrective actions or penalties. Until now, EPC staff had no formal way to evaluate these claims. The presenter developed an Agency policy and methodology that utilizes EPA computer programs to assist in evaluating their financial condition and their ability to comply.

Following the meeting and in response to the Chairman's inquiry, it was determined that the Agency typically receives two to three financial hardship claims each year. This new project will serve those cases in the future.

In addition, the Chairman requested staff make this available to other county departments. In response, EPC has contacted Code Enforcement and is arranging to meet with them to explain our initiative. If Code knows of any other county department which could use this, we will follow up with them as well.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18, 2013

Subject: 2013 First Quarter Action Plan Updates

Agenda Section: Consent Agenda

Division: Executive Director

Recommendation: None – Informational Only

Brief Summary: In March 2013, EPC staff brought the finalized versions of the Agency's 2013 action plans to the Board for approval. These measurable action plans are divided into twelve individual initiatives which support the Agency's strategic priorities for calendar year 2013. The first quarter status reports are listed for all twelve.

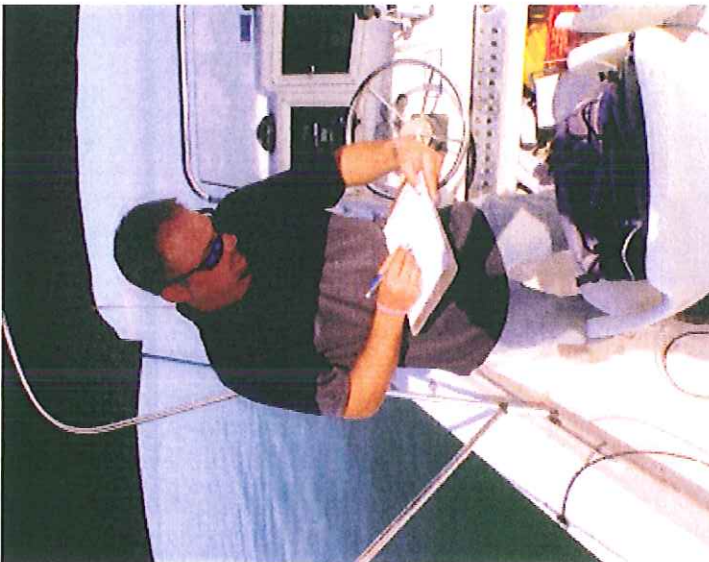
Financial Impact: No Financial Impact

Background: As part of the Agency's Sterling Management planning process and philosophy of continuous improvement, staff held a strategic planning retreat in December 2012. This included input from the Board and a broad range of EPC staff. Besides reviewing the priorities and guiding mission statements, staff also prepared a slate of new initiatives to improve the EPC's efficiency. Since the Agency started this formal procedure in 2010, they have completed some thirty-four of these initiatives.

The narrative descriptions of the proposed action plans for 2013 were brought to the Board in January 2013 and approved. The twelve detailed action plans reflecting the Agency's strategic objectives for 2013 were then finalized and formally launched. The finalized versions of the action plans were approved in the Consent Agenda at the March meeting.

Each Agency initiative is described in an individual action plan with measurable goals. The attachment reflects the update on the status of each action plan as of the end of the first quarter of 2013. The owners of select action plans are scheduled to present an overview of their project to the Board at regularly scheduled EPC Board meetings throughout the year.

1st Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
1.2 Protection of Surface Waters	Nutrient Management Initiative	Monitored 100% of water quality stations in Tampa Bay and tributaries.	Meet water quality goals for all four major bay segments.
			
		Established dialog with the County Extension Service and FDEP on educational outreach with citizens and HOAs regarding fertilizer use.	Organize and participate in the first formal outreach event using this collaborative approach.
		Study of fertilizer rule effectiveness is ongoing. Continue to coordinate with other partner counties, USF	Have at least one rainy season's worth of data presented to us by the consultant and begin analyzing results.



Peer Review Team, and Tampa Bay Estuary Program on study components.

Collaborate and attend meetings to stay apprised of state and federal TMDL and Numeric Nutrient Criteria development & implementation.

Continue progress made with local partners in helping FDEP and USEPA develop Numeric Nutrient Criteria for the Tampa Bay area.

Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
1.4 Protection of Wetlands	Enhanced Delegation Responsibilities for Development Reviews	Met with County Representative and consultant to review current status.	Complete Coordination Agreement with ACOE.
		Currently in the process of finalizing procurement of consultant.	Submit application to FDEP for additional ERP delegation.
		Draft Coordination agreement with ACOE is under review by staff.	



Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
1.5 Promote Environmental Stewardship	Energy Star Certification/Green Business Recognition/Green Procurement Policy	County Energy Manager is currently collecting data needed for application.	Submit Energy Star Certification application by June 2013.
		Currently identifying businesses who would likely qualify and will approach them this summer.	Add five additional Green Business Recognitions to the Green Hillsborough Website by the end of the year.
		Researching policy on Agency purchases of paper and other supply items.	Prepare Green Procurement Policy draft by May 2013 and final policy by Dec. 2013.



Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
1.6 Improve Regulatory Compliance	Compliance Assistance Improvement Initiative for Minor Non-Compliance and Small Businesses	Formed Workgroup Met with Workgroup on March 1, 2013	Revise Agency Complaint & Warning Notice SOP to include Compliance Assistance Letter.
		Workgroup members have drafted and submitted comments on draft SOP	Utilize the customer survey to receive business feedback.
		Next meeting scheduled on April 12, 2013	Track future compliance rate for participating businesses to determine effectiveness.



Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
2.3 Employee Empowerment	Prepare Sterling Challenge Application	Sterling Coordinator Group has met to facilitate the application.	Submit Sterling Challenge application by mid-summer and complete Examiner review by end of August.
		Categories 1-5 are in final draft stage	
		Categories 6 and 7 kicked off with training from consultant.	
		Category 6 draft is expected by end of April. Category 7 target completion date is end of May.	



Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
3.1 Customer Satisfaction	Neighborhood Outreach Initiative	Created EPC Community Partner Program including logo and instructions, and installed web-based connection for receipt of applications.	Develop EPC Community Partner Program, similar to a neighborhood watch program, and obtain at least 3 communities as official members.
		Attended 2013 Neighborhood Conference and debuted Partner Program to HOA reps.	Develop EPC Advisory/Notification System and get at least 75 individuals to sign on.
			Produce updated Open Burn outreach material.



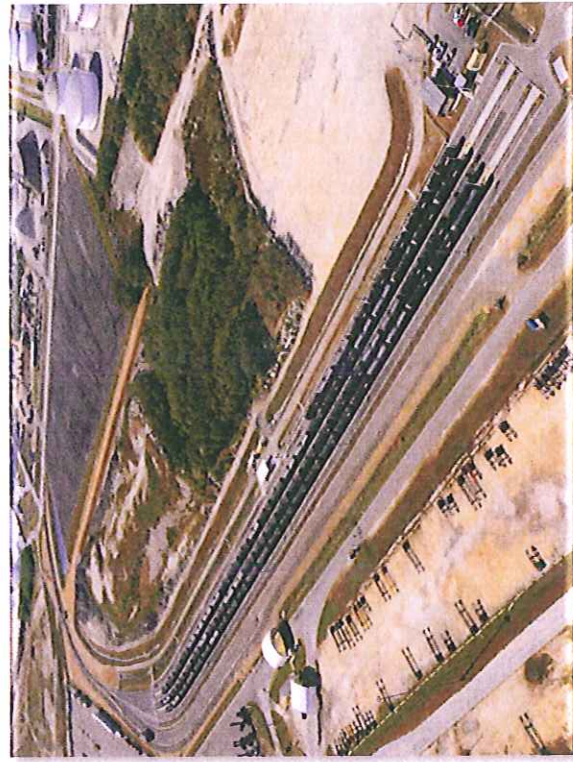
Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
3.2 Improve Partnering Relationships	EPC Intern Program	Committee established with participant members identified and verified. Interns continue to be accepted at EPC through informal process. Meetings planned to achieve goals.	Revise Agency policy on Volunteer Training. Establish operating procedures to formalize process. Identify and formalize relationships with University partners. Implement program.
			Have at least two interns at EPC this fall.



Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	Year End Goal
3.3 Stakeholder Relationships	Permitting Enhancements	<p>Met with the County's Economic Development Department.</p> <p>Coordinating upcoming meetings with the Economic Development Corporation, and with the County and the City Accela project officers.</p>	<p>Increase permitting outreach to small businesses (goal of 10 in 2013).</p> <p>Expand Priority Permitting to DEP and SWFWMD.</p> <p>Obtain an overall satisfaction rating of 3.6 or better 100% of the time.</p> <p>Process 95% of applications in less than half the statutory time.</p>




Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
4.2 Control Expenditures	Workforce Alliance Partnership	Met with the Tampa Bay Workforce Alliance representative to receive information on becoming an approved training vendor.	To hire Workforce Alliance trainees for Quarters 2, 3, and 4 of 2013.
		Division Directors submitted numbers of desired positions for potential candidates.	
		Executed the contract to partner with Workforce Alliance.	



Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
5.2 Use of Technology	Online Applications & E-Pay	E-Payment processor and gateway selected. Application Form - First draft form (PRF Application) created and brought online. Senior Staff approval pending.	The system will be successful if the public is able to submit and pay for an application from the EPC website. Goal is to have 10% of the applications submitted in the fourth quarter of 2013 done so on-line.



**WDR30 - APPLICATION TO PERFORM
DELINEATION OF WETLANDS AND OTHER
SURFACE WATERS**

3829
Roder P. Stewart Center
Tampa, FL 33610
Ph: (813) 627-2800 - Fax: (813) 627-2830
www.epc.com

This Environmental Protection Commission application is for delineation of wetlands and other surface waters as provided in Chapter 1-11.04 Wetlands, Rules of the EPC and adopted Basis of Review. The delineation will be performed in accordance with the methodology described in Chapter 62-340, Florida Administrative Code. The fee for this application is \$150. Return completed applications and the \$150 application fee to EPC Wetlands Management Division, 3829 Queen Palm Drive, Tampa, FL 33619.

1. PROPERTY OWNER INFORMATION:

Request to be present at site inspection

First Name _____ Last Name _____

Company Name/Title _____

Street Address _____

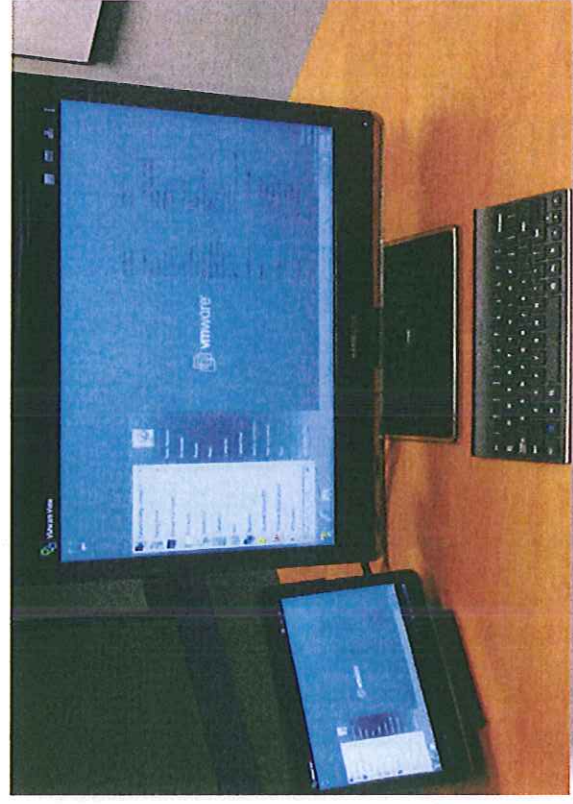
City _____ State _____ Zip Code _____

Telephone Number _____

Email Address _____

Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
5.2 Use of Technology	Virtual Desktop System	Configured the Network, Servers, and Storage Area Network (SAN) hardware	To deploy 80 Virtual Desktop Infrastructure (VDI) Clients and increase system uptime >96%
		Determined best practice for client configuration and began to configure	



Quarterly Update for 2013 Action Plans

Strategic Objective	Action Plans	Status	2013 Year End Goal
5.2 Use of Technology	Common Agency Database Feasibility Study	<p>Conducted a meeting with Database users group.</p> <p>Documented agency databases and will present to Senior Staff by end of April.</p>	<p>Documenting all the Agency's databases and developing a proposal with requirements, costs and timelines to implement a common agency database.</p>





EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18, 2013

Subject: Select Performance Measure Goals for 2013

Agenda Section: Consent Agenda

Division: Executive Director

Recommendation: Informational Report

Summary: As part of the Sterling Management process, the Agency measures key activities and has set goals for 2013. These are tabulated and presented quarterly to the Board in the consent agenda.

Financial Impact: No financial impact.

Background: The Agency measures performance for all five of its core functions. These core functions include permitting, compliance, complaint investigations, enforcement and environmental monitoring. As part of the Agency's annual evaluation, staff sets goals for select activities and reports them quarterly to the Board. This is an integral part of the continuous improvement required by Sterling.

