

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
COUNTY CENTER 2ND FLOOR
JANUARY 27, 2011
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**
Report from the CEAC Chairman – Danny Alberdi

- III. CONSENT AGENDA**
 - A. Approval of Minutes: December 16, 20103
 - B. Monthly Activity Reports9
 - C. Pollution Recovery Fund Report21
 - D. Gardinier Settlement Trust Fund Report22
 - E. Legal Case Summary, January 2010.....23

- IV. EXECUTIVE DIRECTOR**

- V. FINAL ORDER HEARING**

*Evelyn Romano, Warren Dixon and Andrea Braboy vs. City of Tampa,
Department of Public Works, and EPC - Final Order29*

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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DECEMBER 16, 2010 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, December 16, 2010, 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.

Chairman Beckner called the meeting to order at 9:01 a.m. Commissioner Hagan led in the pledge of allegiance to the flag and gave the invocation.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, said there were no changes.

PUBLIC COMMENT

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

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the CEAC Chairman, Danny Alberdi - Mr. Alberdi welcomed the new chairman and EPC Board members.

CONSENT AGENDA

- A. Approval of minutes: November 10, 2010, EPC board meeting.
- B. Monthly activity report (November 2010).
- C. Pollution Recovery Fund report (November 2010).
- D. Gardinier Settlement Trust Fund report (November 2010).
- E. Legal case summary for December 2010.

Chairman Beckner called for a motion to approve the Consent Agenda. **Commissioner Miller so moved, seconded by Commissioner Murman, and carried seven to zero.**

EPC AGENCY AND DIVISION UPDATES

Dr. Garrity welcomed the returning and new EPC Board members; presented an agency overview, calendar, and initiatives for 2011, as provided in background material; and emphasized the need to do things better.

EPC General Counsel Richard Tschantz highlighted the Sterling management process, identifying priorities and objectives, as stated in background material.

THURSDAY, DECEMBER 16, 2010 - DRAFT MINUTES

Commissioner Crist received guidance from Dr. Garrity; Mr. Jerry Campbell, Director, EPC Air Management Division; and Mr. Robert Stetler, Director, EPC Wetlands Management Division, concerning assessments of authority for rulemaking, policies, processes for improvement, formal tracking systems, and the delegate permit overview, available online through the EPC and County websites.

In answer to Commissioner Crist regarding when the last assessment of County-owned natural resources was done, Mr. Campbell equated the County climate action plan as the closest resemblance. Commissioner Crist suggested the County and State, as significant landowners, should show good stewardship over assets and reallocate resources. Dr. Garrity would initiate discussion on a process.

Chairman Beckner asked for staff to bring back an inventory of State-owned lands around the County. Dr. Garrity would bring that information to the next EPC meeting. Commissioner Murman agreed and thought the Legislative Delegation/subcommittee should be involved and a more simplified permitting process should exist for developers and requested a report on what would be done in that area.

LEGAL AND ADMINISTRATIVE SERVICES DIVISION

Evelyn Romano, et al., Versus City of Tampa, Department of Public Works, and EPC - Discussion Regarding Procedural Issues - Attorney Tschantz clarified his role to legally and procedurally advise. Issues to be decided were the time and location of the final order hearing on January 27, 2011, and whether to increase the time for initial oral arguments from 10 to 20 minutes for each side, as stated in background material. Attorney Tschantz added public comment was optional at the final order hearing and no new evidence would be introduced.

Commissioner Higginbotham was willing to hold the meeting at a time better suited for receiving public comment and recommended 15 minutes for oral argument.

Discussion followed regarding the appropriate meeting location, adjusting schedules, history of the issue, and time for oral arguments/public comment. Noting he resided in the Tampa Palms area, Commissioner Crist wanted formal legal advice on a possible conflict of interest. Attorney Tschantz recommended Commissioner Crist speak with the County Attorney's Office. Commissioner Crist expressed his desire for a formal opinion.

THURSDAY, DECEMBER 16, 2010 - DRAFT MINUTES

Following comments related to finding a venue, Commissioner Miller moved to move the meeting on that particular day to a 6:00 p.m. meeting, wherever staff could find a venue in that neighborhood, and start at 6:00 p.m. and public comment be allowed 20 minutes each for oral arguments at that particular point in time, and allow the public to address the EPC but not open up any further legal issues. (The motion was subsequently withdrawn).

Commissioner Higginbotham suggested the Florida Commission on Ethics to Commissioner Crist regarding the conflict issue. Attorney Tschantz added Commissioner Crist could abstain from voting.

Commissioner Murman requested detailed background information on the issue. Attorney Tschantz agreed to supply a notebook prior to the hearing date.

