

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
COMMISSIONER'S BOARD ROOM  
COUNTY CENTER 2<sup>ND</sup> FLOOR  
FEBRUARY 16, 2012  
9:00 AM**

**AGENDA**

**INVOCATION AND PLEDGE OF ALLEGIANCE**

**APPROVAL OF CHANGES TO THE AGENDA AND REMOVAL OF CONSENT  
AGENDA ITEMS WITH QUESTIONS, AS REQUESTED BY BOARD MEMBERS**

**I. PUBLIC COMMENT**

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

**II. CITIZENS' ENVIRONMENTAL ADVISORY COMMITTEE**

Reports from CEAC Chair Janet Dougherty

**III. CONSENT AGENDA**

A. Approval of Minutes: January 26, 2012 .....	3
B. Monthly Activity Reports – January 2012.....	7
C. Pollution Recovery Fund Report – January 2012.....	19
D. Gardinier Settlement Trust Fund Report – January 2012 .....	21
E. Legal Case Summary, February 2012.....	23

**IV. WATER MANAGEMENT DIVISION**

Report by Captain John Slaughter, US Coast Guard: Coastal Resource Preparedness  
Related to Oil Drilling Off the Northern Cuban Coastline .....

**V. WETLANDS MANAGEMENT DIVISION**

Lakes Initiative Report: Potential Issues Concerning Lakes, Rivers, Springs, and  
Estuaries In Hillsborough County.....

**VI. EXECUTIVE DIRECTOR REPORT**

**VII. LEGAL & ADMINISTRATIVE SERVICES DIVISION**

A. Request for a Public Hearing on March 22, 2012 at 9 a.m. to amend Section 1-6.05 (Services – Fee Schedule) to include a fee transfer and fee waiver provision for permit applications for activities under the state Environmental Resource Permitting program delegation.....	31
B. 2012 Legislative Session Update.....	35

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.

*Visit our website at [www.epchc.org](http://www.epchc.org)*

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JANUARY 26, 2012 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, January 26, 2012, 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 (arrived at 9:02 a.m.), Ken Hagan (arrived at 9:07 a.m.), Al Higginbotham, Lesley Miller Jr., Sandra Murman, and Mark Sharpe (arrived at 9:04 a.m.).

▶ Chairman Beckner called the meeting to order at 9:01 a.m.

▶ INVOCATION AND PLEDGE OF ALLEGIANCE

▶ CHANGES TO THE AGENDA - None.

I. PUBLIC COMMENT

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

II. CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Reports by the Newly-Elected Chairman, Janet Dougherty.

A. Report on the January 2012 CEAC Meeting

B. Request Approval of the Letter to the Hillsborough County Legislative Delegation with a copy to the Florida Department of Environmental Protection (FDEP) Secretary Herschel Vinyard Jr., regarding Title V and Petroleum Cleanup program funding.

▶ Ms. Dougherty talked about CEAC vacancies and background material. ▶ **Commissioner Murman moved to approve the letter from the CEAC, seconded by Commissioner Miller, and carried six to zero.** (Commissioner Hagan had not arrived.)

III. CONSENT AGENDA

A. Approval of Minutes: November 17, 2011.

B. Monthly Activity Reports - November and December 2011.

C. Pollution Recovery Fund (PRF) Report - November and December 2011.

THURSDAY, JANUARY 26, 2012 - DRAFT MINUTES

- D. Gardinier Settlement Trust Fund Report - November and December 2011.
- E. Legal Case Summary, December 2011 and January 2012.
- F. Revision to the PRF Agreement to Change the Grantee.

▶ Commissioner Higginbotham withheld Consent Agenda Item F. **Commissioner Miller moved to approve Consent Agenda Items A through E, seconded by Commissioner Murman, and carried six to zero.** (Commissioner Hagan had not arrived.)

▶ Regarding Consent Agenda Item F, EPC General Counsel Richard Tschantz explained the grant process. ▶ Following comments, **Commissioner Higginbotham moved Item F, seconded by Commissioner Murman, and carried seven to zero.**

IV. WASTE MANAGEMENT DIVISION

EPC Green Yard Program - Announcement of New Green Yard Designee, Florida Dial-A-Part Incorporated

▶ Messrs. Hooshang Boostani, Director, EPC, Waste Management Division, and Gerry Javier, EPC, gave a presentation, as supplied in background material. Messrs. Michael Ingui and Matthew Lit, owners, accepted the award.

V. AIR AND WETLANDS MANAGEMENT DIVISIONS - JOINT PRESENTATION

Presentation: Improving Permitting at EPC

▶ Mr. Jerry Campbell, Director, EPC Air Management Division; Dr. Scott Emery, Director, EPC Wetlands Management Division; and Ms. Peggy Smith, Director, The Center for Development Services, elaborated on a presentation, as supplied in background material. ▶ Discussion ensued.

VI. EXECUTIVE DIRECTOR REPORT

EPC Strategic Plan and 2012 Goals Presentation and Discussion

▶ Dr. Richard Garrity, EPC Executive Director, expounded on a presentation, as furnished in background material. After dialogue, ▶ Chairman Beckner sought a motion to accept the EPC strategic plan and

goals for 2012. **Commissioner Murman moved to approve, seconded by Commissioner Hagan, and carried seven to zero.**

VII. LEGAL AND ADMINISTRATIVE SERVICES DIVISION

Approval of the Letter to the FDEP regarding the Storage Tanks Compliance Program and 2012 Legislative Session Update

▶ Attorney Tschantz expanded on background material and talked about pending legislative actions. ▶ **Commissioner Murman moved approval on the letter, seconded by Commissioner Sharpe, and carried six to zero.** (Commissioner Hagan was out of the room.)