2013 Goals

Core Function	Measure	Pre-Sterling Year (2009)	2011	2012	2013 YTD (1 st Qtr)	2013 Goal
Permitting	Average Time State Construction Permits were In-house	57 days	36 days	36 days	41 days	Less Than or Equal to 36 days
	Average Time EPC Permits were In-house	24 days	28 days	22 days	18 days	Less Than or Equal to 20 days
Compliance	Timely Resolution of Lower Level Non-Compliance Cases	92%	90%	91%	96%	Greater than 90%
Environmental Complaints	Timely Initiation of Investigation	99%	99%	99+%	100%	Maintain 99%
Enforcement	Timely Initiation of Enforcement	73%	81%	76%	86%	85%



EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18, 2013

Subject: Authorization to purchase EPC laboratory equipment.

Agenda Section: Consent Agenda

Division: Water Management Division

Recommendation: Authorize the purchase of EPC laboratory equipment.

Brief Summary: On April 17, 2013, the BOCC is scheduled to approve a budget amendment authorizing the transfer of \$260,000 from the Phosphate Mining Severance Tax reserve contingency general to the Phosphate Mining Impacts Review budget. The stated purpose of the transfer is for the replacement of outdated EPC laboratory equipment. Staff is requesting Commission authorization to purchase the equipment. Purchase of this equipment with the Phosphate Mining Severance Tax reserve contingency complies with BOCC Policy 03.02.05.00. Per EPC's Purchasing of Goods and Services policy, authorization to purchase the laboratory equipment must be received if the price exceeds \$100,000.

Financial Impact: There is no impact to the general fund. Funding is provided through the Phosphate Mining Severance Tax.

Background: EPC is mandated under the EPC Act, Chapter 84-446, Laws of Florida, to establish, operate and maintain a continuous county-wide program for monitoring water pollution. Under this charge, EPC monitors water quality and aquatic biology in Hillsborough County's public waterways, including Tampa Bay, and the Hillsborough, Alafia and Little Manatee rivers. The monitoring data is used to develop aquatic resource and watershed based reports that document ecological conditions and environmental trends essential to providing resource management recommendations to the EPC Board, industry, and the public. Air and water samples collected are analyzed at our lab. This request is for replacement of old and out-dated lab instruments. The pieces of equipment to be replaced are: GC/MS (Gas Chromatograph/Mass Spectrometer) and an ICP-MS (Inductively Coupled Plasma – Mass Spectrometer). The GC/MS instrument is used to analyze samples for the presence of organic compounds including pesticides and petroleum products. The current instrument is 17 years old and is no longer serviceable. It is operating on antiquated software (Windows 95) and hardware (Pentium II computer with ISA slots) which cannot be upgraded or replaced. The current instrument has been experiencing problems which is inhibiting staff's ability to efficiently process samples and is in acute need of replacement. The ICP-MS instrument is used to analyze samples for the presence of minerals and metals. The current instrument is an ICP-AES (Inductively Coupled Plasma Atomic Absorption Spectrometer) and is 13 years old and is becoming problematic to keep operating. We have secured a service contract for the instrument through 2013, but will unlikely be able to extend it further. This instrument is used extensively for the analysis of air samples. Per EPC's Purchasing of Goods and Services policy, authorization to purchase the laboratory equipment must be received if the price exceeds \$100,000.

List of Attachments: None.

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18, 2013

Subject: NR Varela Property Owner, LLC, Section 1-7.203(7), Waste Management Rule waiver request

Consent Agenda _____ **Regular Agenda:** _____ **Public Hearing:** X

Division: Waste Management Division and Legal Department

Recommendation: Hold a public hearing and approve waiver request.

Brief Summary: NR Varela Property Owner, LLC (Applicant) is hereby requesting that Environmental Protection Commission of Hillsborough County's (EPC) grant a waiver of the testing requirements under Rule 1-7.203(7) pursuant to the EPC Administrative Procedures Rule Section 1-2.50. The applicant seeks a waiver from testing of Recovered Screen Materials (RSM) based on engineering and institutional controls and safeguards that will be in place under the approved Brownfield Redevelopment program and agreement. The applicant seeks a waiver from conducting the soil sampling and analysis requirements under Rule 1-7.203(7), regarding development of the property located at the southeast corner of West Spruce Street and North Lois Avenue, City of Tampa. The EPC staff recommends granting the waiver based on the hardship the sampling and analysis would require and based on the Applicant meeting the underlying purpose of the rule requiring the sampling.

Financial Impact: No financial impact anticipated.