Responding to Commissioner Beckner, Attorney Tschantz discussed alternate venue cost estimates. Discussion continued about meeting dates/schedule conflicts and venue. Commissioner Miller withdrew his motion.

After cautioning against other topics surfacing, regardless of where the meeting was held; urging all to remain focused on the issue at hand; and remarking on public comment opportunities, Commissioner Sharpe moved to hold the hearing on the morning of January 27, 2011, as regularly scheduled at 9:00 a.m., and provide each of the participants 20 minutes to speak, and to also allow public comment, seconded by Commissioner Miller. Following discussion on the order of the regularly scheduled meeting, the motion carried six to one; Commissioner Crist voted no.

EPC AGENCY AND DIVISION UPDATES - RESUMED

Mr. Campbell expanded on the EPC Office of Sustainability establishment/responsibilities, which would attempt to increase public awareness on lessening energy use, develop County savings, provide full-time employment, attempt to gain access to grant money, and educate the public on available rebates, pursuant to background material. Referring to rebate funds allocated for energy-efficient appliance purchases, Commissioner Crist moved to make a recommendation to the Board of County Commissioners (BOCC) at the next regular BOCC meeting to do a resolution and forward on to the State, seconded by Commissioner Murman. The motion was amended to include in support of adequately funding the rebate program. The motion carried four to zero. (Commissioners Higginbotham, Miller, and Sharpe were out of the room.)

Mr. Andy Schipfer, EPC staff, presented an overview of the petroleum cleanup and the storage tank programs, as supplied in background material; noted

THURSDAY, DECEMBER 16, 2010 - DRAFT MINUTES

deficient funding; and requested a letter supporting the petroleum cleanup program. After elaborating on local matching funds, partnerships, State leverage, new leadership, and economic development and recommending a hand-delivered resolution, Commissioner Crist moved for a resolution to do two letters; one to the legislature, a second to the governor, as quickly as possible recommending they fund the program; and to encourage the BOCC to take a look at what was possible to cultivate some additional funds on a local level to help leverage State dollars. Commissioner Murman seconded the motion, suggested targeting specific areas and to diligently seek funding, mentioned a legislative priority list, was supportive of more Brownfields remediation dollars, and asked for a follow-up report at the next meeting. After determining which entity would author the letters, **the motion carried four to zero.** (Commissioners Higginbotham, Miller, and Sharpe were out of the room.)

Mr. Stetler discussed wetland one-stop permitting, compliance, and enforcement and outlined goals.

Mr. Christopher Dunn, Director, EPC Water Management Division, expounded on a nutrient management initiative overview, mentioned the fertilizer use and landscape management rule, and highlighted the website address, as indicated in background material.

EXECUTIVE DIRECTOR

Grant Awards - Totaling \$72,000 (Tampa Bay Estuary Program [TBEP]) - Dr. Garrity reported \$72,000 was received from the TBEP to do water-quality sampling for shoreline restoration work and benthic analysis.

24/7 On-Call Efficiencies - Dr. Garrity remarked about achievement of the 24/7 on-call efficiencies used to save money.

Great American Teach-in - Dr. Garrity discussed the program. Commissioner Crist remarked on the Muller Elementary School natural resources studies and questioned EPC efforts to educate those students in environmental stewardship. Dr. Garrity would research that opportunity.

WASTE MANAGEMENT DIVISION

Update - EPC Staff/Consultant Review - Energy Efficiency of the Roger Stewart Center - Mr. Jerry Javier, EPC, gave a briefing on building certification and said staff was seeking grants for solar panel rooftops, as supplied in background material. In reply to Chairman Beckner, Mr. Javier and Dr. Garrity

THURSDAY, DECEMBER 16, 2010 - DRAFT MINUTES

explained the implications of achieving leadership in energy and environmental design standards.

LEGAL AND ADMINISTRATIVE SERVICES DIVISION - RESUMED

Update - Legislative Policy Procedures - Attorney Tschantz pointed out legislative policy enacted by the EPC, as reflected in background material, and referenced the underground storage tank as a future legislative item.

Update - Role of CEAC - Attorney Rick Muratti, EPC Legal Department, elaborated on historical information, outlined general CEAC functions, and furnished guidance to Commissioners Hagan and Murman regarding appointment/replacement of appointees.

There being no further business, the meeting was adjourned at 10:57 a.m.