▶ There being no further business, the meeting was adjourned at 10:15 a.m.

READ AND APPROVED: \_\_\_\_\_

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: \_\_\_\_\_  
Deputy Clerk

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**FY 12 - MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION**

**JAN**

**A. Public Outreach/Education Assistance**

1.	Phone calls	205
2.	Literature Distributed	0
3.	Presentations	1
4.	Media Contacts	1
5.	Internet	81
6.	Host/Sponsor Workshops, Meetings, Special Events	0

**B. Industrial Air Pollution Permitting**

1.	Permit Applications received (Counted by Number of Fees Received)	
	a. Operating	4
	b. Construction	7
	c. Amendments / Transfers / Extensions	0
	d. Title V Operating:	0
	e. Permit Determinations	0
	f. General	1
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	2
	b. Construction ^1	0
	c. Amendments / Transfers / Extensions^1	0
	d. Title V Operating ^2	9
	e. Permit Determinations	1
	f. General	0
3.	Intent to Deny Permit Issued	0

**C. Administrative Enforcement**

1.	New cases received	0
2.	On-going administrative cases	
	a. Pending	0
	b. Active	7
	c. Legal	2
	d. Tracking compliance (Administrative)	9
	e. Inactive/Referred cases	0
	<b>TOTAL</b>	<b>18</b>
3.	NOIs issued	0
4.	Citations issued	0
5.	Consent Orders Signed	0
6.	Contributions to the Pollution Recovery Fund	\$ 1,000.00
7.	Cases Closed	0

**FY 12 - MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION**

**JAN**

**D. Inspections**

1.	Industrial Facilities	16
2.	Air Toxics Facilities	
	a. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	1
	b. Major Sources	8
3.	Asbestos Demolition/Renovation Projects	21

<b>E. Open Burning Permits Issued</b>	3
<b>F. Number of Division of Forestry Permits Monitored</b>	170
<b>G. Total Citizen Complaints Received</b>	43
<b>H. Total Citizen Complaints Closed</b>	39
<b>I. Noise Sources Monitored</b>	1
<b>J. Air Program's Input to Development of Regional Impacts</b>	0
<b>K. Test Reports Reviewed</b>	63
<b>L. Compliance</b>	
1. Warning Notices Issued	7
2. Warning Notices Resolved	7
3. Advisory Letters Issued	2
<b>M. AOR's Reviewed</b>	0
<b>N. Permits Reviewed for NESHAP Applicability</b>	5
<b>O. Planning Documents coordinated for Agency Review</b>	3



**FY 12 - MONTHLY ACTIVITIES REPORT  
WASTE MANAGEMENT DIVISION**

JAN

**A. ENFORCEMENT**

1.	New cases received	-
2.	On-going administrative cases	95
	Pending	3
	Active	36
	Legal	9
	Tracking Compliance (Administrative)	46
	Inactive/Referred Cases	1
3.	NOI's issued	-
4.	Citations issued	-
5.	Consent Orders and Settlement Letter Signed	1
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$ 5,105
7.	Enforcement Costs Collected (\$)	\$ 2,200
8.	Cases Closed	1

**B. SOLID AND HAZARDOUS WASTE**

1.	FDEP Permits Received	4
2.	FDEP Permits Reviewed	4
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	0
4.	Other Permits and Reports	83
	County Permits Received	10
	County Permits Reviewed	33
	Reports Received (SW/HW + SQG)	23
	Reports Reviewed (SW/HW + SQG)	17
5.	Inspections (Total)	185
	Complaints (SW/HW + SQG)	27
	Compliance/Reinspections (SW/HW + SQG)	5
	Facility Compliance	17
	Small Quantity Generator Verifications	136
	P2 Audits	0
6.	Enforcement (SW/HW + SQG)	138
	Complaints Received	31
	Complaints Closed	26
	Warning Notices Issued	0
	Warning Notices Closed	0
	Compliance Letters	33
	Letters of Agreement	0
	Agency Referrals	4
7.	Pamphlets, Rules and Material Distributed	44

**C. STORAGE TANK COMPLIANCE**

1.	Inspections	
	Compliance	70
	Installation	1
	Closure	5
	Compliance Re-Inspections	10
2.	Installation Plans Received	8

**FY 12 - MONTHLY ACTIVITIES REPORT  
WASTE MANAGEMENT DIVISION**

JAN

3.	Installation Plans Reviewed	4
4.	Closure Plans & Reports	
	Closure Plans Received	4
	Closure Plans Reviewed	3
	Closure Reports Received	2
	Closure Reports Reviewed	3
5.	Enforcement	
	Non-Compliance Letters Issued	37
	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	21
8.	Cleanup Notification Letters Issued	1

**D. STORAGE TANK CLEANUP**

1.	Inspections	31
2.	Reports Received	93
3.	Reports Reviewed	83
	Site Assessment Received	15
	Site Assessment Reviewed	12
	Source Removal Received	3
	Source Removal Reviewed	2
	Remedial Action Plans (RAP'S) Received	7
	Remedial Action Plans (RAP'S) Reviewed	6
	Site Rehabilitation Completion Order/No Further Action Rec'd	4
	Site Rehabilitation Completion Order/No Further Action Revw'd	2
	Active Remediation/Monitoring Received	44
	Active Remediation/Monitoring Reviewed	42
	Others Received	20
	Others Reviewed	19