Background: NR Varela Property Owner, LLC (Applicant) is applying for a waiver from the soil sampling and analysis required under the EPC local rule 1-7.230(7), Rules of the EPC at a redevelopment project. Rule Section 1-7.203(7) requires that sampling and analysis of soils be performed before beginning construction in areas impacted by solid waste. Due to the work already performed to conform to Brownfield site development requirements and the various engineering and institutional controls in place, the Applicant seeks to use the EPC's variance process to avoid the requirements of additional testing of soils that is deemed unnecessary in this specific instance.

This waiver is requested pursuant to section 1-2.50, Rules of the EPC and states as follows:

1-2.50 REQUEST FOR VARIANCE OR WAIVER

(a) Upon application, the Executive Director may recommend to the Commission that a variance or waiver be granted from the provisions of the rules adopted pursuant to Chapter 84-446, where the applicant demonstrates:

(1) A substantial hardship as defined by section 120.542, F.S., or that a violation of the principles of fairness as defined by section 120.542, F.S., would occur, and

(2) The purpose of the underlying rule can be, or has been, achieved by other means, and

(3) The provision from which the variance or waiver is being sought did not originate with the DEP where the variance must be considered by the DEP pursuant to section 403.201, F.S. or the variance or waiver must be considered by the DEP or the Southwest Florida Water Management District pursuant to Chapter 120, F.S. Additionally, the Commission does not process variances or waivers of state-delegated rules.

(b) The application must specify the rule for which the variance or waiver is requested, the type of action requested, the specific facts that would justify a variance or waiver, and the reasons why and the manner by which the purposes of the underlying rule would still be met.

(c) Notice of the application must be published by the applicant in a newspaper of general circulation summarizing the factual basis for the application, the date of the Commission hearing, and information regarding how interested persons can review the application and provide comment.

(d) The Commission will consider the application, the Executive Director's recommendation, and the comments of the public at a public hearing during a Commission meeting. The Commission shall grant, in whole or part, or deny the application by written decision supported by competent substantial evidence. The Commission may impose additional conditions in a variance or waiver.

The Applicant requests a waiver of EPC Rule Section 1-7.203(7) for the apartment construction based on a substantial hardship and based on compliance with the underlying purpose of the rule. EPC staff asserts that the Applicant has demonstrated that complying with the additional requirements under EPC Rule Section 1-7.203(7) would impose a substantial hardship if the Applicant were not granted a waiver in this specific situation. In addition, the Applicant asserts that the purpose of complying with the testing requirements of the rule would still be achieved through work previously performed, as well as the engineering (such as impervious surfaces, foundations, hardscape, or 24-inches of protective soil cover) and institutional controls that will be in place under the Florida FDEP Brownfield Redevelopment program. These measures would ensure ample protection to human health and the environment.

Finally, the waiver being sought is not one that State agencies have jurisdiction over. Therefore, EPC staff recommends granting the waiver from the additional requirements of performing soil sampling and analysis for this specific project.

List of Attachments:

- 1) Variance Waiver Request
- 2) Proposed Waiver Final Order

MECHANIK NUCCIO HEARNE & WESTER

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LUTZ, FLORIDA 33548-7900
TEL: (813) 968-1002
FAX: (813) 968-1502

REPLY TO: TAMPA
 NORTH TAMPA

March 19, 2013

VIA – FEDERAL EXPRESS

Richard D. Garrity Ph.D.
Hillsborough County Environmental Protection Commission
3629 Queen Palm Drive
Tampa, Florida 33619

**RE: NR Varela Property Owner, LLC: Request for Waiver or Variance under
HCEPC Rule 1-2.50**

Dear Dr. Garrity:

We represent NR Varela Property Owner, LLC (“Varela”) which is the owner and developer of property located at the southeast corner of West Spruce Street and North Lois Avenue in the City of Tampa which is the subject of an HCEPC Director’s Authorization authorizing construction of an apartment complex (the “DA”). As you know, Varela has undertaken a Brownfield Site Redevelopment Agreement on the site with HCEPC dated December 23, 2008, and is planning to start the building project very soon.

All environmental issues have been resolved with HCEPC which has reviewed the project under the Florida Brownfields Program in keeping with Chapter 62-785 F.A.C. In addition, the redevelopment plans, activities and conditions have been thoroughly addressed in detail under the DA process and HCEPC Rules, Chapter 1-7.