READ AND APPROVED:

CHAIRMAN OR VICE CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____
Deputy Clerk

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

DEC

A. Public Outreach/Education Assistance

1. Phone calls	247
2. Literature Distributed	2
3. Presentations	2
4. Media Contacts	0
5. Internet	62
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	2
b. Construction	1
c. Amendments / Transfers / Extensions	3
d. Title V Operating:	17
e. Permit Determinations	4
f. General	2
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	5
b. Construction ^1	12
c. Amendments / Transfers / Extensions^1	0
d. Title V Operating ^2	5
e. Permit Determinations	0
g. General	0
3. Intent to Deny Permit Issued	0

C. Administrative Enforcement

1. New cases received	1
2. On-going administrative cases	
a. Pending	9
b. Active	13
c. Legal	1
d. Tracking compliance (Administrative)	9
e. Inactive/Referred cases	0
TOTAL	32
3. NOIs issued	1
4. Citations issued	0
5. Consent Orders Signed	1
6. Contributions to the Pollution Recovery Fund	\$ -
7. Cases Closed	0

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

DEC

D. Inspections

1.	Industrial Facilities	8
2.	Air Toxics Facilities	
	a. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	0
	b. Major Sources	7
3.	Asbestos Demolition/Renovation Projects	12

E. Open Burning Permits Issued

2

F. Number of Division of Forestry Permits Monitored

83

G. Total Citizen Complaints Received

36

H. Total Citizen Complaints Closed

39

I. Noise Sources Monitored

1

J. Air Program's Input to Development Regional Impacts

2

K. Test Reports Reviewed

30

L. Compliance

1.	Warning Notices Issued	4
2.	Warning Notices Resolved	6
3.	Advisory Letters Issued	3

M. AOR's Reviewed

0

N. Permits Reviewed for NESHAP Applicability

3

O. Planning Documents coordinated for Agency Review

2

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

DEC

A. ENFORCEMENT

1.	New cases received	4
2.	On-going administrative cases	107
	Pending	2
	Active	52
	Legal	10
	Tracking Compliance (Administrative)	43
	Inactive/Referred Cases	-
3.	NOI's issued	-
4.	Citations issued	1
5.	Consent Orders and Settlement Letter Signed	2
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$ 6,090
7.	Enforcement Costs Collected (\$)	\$ 1,552
8.	Cases Closed	3

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	2
2.	FDEP Permits Reviewed	1
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	2
4.	Other Permits and Reports	
	County Permits Received	12
	County Permits Reviewed	31
	Reports Received	11
	Reports Reviewed	19
5.	Inspections (Total)	618
	Complaints	21
	Compliance/Reinspections	13
	Facility Compliance	21
	Small Quantity Generator	563
	P2 Audits	-
6.	Enforcement	
	Complaints Received	20
	Complaints Closed	18
	Warning Notices Issued	-
	Warning Notices Closed	5
	Compliance Letters	24
	Letters of Agreement	-
	Agency Referrals	-
7.	Pamphlets, Rules and Material Distributed	26

C. STORAGE TANK COMPLIANCE

1.	Inspections	
	Compliance	86
	Installation	8
	Closure	6
	Compliance Re-Inspections	7

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

DEC

2.	Installation Plans Received	6
3.	Installation Plans Reviewed	2
4.	Closure Plans & Reports	
	Closure Plans Received	2
	Closure Plans Reviewed	2
	Closure Reports Received	3
	Closure Reports Reviewed	-
5.	Enforcement	
	Non-Compliance Letters Issued	43
	Warning Notices Issued	-
	Warning Notices Closed	3
	Cases Referred to Enforcement	-
	Complaints Received	-
	Complaints Investigated	-
	Complaints Referred	-
6.	Discharge Reporting Forms Received	-
7.	Incident Notification Forms Received	14
8.	Cleanup Notification Letters Issued	-

D. STORAGE TANK CLEANUP

1.	Inspections	17
2.	Reports Received	81
3.	Reports Reviewed	74
	Site Assessment Received	10
	Site Assessment Reviewed	9
	Source Removal Received	1
	Source Removal Reviewed	1
	Remedial Action Plans (RAP'S) Received	12
	Remedial Action Plans (RAP'S) Reviewed	5
	Site Rehabilitation Completion Order/No Further Action Rec'd	3
	Site Rehabilitation Completion Order/No Further Action Revw'd	4
	Active Remediation/Monitoring Received	33
	Active Remediation/Monitoring Reviewed	38
	Others Received	22
	Others Reviewed	17

E. RECORD REVIEWS

11

F. LEGAL PIR'S

9

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

DEC

A. ENFORCEMENT

1.	New Enforcement Cases Received	1
2.	Enforcement Cases Closed	-
3.	Enforcement Cases Outstanding	38
4.	Enforcement Documents Issued	1
5.	Recovered Costs to the General Fund	\$ -
6.	Contributions to the Pollution Recovery Fund	\$ -