**E. RECORD REVIEWS**

18
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**F. LEGAL PIR'S**

11
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**FY 12 - MONTHLY ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION**

**JAN**

**A. ENFORCEMENT**

1.	New Enforcement Cases Received	-
2.	Enforcement Cases Closed	2
3.	Enforcement Cases Outstanding	41
4.	Enforcement Documents Issued	2
5.	Recovered Costs to the General Fund	\$ 176
6.	Contributions to the Pollution Recovery Fund	\$ 1,500

**B. PERMITTING/PROJECT REVIEW - DOMESTIC**

1.	Permit Applications Received	12
	a. Facility Permit	3
	(i) Types I and II	-
	(ii) Type III	3
	b. Collection Systems - General	5
	c. Collection systems-Dry Line/Wet Line	4
	d. Residuals Disposal	-
2.	Permit Applications Approved	9
	a. Facility Permit	6
	b. Collection Systems - General	-
	c. Collection systems-Dry Line/Wet Line	3
	d. Residuals Disposal	-
3.	Permit Applications Recommended for Disapproval	-
	a. Facility Permit	-
	b. Collection Systems - General	-
	c. Collection systems-Dry Line/Wet Line	-
	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	38
	a. Facility Permit	8
	b. Collection Systems - General	9
	c. Collection systems-Dry Line/Wet Line	21
	d. Residuals Disposal	-
7.	Permit Determination	2
8.	Special Project Reviews	-
	a. Reuse	-

**FY 12 - MONTHLY ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION**

**JAN**

b. Residuals/AUPs	3
c. Others	-

**C. INSPECTIONS - DOMESTIC**

1. Compliance Evaluation	11
a. Inspection (CEI)	4
b. Sampling Inspection (CSI)	7
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance	35
a. Inspection (RI)	11
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	24
d. Enforcement Inspection (ERI)	-
3. Engineering Inspections	17
a. Reconnaissance Inspection (RI)	4
b. Sample Reconnaissance Inspection (SRI)	-
c. Residual Site Inspection (RSI)	-
d. Preconstruction Inspection (PCI)	2
e. Post Construction Inspection (XCI)	11
f. On-site Engineering Evaluation	-
g. Enforcement Reconnaissance Inspection (ERI)	-

**D. PERMITTING/PROJECT REVIEW - INDUSTRIAL**

1. Permit Applications Received	3
a. Facility Permit	1
(i) Types I and II	1
(ii) Type III with Groundwater Monitoring	-
(iii) Type III w/o Groundwater Monitoring	-
b. General Permit	1
c. Preliminary Design Report	1
(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	2
a. Facility Permit	2
b. General Permit	-
4. Permitting Determination	-
5. Special Project Reviews	50
a. Phosphate	9

**FY 12 - MONTHLY ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION**

**JAN**

b. Industrial Wastewater	8
c. Others	33

**E. INSPECTIONS - INDUSTRIAL**

1. Compliance Evaluation (Total)	14
a. Inspection (CEI)	14
b. Sampling Inspection (CSI)	-
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance (Total)	16
a. Inspection (RI)	2
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	14
d. Enforcement Inspection (ERI)	-
3. Engineering Inspections (Total)	8
a. Compliance Evaluation (CEI)	8
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	23
(i) Received	14
(ii) Closed	9
b. Industrial	17
(i) Received	9
(ii) Closed	8
2. Warning Notices	
a. Domestic	12
(i) Issued	5
(ii) Closed	7
b. Industrial	4
(i) Issued	1
(ii) Closed	3
3. Non-Compliance Advisory Letters	10
4. Environmental Compliance Reviews	157
a. Industrial	49
b. Domestic	108
5. Special Project Reviews	6

**FY 12 - MONTHLY ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION**

**JAN**

**G. RECORD REVIEWS**

1.	Permitting Determination	7
2.	Enforcement	1

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

1.	Air division	55
2.	Waste Division	-
3.	Water Division	14
4.	Wetlands Division	-
5.	ERM Division	163
6.	Biomonitoring Reports	3
7.	Outside Agency	21

**I. SPECIAL PROJECT REVIEWS**

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

**FY 12 - MONTHLY ACTIVITIES REPORT  
WETLANDS MANAGEMENT DIVISION**

**JAN**

**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	100%
Year to Date	99%

**Formal Wetland Delineation Surveys**

Projects	4
Total Acres	109
Total Wetland Acres	76
# Isolated Wetlands < 1/2 Acre	-
Isolated Wetland Acreage	0

**Construction Plans Approved**

Projects	10
Total Wetland Acres	76
# Isolated Wetlands < 1/2 Acre	3
Isolated Wetland Acreage	0.79
Impacts Approved Acreage	0.14
Impacts Exempt Acreage	0.17

**Mitigation Sites in Compliance**

Ratio	171/180
Percentage	96%

**Compliance Actions**

Acreage of Unauthorized Wetland Impacts	1.50
Acreage of Water Quality Impacts	0.00
Acreage Restored	0.70

**TPA Minor Work Permit**

Permit Issued	17
Permits Issued Fiscal Year 2011	71
Cumulative Permits Issue Since TPA Delegation (07/09)	501

**REVIEW TIMES**

# of Reviews	196
% On Time	98%
% Late	2%

## WETLANDS MANAGEMENT DIVISION

JAN

## A. General

1.	Telephone conferences	604
2.	Unscheduled Citizen Assistance	430
3.	Scheduled Meetings	409
4.	Correspondence	1,589
1/ 5.	Intergency Coordination	246
1/ 6.	Trainings	36
1/ 7.	Public Outreach/Education	9
1/ 8.	Quality Control	30