Given the scrutiny that the site has received under these regulatory regimes, Varela believes that additional testing of soils on the property and Recovered Screened Materials (“RSM”) should not be required under the DA rules due to the work previously done and the fact that various engineering and institutional controls will be implemented during site development which provide ample protection to human health and the environment. Therefore Varela is hereby requesting that HCEPC grant a waiver or variance of the testing requirements under Rule 1-7.203(7) pursuant to Rule 1-2.50 of HCEPC Administrative Procedures. All other provisions of Rule 1-7.203 aside from testing of the RSM would apply.

Richard D. Garrity, Ph.D.
March 19, 2013
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Rule 1-2.50 allows for a variance or waiver from HCEPC rules where the applicant demonstrates the following: 1) That a substantial hardship exists or that a violation of the principles of fairness as defined by Section 120.542, F.S., would occur; 2) that the purpose of the underlying rule can be, or has been, achieved by other means; and 3) that the provisions from which the variance or waiver is being sought did not originate with the Florida Department of Environmental Protection ("FDEP").

The first criterion is met in keeping with Section 120.542, F.S. in that the additional extensive testing would be a substantial hardship. This is because the requirements would result in a demonstrated additional and unnecessary expense to Varela. Further, the principles of fairness would be violated since the literal application of the testing rules would affect Varela in a manner significantly different from the way it affects other similarly situated persons who are subject to the Brownfields rule and Varela's tests would not provide added protection considering the various engineering and institutional controls that will be implemented during site development with the agreement of HCEPC..

The second criterion which must be met to allow a variance or waiver is that the underlying purpose of the rule can be achieved by other means. Here the purpose of the rule to protect human health and the environment is fully achieved under the Brownfields rules also administered by HCEPC under Chapter 62-785 and the planned institutional and engineering controls.


Finally, the last criterion which must be met to allow a variance or waiver is that the requirement is not a provision which originates from DEP. The HCEPC rules under Chapter 1-7 at issue does not originate with DEP. All action on the site has in fact been consistent with the FDEP rules of Chapter 62-785.

All of the criteria for the wavier or variance have been met. Pursuant to the above analysis, the District respectfully requests that HCEPC grant a waiver or variance to the RSM testing requirements of Rule 1-7.203(7).

We understand that HCEPC staff and counsel are in support of the requested variance. We appreciate your time and attention.

Yours truly,

MECHANIK NUCCIO
HEARNE & WESTER, P.A.

By: 
Frank L. Hearne, Esq.

FLH/smm
Enclosure(s)

{00184065.DOC;}

Richard D. Garrity, Ph.D.
March 19, 2013
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cc: T. Andrew Zodrow, Esq.
Ronald A. Cope, CHMM
Phillip A. Smith
Fred A. Seguiti, P.G.

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

In re: NR Varela Property Owner, LLC,

Petition for Waiver.

Case No. 13-EPC-004

**FINAL ORDER ON APPLICATION FOR SECTION 1-2.50 RULE OF THE
ENVIRONMENTAL PROTECTION COMMISSION WAIVER**

BACKGROUND

On March 19, 2013, NR Varela Property Owner, LLC, (hereinafter "applicant") submitted a waiver request to the Environmental Protection Commission of Hillsborough County (EPC) under section 1-2.50, Rules of the EPC. The applicant requested a waiver of Section 1-7.203(7), Rules of the EPC with respect to testing of soils and Recovered Screen Material (RSM) for some areas during construction of an apartment complex undertaken as part of a Brownfield Site Redevelopment Agreement. This Rule Section 1-7.203(7) requires that RSM proposed for onsite reuse and excavated solid waste shall be characterized, managed, reused and disposed in accordance with the specific requirements, including extensive sampling and testing.

The applicant requests a waiver of the above rule section for the apartment construction based on a substantial hardship and based on compliance with the underlying purpose of the rule. The applicant asserts that the purpose of complying with the testing requirements of the rule would still be achieved through work previously performed, as well as the engineering (such as impervious surfaces, foundations, hardscape, or 24-inches of protective soil cover) and institutional controls that will be in place under the Florida Department of Environmental Protection (FDEP) Brownfield Redevelopment program. These measures would ensure ample protection to human health and the environment.

FINDINGS OF FACT

1. The applicant owns property located at the southeast corner of West Spruce Street and North Lois Avenue in the City of Tampa in Hillsborough County where they are intending to construct an apartment complex. The property is the subject of a Brownfield Site Redevelopment Agreement (Brownfield Site I.D. # 290804001) dating back to December 23, 2008.

2. The site has previously been designated as a Florida Brownfield and any activities are subject to the regulations provided in Chapter 376, Florida Statute and Chapter 62-785, Florida Administrative Code (F.A.C.).