## B. Assessment Reviews

1.	Wetland Delineations	16
2.	Surveys	3
3.	Miscellaneous Activities in Wetland	24
4.	Mangrove	3
5.	Notice of Exemption	1
6.	Impact/Mitigation Proposal	15
7.	Tampa Port Authority Reviews	56
8.	Wastewater Treatment Plants (FDEP)	-
9.	Development Regn'l Impact (DRI) Annual Report	1
10.	On-Site Visits	82
11.	Phosphate Mining	1
12.	Comp Plan Amendment (CPA)	1
1/ 13.	AG SWM	6
	Sub-Total	

## Planning and Growth Management Review

14.	Land Alteration/Landscaping	-
15.	Land Excavation	-
16.	Rezoning Reviews	10
17.	Site Development	25
18.	Subdivision	10
19.	Wetland Setback Encroachment	-
20.	Easement/Access-Vacating	-
21.	Pre-Applications	45
1/ 22.	Agriculture Exemption	-
	Sub-Total	
	<b>Total Assessment Review Activities</b>	

## C. Investigation and Compliance

1.	Warning Notices Issued	6
2.	Warning Notices Closed	4
1/ 3.	Complaints Closed	38
4.	Complaint Inspections	34
5.	Return Compliance Inspections for Open Cases	49



## WETLANDS MANAGEMENT DIVISION

JAN

6.	Mitigation Monitoring Reports	7
7.	Mitigation Compliance Inspections	22
8.	Erosion Control Inspections	19
9.	MAIW Compliance Site Inspections	22
10.	TPA Compliance Site Inspections	29
2/ 11	Mangrove Compliance Site Inspections	2
1/ 12	Conservation Easement Inspection	11

**D. Enforcement**

1.	Active Cases	6
2.	Legal Cases	3
3.	Number of "Notice of Intent to Initiate Enforcement"	1
4.	Number of Citations Issued	-
5.	Number of Consent Orders Signed	2
6.	Administrative - Civil Cases Closed	6
7.	Cases Referred to Legal Department	3
8.	Contributions to Pollution Recovery	\$ 1,628
9.	Enforcement Costs Collected	\$ 650

**E. Ombudsman**

1.	Agriculture	6
2.	Permitting Process & Rule Assistance	3
3.	Staff Assistance	4
4.	Citizen Assistance	7

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**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
FY 12 POLLUTION RECOVERY TRUST FUND  
10/1/2011 through 1/31/2012**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 641,781	Artificial Reef	\$ 136,652	Minimum Balance	\$ 120,000	
Interest	\$ 1,337	Project Monitoring	\$ 123,507	PROJ. FY 13 Budgets	\$ 203,459	
Deposits	\$ 43,856	FY 12 Projects	\$ 106,700	Asbestos Removal	\$ 5,000	
Refunds	\$ 49,510					
<b>Total</b>	<b>\$ 736,484</b>	<b>Total</b>	<b>\$ 366,859</b>	<b>Total</b>	<b>\$ 328,459</b>	<b>\$ 41,166</b>



PROJECT		Project Amount	Project Balance
<b>FY 09 Projects</b>			
#08-05 - MacDill Phase 2 Seagrass Transplanting	EPE30107	79,196	-
#08-04 - Mini FARMS BMP Implementation	EPE40102	50,000	-
#08-03 - Wetland Restoration on County Owned Lands	EPE30441	120,000	54,220
		\$ 249,196	\$ 54,220
<b>FY 10 Projects</b>			
#09-01 - Basis of Review for Borrow Pit Applications	EPE30442	\$ 68,160	\$ 3,369
#09-02 - Effects of Restoration on Use of Habitat	EPE30443	84,081	43,621
#09-03 - Artificial Wetland Cells	EPE30444	5,500	2,169
#09-04 - Pilot Project for Outfall Water Quality Lake Mag	EPE30446	92,000	92,000
		\$ 249,741	\$ 141,159
<b>FY 12 Projects</b>			
Bahia Beach Mangrove Enhancement	EPE30449	\$ 56,700	\$ 56,700
Fertilizer Rule Implementation	EPE40206	\$ 50,000	\$ 50,000
		\$ 106,700	\$ 106,700
			\$ 302,079

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**ENVIRONMENTAL PROTECTION COMMISSION  
 OF HILLSBOROUGH COUNTY  
 FY 12 GARDINIER SETTLEMENT TRUST FUND  
 10/1/2011 - 1/31/2012**

Fund Balance as of 10/1/11	\$ 254,131
Interest Accrued	345
Disbursements FY 12	(90,602)
Fund Balance	\$ 163,874
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	\$ 163,641
Total Encumbrances	\$ 163,641
Fund Balance Available**	\$ 233

\*\*Per EPC Board, entire fund shall go toward  
 Cockroach Bay ELAPP. Remaining fund  
 balance will be encumbered to this project.

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** February 16, 2012

**Subject:** Legal Case Summary for February 2012

**Consent Agenda**   X      **Regular Agenda**         **Public Hearing**     

**Division:** Legal and Administrative Services

**Recommendation:** None, informational update.

**Brief Summary:** The EPC Legal Department provides a monthly list of all its pending civil matters, administrative matters, and cases that parties have asked for additional time to file an administrative challenge.

**Financial Impact:** No financial impact anticipated; informational update only.

**Background:** In an effort to provide the Commission a timely list of legal challenges, the EPC staff provides monthly updates. The updates not only can inform the Commission of pending litigation, but may be a tool to check for any conflicts they may have. The summaries generally detail civil and administrative cases where one party has initiated some form of civil or administrative litigation, as opposed to other Legal Department cases that have not risen to that level. There is also a listing of cases where parties have asked for additional time in order to allow them to decide whether they wish to file an administrative challenge to an agency action while we concurrently are attempting to negotiate a settlement.

**List of Attachments:**            February 2012 EPC Legal Case Summary

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**February 2012**

**I. ADMINISTRATIVE CASES**

**Carmen Smith Barkett** [11-EPC-012]: On November 21, 2011, the EPC received a Request for Variance or Waiver from Carmen Smith Barkett. The Applicant is requesting a Variance or Waiver to allow for the filling in of a portion of an artificially created pond partially located on the Applicant's property. Upon completion of the staff review, the request will be scheduled to be heard at a noticed public hearing in March 2012. (AZ)

**John T. Keenan** [11-EPC-013]: On November 28, 2011 the Appellant, John T. Keenan, filed a request for an extension of time to file an Appeal to challenge EPC's issuance of a Minor Work Permit for modifications to an existing dock. The request was granted and the Appellant ultimately filed a Notice of Appeal on January 12, 2012. The parties are in negotiations regarding a potential modification of the structure. (AZ)

**II. CIVIL CASES**

**Gregory Hart and Karin Hart** [12-EPC-002]: On January 25, 2012, the Appellants, Gregory and Karin Hart, filed a Notice of Appeal with the Second District Court of Appeals challenging an order issued by the Circuit Court. The EPC has filed a Motion to Dismiss as the appeal is premature. (RM)

**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 violations. (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. (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 ditch. An initial mediation occurred on July 16, 2010, but resulted in an impasse. The 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. EPC filed a motion for final judgment to establish penalties and corrective actions; the hearing is set for February 13, 2012. The appeal was dismissed as premature and the request for a new trial was denied. (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)

**Dublinter 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. Defendants appear to be in violation of the settlement (early 2012), thus EPC may re-open the case to enforce the Mediated Settlement Agreement. (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. (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 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 the hope of negotiating a settlement prior to forwarding the case to a Hearing Officer. The below list may also include waiver or variance requests.

**Florida Rock Industries, Inc.** [12-EPC-001]: The Petitioner filed a request for an extension of time to file a petition to challenge an Air Construction Permit. The extension was granted and the Petitioner has until March 12, 2012 to file a petition in this matter. (RM)

**Henry Atkins** [11-EPC-015]: On December 12, 2012 the Appellant, Henry Atkins, filed a request for an extension of time to file an Appeal to challenge EPC's issuance of a Minor Work Permit for modifications to an existing dock. The request was granted and the Appellant has until February 27, 2012 to file a Notice of Appeal. (AZ)

**Cordoba-Ranch Development, LLC** [11-EPC-008]: On September 9, 2011 the Appellant, Cordoba-Ranch Development, LLC, filed a request for an extension of time to file an Appeal challenging the Citation to Cease and Order to Correct Violation that was issued on August 25, 2011. The extension was granted and the Appellant has until September 10, 2012 to file a Notice of Appeal in this matter. (AZ)

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** February 16, 2012

**Subject:** Report by Captain John Slaughter, US Coast Guard: Coastal Resource Preparedness Related to Oil Drilling Off the Northern Cuban Coastline

**Consent Agenda** \_\_\_\_\_ **Regular Agenda**  **Public Hearing** \_\_\_\_\_

**Division:** Water Management

**Recommendation:** Informational Report on Coastal Resource Preparedness Related to Oil Drilling off the Northern Cuban Coastline

**Brief Summary:** Captain John Slaughter, Chief, Planning and Force Readiness Division U.S. Coast Guard Seventh District, will provide an informational report on the start-up of oil drilling off the northern coast of Cuba and the preparations being made by the U.S. Coast Guard to react in the event of a spill that has the potential to impact Florida coastal waters including the Tampa Bay area.

**Financial Impact:** No Financial Impact

**Background:** Captain John Slaughter, Chief, Planning and Force Readiness Division U.S. Coast Guard Seventh District, will provide an informational report on the start-up of oil drilling off the northern coast of Cuba and the preparations being made by the U.S. Coast Guard to react in the event of a spill that has the potential to impact Florida coastal waters including the Tampa Bay area. Captain Slaughter will brief the Commission on the U.S. Coast Guard's extensive knowledge of and preparations for oil drilling off the Cuban coast and will outline various scenarios that could potentially impact the Florida west coast and other natural resources of Florida coastal waters.

**List of Attachments:** No Attachments

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** February 16, 2012

**Subject:** Potential issues concerning lakes, rivers, springs, and estuaries in Hillsborough County

**Consent Agenda** \_\_\_\_\_ **Regular Agenda**  X  **Public Hearing** \_\_\_\_\_

**Division:** Wetlands

**Recommendation:** Informational Report

**Brief Summary:** Background information on Little Halfmoon Lake, Lake Carroll, and several lakes on the Rocky Creek system.

**Financial Impact:** No Financial Impact

### **Background:**

This Agenda Item, named the Lakes Initiative Report, is expected to become a semi-regular part of the Board Agenda items. This report is designed to provide the Board with information pertaining to potential issues of concern to multiple citizens of Hillsborough County relating to lakes, rivers, springs, and estuaries.