3. The site will have engineering and institutional controls put in place during site development which will provide ample protection to human health and the environment.

4. The applicant requests a variance from Rule 1-7.203(7), Rules of the EPC for soils and RSM specifically intended for reuse under engineering controls (but all other provisions

of Rule 1-7.203(7) would apply to any RSM intended for reuse by other means and in other locations.

5. The additional extensive testing provided in Section 1-7.203(7), Rules of the EPC would be a substantial hardship for the applicant. This is because the requirements would result in a demonstrated additional and unnecessary expense to the applicant. Further, the principles of fairness would be violated since the literal application of the testing rules would affect the applicant in a manner significantly different from the way it affects other similarly situated persons who are subject to the Brownfields rule and the applicant's tests would not provide added protection considering the various engineering and institutional controls that will be implemented during site development with the agreement of the EPC.

6. The purpose of Section 1-7.203(7), Rules of the EPC to protect human health and the environment is fully achieved under the Brownfields rules also administered by EPC under Chapter 62-785 F.A.C., including the planned institutional and engineering controls.

7. Finally, the requirement is not a rule provision which originates from the FDEP. The EPC rules under Chapter 1-7 at issue does not originate with FDEP.

CONCLUSIONS OF LAW

8. This variance is requested pursuant to section 1-2.50, Rules of the EPC, which states as follows:

1-2.50 REQUEST FOR VARIANCE OR WAIVER

(a) Upon application, the Executive Director may recommend to the Commission that a variance or waiver be granted from the provisions of the rules adopted pursuant to Chapter 84-446, where the applicant demonstrates:

(1) A substantial hardship as defined by section 120.542, F.S., or that a violation of the principles of fairness as defined by section 120.542, F.S., would occur, and

(2) The purpose of the underlying rule can be, or has been, achieved by other means, and

(3) The provision from which the variance or waiver is being sought did not originate with the DEP where the variance must be considered by the DEP pursuant to section 403.201, F.S. or the variance or waiver must be considered by the DEP or the Southwest Florida Water Management District pursuant to Chapter 120, F.S. Additionally, the Commission does not process variances or waivers of state-delegated rules.

(b) The application must specify the rule for which the variance or waiver is requested, the type of action requested, the specific facts that would justify a variance or waiver, and the reasons why and the manner by which the purposes of the underlying rule would still be met.

(c) Notice of the application must be published by the applicant in a newspaper of general circulation summarizing the factual basis for the application, the date of the Commission hearing, and information regarding how interested persons can review the application and provide comment.

(d) The Commission will consider the application, the Executive Director's recommendation, and the comments of the public at a public hearing during a Commission meeting. The Commission shall grant, in whole

or part, or deny the application by written decision supported by competent substantial evidence. The Commission may impose additional conditions in a variance or waiver.

9. The applicant has demonstrated that complying with the additional requirements under Rule 1-7.203(7), Rules of the EPC, would impose a substantial hardship if the applicant were not granted a waiver in this specific situation.

10. The applicant has demonstrated that by following the planned institutional and engineering controls under Chapter 62-785, F.A.C., the purpose of Section 1-7.203(7), Rules of the EPC will still be achieved.

11. The applicant has demonstrated that the provision from which the waiver is being sought did not originate with the FDEP where the variance must be considered by the FDEP pursuant to Section 403.201, F.S.

12. This waiver applies only to the soils and RSM intended for reuse as stated herein, and these materials will not require the soil sampling and analysis required under Rule 1-7.203(7), Rules of the EPC.

ORDER

For the foregoing reasons, the requested waiver from Section 1-7.203(7), Rules of the EPC, is **GRANTED**. All provisions of Section 1-7.203(7), Rules of the EPC would still apply to other soil and RSM located at the subject property.

NOTICE OF RIGHTS

The EPC's proposed action on this waiver shall become final unless a timely appeal via writ of *certiorari* to the 13th Judicial Circuit is filed with any appropriate fee. A copy of the appeal must be provided to the EPC Legal Department, 3629 Queen Palm Dr., Tampa, Florida 33619.

DONE AND ORDERED this _____ of _____, 2013 in Tampa, Florida.

Kevin Beckner, Chairman
Environmental Protection Commission
of Hillsborough County
3629 Queen Palm Drive
Tampa, Florida 33619
(813) 627-2600



EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18, 2013

Subject: Presentation of Green Star certifications

Agenda Section: Regular Agenda

Division: Waste

Recommendation: Present representatives of two auto repair facilities with the Green Star Certification.