Citizens who live on the shores of lakes, rivers, springs, and estuaries often do so because they value the aesthetic and recreational aspects of waterfront living and may pay a premium for this. Citizens are justifiably concerned with, and protective of, the hydrology, ecology, and water quality conditions of their local water body. Some projects (both public and private) involve water bodies, and can, potentially, have negative effects on these.

The first installment (February, 2012) of this series of reports provides the Board with background information on: Little Halfmoon Lake, Lake Carroll, and several lakes on the Rocky Creek system (Rock, Josephine, Pretty, Armistead).

In March and April, we plan to provide background information on the following lakes: Rogers, Raleigh, Horse, Halfmoon, Hooker; plus Morris Bridge Sink, Blue Sink; plus the North and South Prongs of the Alafia River.

Beyond April, report frequency and content will be directly related to the types and sizes of upcoming projects and at the pleasure of the Board.

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** February 16, 2012

**Subject:** Request for a Public Hearing on March 22, 2012 at 9:00 a.m. to amend Section 1-6.05 (Services – Fee Schedule) to include a fee transfer and fee waiver provision for permit applications for activities under the state Environmental Resource Permitting program delegation. This fee amendment includes no increase in fees and will result in a reduction in the total application fees for applicants in Hillsborough County.

**Consent Agenda** \_\_\_\_\_ **Regular Agenda**  X  **Public Hearing** \_\_\_\_\_

**Division:** Legal Department

**Recommendation:** Request the Commission to schedule a Public Hearing to consider an amendment to Chapter 1-6 (Services – Fee Schedule), and authorize appropriate public notice.

**Brief Summary:** Pursuant to the EPC Act, the Commission must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the Commission approve scheduling a public hearing at its regularly scheduled meeting on March 22, 2012 to amend the Services – Fee Schedule Rule Section 1-6.05 to waive fees and transfer fees for certain activities under the state Environmental Resource Permitting program delegation.

**Financial Impact:** There is no expected financial impact to Hillsborough County.

### **Background:**

Pursuant to the Hillsborough County Environmental Protection Act (EPC Act) Section 5.2, the Commission must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the Commission approve scheduling a public hearing for its next regularly scheduled meeting on March 22, 2012 to amend the Services – Fee Schedule Rule Section 1-6.05 to acknowledge the waiver and transfer of fees under the recently executed delegation of the Florida Department of Environmental Protection's Environmental Resource Permitting (ERP) program. On February 9, 2012, the EPC obtained delegation of the state ERP program for certain qualifying activities in Hillsborough County. The proposed fee waiver and the transfer of the state fee were previously addressed to the FDEP in support of the requirement to prepare a Statement of Estimated Regulatory Cost. Under the proposal that was brought to the rule

development workshops, the staff recommended that the state fees could be waived for all eligible delegated activities except the DEP General Permits that qualify for a Miscellaneous Activities in Wetlands under Section 1-11.10, Rules of the EPC. The amendment to Section 1-6.05, Fee Schedule Rule will allow the transfer of the current state fee of \$250 and waive collection of all other state application fees for all activities under the delegation agreement. The state fee of \$250 will be combined with the current EPC fee of \$150 for a total fee of \$400. This fee amendment includes no increase in fees and will result in a reduction in the total application fees for applicants in Hillsborough County.

**List of Attachments:**

Draft Section 1-6.05 Services -- Fee Schedule Rule



DRAFT RULE DATED FEBRUARY 8, 2012  
**RULES OF THE  
ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-6  
SERVICES-FEE SCHEDULE**

**1-6.05 WETLANDS AND WATERSHED  
MANAGEMENT**

*1. Land excavation permits	
(a) New and expansion	\$870
(b) Extension and renewal	\$650
*2. Rezoning application	\$300
*3. Subdivision applications	
(a) Preliminary	\$370
(b) Master plan	\$750
(c) Construction	\$490
(d) Final plat	\$200
(e) Minor subdivision plans	\$230
(f) As-build verification	\$300
4. Tampa Port Authority (TPA)	
(a) Delegated Minor Work Permit	\$590
(b) EPC Minor Work Permit Revision	\$ 75
(c) TPA Permit	
(i) Minor Work Permit Environmental and Compliance Review (fee collected by TPA)	\$150
(ii) Standard Work Permit Environmental and Compliance Review (fee collected by TPA)	\$300
*5. Phosphate mining	
(a) Annual review and inspection	\$375
(b) Unit review and reclamation	\$3500
(c) Bimonthly inspections (6 per year)	\$310
(d) Administrative Review	\$100
(e) Land Alteration	\$500
(f) Amendments to Mining/ Reclamation	
(i) Changes within the mining unit	\$1000
(ii) Addition of adjacent acreage	***

*6. Development of regional impact	\$1200
*7. Commercial site development application	\$500
*8. Natural Resources	\$270
*9. Miscellaneous activities in wetlands (MAIW)	
(a) Nuisance species removal	No fee
(b) Dock, boardwalks, riprap, etc.	\$150
(c) <u>Projects requiring EPC MAIW         and Delegated FDEP         Environmental Resource         Permitting (ERP) Noticed         General or Standard General         Permit *****</u>	\$400
10. Wetland delineation	
(a) Less than 250 L.F	\$150
(b) 250 L.F. or greater	\$150 + .20 L.F
11. Wetland mitigation	
(a) Single family homes (review and monitoring reports)	
(i) Review	\$500
(ii) 7 monitoring reports	\$350
** <u>(b) Commercial/subdivision-         forested</u>	\$4975
(i) Review	\$2500
(ii) 11 monitoring reports	\$2475
(c) <u>Commercial/subdivision -         herbaceous</u>	\$4075
(i) Review	\$2500
(ii) 7 monitoring reports	\$1575
(d) <u>Agricultural - Forested</u>	\$1050
(i) Review	\$500
(ii) Monitoring	\$550
(e) <u>Agricultural - Herbaceous</u>	\$850
(i) Review	\$500
(ii) Monitoring	\$350
(f) <u>Amendment to mitigation plan</u>	
(i) <u>Changes in             configuration/ location</u>	\$500
(ii) <u>Changes in elevations/             planting scheme</u>	\$100
(g) <u>Phosphate mining within a         previously approved         mitigation application</u>	