Brief Summary: Brandon Ford and Tampa Hondaland recently completed the criteria for Green Star certification. facility. Donnie Miller of Brandon Ford and Jeff King of Tampa Hondaland will be present to receive the certification.

Financial Impact: [No Financial Impact]

Background: EPC's Green Star Program is a non-regulatory industry friendly program designed to encourage auto repair facilities to go above and beyond environmental compliance through the use of Best Management Practices (BMP) and Pollution Prevention (P2) strategies. EPC utilizes a compliance workbook and self-audit checklist developed by Florida Department of Environmental Protection specifically for the auto repair industry. Once the facility completes the checklist, it is submitted to EPC for review. After the review, a certification inspection is performed by EPC staff to ensure what is on paper is actually being implemented. Facilities that are in compliance and successfully implement the necessary BMPs and P2 elements are certified as a "Green Star" facility. Auto repair facilities who successfully meet the criteria receive a Certificate of Recognition and a "Green Star" decal that can be used to demonstrate to their customers that they achieved "green" facility status.

List of Attachments: [None.]

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18th, 2013

Subject: EPC Citizen Request Mobile App

Consent Agenda _____ **Regular Agenda** X_____ **Public Hearing** _____

Division: Legal and Administrative Services/MIS department

Recommendation: For Information Only

Brief Summary: The EPC launched a mobile app called the Citizen Request Tracker that allows the public to send a picture with a description of an environmental concern to our agency from their iPhone or iPad.

Background: EPC has launched the Citizen Request Tracker App for use to the public. This mobile application allows someone to take a picture with their iPhone or iPad and send it, along with a description of their environmental concern, directly to our agency.

From CivicPlus:

The free, simple and easy to use Citizen Request Tracker™ app gives small to medium-sized cities and counties across North America – and their residents and business owners - the same citizen-power to report civic issues, and the integrated municipal tracking capabilities, that was previously available only in large metropolitan areas. When a citizen observes an issue (pothole, graffiti, abandoned car, etc.) they can quickly submit a photo and description of the problem. Using the iPhone's GPS technology, the app automatically pinpoints and sends the exact location of the concern. The request is routed straight to their government's Citizen Request Tracker system and directly to the right people who can get the problem fixed.

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: April 18, 2013

Subject: Action Plan Update – Neighborhood Outreach Initiative

Agenda Section: Regular Agenda

Division: Air Management Division

Recommendation: None – Informational Report

Brief Summary: EPC staff has recently initiated an action plan entitled *Neighborhood Outreach Initiative* which is focused on increased interaction directly with the citizens of Hillsborough County to enhance awareness and educate citizens and communities on local environmental issues. The initiative is highlighted by the development of the *EPC Community Partner Program*, similar to a neighborhood watch program, wherein EPC staff offers to perform Agency presentations directly to homeowner associations and provide readily available EPC contact information. The action plan also includes the creation of the *EPC Advisory/Notification System* so concerned residents can be automatically notified of significant local environmental events.

Financial Impact: No Financial Impact

Background: Earlier this year EPC staff identified twelve individual initiatives called action plans to help support the Agency's strategic priorities for calendar year 2013. One such action plan is entitled *Neighborhood Outreach Initiative* and was recently initiated in an effort to further support our strategic objectives of customer satisfaction and the promotion of environmental stewardship.

As part of the initiative, EPC developed the *EPC Community Partner Program* directed specifically to increase public outreach and interaction with registered Hillsborough County Homeowner and Civic Associations. Somewhat similar to neighborhood watch programs, EPC will perform an Agency presentation at the Association's meeting and partner with the Association by providing EPC's contact information to encourage local residents to stay connected with their environment and communicate with the Agency when they observe an environmental concern. Signage will be provided for the community to display on their property or on their website identifying their community as an *EPC Community Partner* and how to contact EPC with questions. Completion of the program also enables the community to be eligible to apply for a *Community Partner Mini-Grant* from EPC. The mini-grant program is currently under development as an extension of the current grant opportunities offered through the Pollution Recovery Fund. Certified "Community Partners" will be eligible to apply for reimbursement of up to \$2,500 for qualified environmentally-conscious community projects.

The initiative also involves creation of the *EPC Advisory/Notification System* to provide direct contact to local residents and help increase awareness of local environmental conditions through advisories and informational releases generated or forwarded by the Agency. The system is intended to allow any interested citizen to easily sign up through EPC's website to be notified electronically via email or text of any significant local environmental event that may impact their community.

List of Attachments: None

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