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

- (i) Addition of adjacent area or additional wetland impact request \*\*\*\*

12. Mangrove Trimming and Alteration

(a) Trimming permit per Ch. 1-14.06	\$225
(b) Compliance / monitoring fee for staged trimming for each trim event	\$50
(c) Other Trimming and Alteration permit Single family	\$1,050
(i) Review	\$500
(ii) 11 monitoring reports	\$550
(d) Other Trimming and Alteration permit Commercial / subdivision	\$4,975
(i) Review	\$2500
(ii) 11 monitoring reports	\$2475
(e) Professional Mangrove Trimmer fee per Ch. 1-14.08	
First time registration fee	\$50
Annual renewal fee	\$25

within the Wetlands Division; or (4) request any substantive modifications to an existing approval. For the purposes of this rule, non-substantive modifications shall include the following: modification of an approved mining schedule; modification of an approved reclamation schedule; transfer of permits; and transportation related modifications.

**1.6.05 (5)(e) Land Alteration** – shall include applications that, regardless of whether the proposed activity is within an approved Mining Unit: (1) do not request authorization for wetland impacts; and (2) may necessitate an engineering review within the Wetlands Division. This type of application shall include, but not limited to, the following: authorization to construct or expand access and utility corridors; applications to site settling ponds.

Section History - amended \_\_\_\_\_  
Effective \_\_\_\_\_

**Rule History:**

Adopted 2/28/85, Effective 03/15/85; Amended 02/28/86; Amended 12/11/86; Amended 01/13/88; Amended 02/28/90, Effective 04/01/90; Amended 07/10/90; Amended 08/22/90, Effective 10/01/90; Amended 05/22/91; Amended 09/25/91; Amended 11/05/91; Amended 3/24/93; Amended 5/26/93; Amended 1/25/95; Amended 8/21/97; Amended 9/17/98; Amended 6/12/03, Effective 10/01/03; Amended 2/16/06, Effective 2/24/06; Amended referenced section 10/15/09, Effective 11/2/09; Amended referenced section \_\_\_\_\_, Effective \_\_\_\_\_.

\*Denotes EPC Fees collected by the Planning and Growth Management Department for EPC.

\*\*Only this subsection of Rule 1-6.05.11 applies if the application contains a request for authorization to impact both forested and herbaceous wetlands.

\*\*\*Minimum \$500 or Straight Line Pro-Rata Fee whichever is greater calculated using the following formula: the number of acres of land to be added to an approved mining unit divided by 2500, multiplied by the fee required by Rule 1-6.05.5(b)

\*\*\*\*Minimum \$700 or Straight Line Pro-Rata Fee whichever is greater calculated using the following formula: the number of acres of land to be added to an approved mitigation application divided by 2500, multiplied by the fee required by Rule 1-6.05.11(b) or (c), as applicable.

\*\*\*\*\* All other FDEP fees will be waived for applications for eligible activities under the current ERP delegation agreement.

**Definitions:**

**1.6.05 (5)(d) Administrative Review** - shall include applications that, regardless of whether the proposed activity is within an approved Mining Unit, do not (1) request authorization for wetland impacts; (2) require a field inspection; (3) necessitate an engineering review

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** February 16, 2012

**Subject:** 2012 Legislative Session Update

**Consent Agenda** \_\_\_\_\_ **Regular Agenda:**  X  **Public Hearing** \_\_\_\_\_

**Division:** Legal and Administrative Services

**Recommendation:** Informational report only.

**Brief Summary:** The 2012 Florida Legislative Session began January 10, 2012. EPC staff has already reviewed many bills of interest and are focusing on those that may impact the effectiveness of local governments. The Legal Department will provide an update on the first half of the session, including information regarding fertilizer legislation, wetlands legislation, and proposed changes to the storage tanks compliance program.

**Financial Impact:** No financial impact anticipated.

**Background:** The 2012 Florida Legislative Session commences on Tuesday January 10, 2012 and will close on Friday March 9, 2012. This is an early session due to redistricting. The EPC staff tracks dozens of environmental and administrative bills and the State budget. Additionally staff provides comment, analysis, and assistance to the County's Public Affairs Office, the Florida Association of Counties, and the Florida Local Environmental Resource Agencies (FLERA). The Commission approved a basic legislative strategy (EPC Policy No. 2007-02) on March 15, 2007, that gives staff continuing direction to monitor, comment on, and lobby for, among other things, bills that impact the functions of the EPC.

1. **Petroleum Storage Tanks Compliance:** EPC staff is concerned about a budgetary proposal and DEP staff proposal that in combination may eliminate the contracted local programs (such as the EPC's) that conduct petroleum storage tank compliance inspections in favor of independently contracted inspectors and/or temporary state employees. At the January EPC meeting the Commissioners approved sending a letter to the DEP Secretary, Herschel T. Vinyard, urging him to reconsider the proposal to eliminate these local programs as we cannot afford to risk long term damage to the Florida aquifer, our primary drinking water supply. The letter was issued by the Chairman on February 1, 2012, and with other FLERA members, Dr. Garrity and Rick Tschantz met with Secretary Vinyard on February 2, 2012. Staff will update the Board on this meeting.

2. **Legislative Summary:** The following are some of the more notable bills the EPC has been tracking early in the session:

a) **Fertilizer.** Senate Bill 604 (Dean) and House Bill 421 (Smith). This is a local government preemption bill. SB 604 and HB 421 propose to amend existing fertilizer certification laws (section 482.1562, F.S.) and generally state that certified commercial fertilizer applicators are exempt from following any local fertilizer ordinances. The Legislature passed a law in 2009 (sec. 403.9337, F.S.) that details how a local government could adopt a more stringent local ordinance. The EPC and many other local governments passed fertilizer control rules based on this law. The last two sessions, Legislators have tried to weaken the law. The bill has no grandfather provision for rules/ordinances already in place. Thus, all local ordinances regarding fertilizer application would mainly apply to homeowners who do their own yard work, not to certified commercial fertilizer applicators. An exemption for certified commercial applicators would reduce the effect of local ordinances to the one-size-fits-all minimum provisions set forth in the FDEP Fertilizer Model Ordinance. The bill effectively limits local communities' ability to protect their water bodies from nutrient pollution. If local governments are prohibited from regulating the commercial application of fertilizer, those local governments' ability to comply with stringent State and federal water quality laws (e.g. – TMDLs and numeric nutrient rules) is greatly diminished and they may have to implement more expensive controls to reduce nutrients entering waterways (e.g. – upgrade wastewater treatment plants). In late January, SB 604 was temporarily postponed for lack of support in the Senate Environmental Preservation and Conservation Committee. The bill was heard again in the same Senate Committee on February 7, and it failed and has been laid on the table. The House version has moved through two committees and will be heard on February 8 in the State Affairs Committee. Staff will update the Board with the bill's current status at the meeting.

b) **Environmental Regulation (ERP Delegation).** House Bill 503 (Patronis) and Senate Bill 716 (Bennett). This bill is similar to one proposed last session and it requires any local program that has a wetland and surface water regulatory program to apply for Environmental Resource Permit (ERP, a/k/a – wetlands and surface water permitting) delegation by January 1, 2014 from the Florida Department of Environmental Protection (DEP). If the local program fails to get delegation within 2 years or January 1, 2016, then the local program can no longer require persons to acquire local wetland/surface water permits. Local program with delegation prior to January 1, 2014, do not need to re-apply. The EPC has been delegated ERP permitting from the DEP for single family homes and small structures such as boat ramps, docks, and piling. If this bill passes, the EPC would still have to expedite application for the remainder of ERP permitting delegation which mainly are those portions of ERP performed by SWFWMD, including but not limited to residential subdivisions and commercial developments. Through the efforts of local government, an amendment was negotiated February 1<sup>st</sup> to remove the required delegation provision out of HB 503. That amendment (committee substitute) passed the State Affairs Committee. SB 716 has passed two committees, but does not have the same amendments achieved in the House. We continue to monitor progress in the Senate.

c) **Local Business Tax Repeal.** House Bill 1063 (Rep. O'Toole). This bill is proposing to eliminate the Local Business Tax. EPC operates the small quantity generator (SQG) inspection program for hazardous waste and has an established statutorily-prescribed fee to implement the SQG program. The fees are currently collected by the local tax collector when an SQG business obtains or renews its local business license. This bill would hamper the ability to collect the SQG fee and a new billing mechanism would have to be established (potentially delaying and or eliminating funds). In general, most Counties oppose the legislation based on the loss of fees and the loss of data on new businesses entering a county. The EPC staff opposes this legislation and it appears it is moving slowly

in its first committee (Finance and Tax).

d) **Environmental Resource Permitting (State-Wide Consistency).** HB7003 (Crisafulli) and SB1354 (Detert). This bill proposes to unify the various wetlands permitting rules (ERP) used by the DEP and the five Water Management Districts regarding wetland permitting for stormwater management systems, dams, impoundments, and other similar structures. The DEP is charged with drafting the rule and the WMDs and delegated local programs will have to utilize it. Currently, the DEP has various ERP rules that apply state-wide and the WMD have five different rules that only apply within their jurisdiction, but the DEP utilizes large portions of the WMD rules. Some argue that this can lead to confusion and inconsistency in wetland permitting and enforcement, thus this bill forces one unified ERP rule and standardized fees. The DEP must use the existing DEP and WMD rules as the basis for the new rule, but reconcile differences between the current rules. The DEP also has some flexibility to account for physical and natural differences within each WMD. After the rule is adopted, WMDs may still adopt rules for design and performance standards for stormwater management systems. DEP must conduct training to ensure consistency by DEP, WMD, and delegated local programs. Any new statewide rule is considered also a rule of the WMDs and delegated local programs and can be implemented by them immediately without further rulemaking. Local pollution control programs that have ERP delegation or that propose to have delegation, must adopt the new DEP ERP rules **without modification** for all permitting, compliance, and enforcement purposes. The House bill is moving slowly and is to be heard by its first Committee, House State Affairs Committee, on February 8, 2012. Through local government efforts, the Senate version (SB 1354) was amended February 2<sup>nd</sup> to allow local government to pass more stringent regulations as part of their ERP delegation.

The EPC staff is tracking other bills, such as mitigation banking (HB599/SB824), septic tanks (SB 820), and ordinary high water line demarcation (HB1103/SB1362).

**List of Attachments:** None.

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