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1.	Permit Applications Received	12
a.	Facility Permit	7
	(i) Types I and II	1
	(ii) Type III	6
b.	Collection Systems - General	2
c.	Collection systems-Dry Line/Wet Line	3
d.	Residuals Disposal	-
2.	Permit Applications Approved	8
a.	Facility Permit	4
b.	Collection Systems - General	2
c.	Collection systems-Dry Line/Wet Line	2
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	27
a.	Facility Permit	21
b.	Collection Systems - General	-
c.	Collection systems-Dry Line/Wet Line	6
d.	Residuals Disposal	-
7.	Permit Determination	1
8.	Special Project Reviews	-

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

DEC

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

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	11
a. Inspection (CEI)	3
b. Sampling Inspection (CSI)	8
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance	26
a. Inspection (RI)	10
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	16
d. Enforcement Inspection (ERI)	-
3. Engineering Inspections	19
a. Reconnaissance Inspection (RI)	1
b. Sample Reconnaissance Inspection (SRI)	-
c. Residual Site Inspection (RSI)	-
d. Preconstruction Inspection (PCI)	3
e. Post Construction Inspection (XCI)	15
f. On-site Engineering Evaluation	-
g. Enforcement Reconnaissance Inspection (ERI)	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	-
a. Facility Permit	-
(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	-
2. Permits Recommended to DEP for Approval	-
3. Special Project Reviews	-
a. Facility Permit	-
b. General Permit	-
4. Permitting Determination	-
5. Special Project Reviews	27

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

DEC

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

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	6
a. Inspection (CEI)	6
b. Sampling Inspection (CSI)	-
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance (Total)	17
a. Inspection (RI)	3
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	14
d. Enforcement Inspection (ERI)	-
3. Engineering Inspections (Total)	6
a. Compliance Evaluation (CEI)	6
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	11
(i) Received	6
(ii) Closed	5
b. Industrial	13
(i) Received	5
(ii) Closed	8
2. Warning Notices	
a. Domestic	3
(i) Issued	3
(ii) Closed	-
b. Industrial	2
(i) Issued	2
(ii) Closed	-
3. Non-Compliance Advisory Letters	5
4. Environmental Compliance Reviews	163
a. Industrial	39
b. Domestic	124

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

DEC

5. Special Project Reviews	4
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G. RECORD REVIEWS

1. Permitting Determination	6
2. Enforcement	1

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

1. Air division	106
2. Waste Division	-
3. Water Division	11
4. Wetlands Division	-
5. ERM Division	162
6. Biomonitoring Reports	5
7. Outside Agency	8

I. SPECIAL PROJECT REVIEWS

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

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

DEC

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	-

PGMD Reviews Performance Report

# of Reviews	54
Timeframes Met	100%
Year to Date	99%

Formal Wetland Delineation Surveys

Projects	10
Total Acres	139
Total Wetland Acres	43
# Isolated Wetlands < 1/2 Acre	2
Isolated Wetland Acreage	0.5

Construction Plans Approved

Projects	16
Total Wetland Acres	11
# Isolated Wetlands < 1/2 Acre	2
Isolated Wetland Acreage	0.77
Impacts Approved Acreage	2.78
Impacts Exempt Acreage	0.77

Mitigation Sites in Compliance

Ratio	181/189
Percentage	96%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	0
Acreage of Water Quality Impacts	-
Acreage Restored	1

General

Telephone Conferences	545
Scheduled Meetings	304
Unscheduled Citizen Assistance	296

REVIEW TIMES

# of Reviews	213
% On Time	96%
% Late	4%

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

DEC

A. General

1.	Telephone conferences	545
2.	Unscheduled Citizen Assistance	296
3.	Scheduled Meetings	304
4.	Correspondence	1,063
1/ 5.	Intergency Coordination	152
1/ 6.	Trainings	11
1/ 7.	Public Outreach/Education	1
1/ 8.	Quality Control	63

B. Assessment Reviews

1.	Wetland Delineations	8
2.	Surveys	13
3.	Miscellaneous Activities in Wetland	21
4.	Mangrove	1
5.	Notice of Exemption	1
6.	Impact/Mitigation Proposal	14
7.	Tampa Port Authority Permit Applications	54
8.	Wastewater Treatment Plants (FDEP)	-
9.	Development Regn'l Impact (DRI) Annual Report	1
10.	On-Site Visits	69
11.	Phosphate Mining	2
12.	Comp Plan Amendment (CPA)	2
1/ 13.	AG SWM	-
	Sub-Total	

Planning and Growth Management Review

14.	Land Alteration/Landscaping	-
15.	Land Excavation	1
16.	Rezoning Reviews	3
17.	Site Development	26
18.	Subdivision	11
19.	Wetland Setback Encroachment	2
20.	Easement/Access-Vacating	-
21.	Pre-Applications	10
1/ 22.	Agriculture Exemption	-
	Sub-Total	
	Total Assessment Review Activities	

C. Investigation and Compliance

1.	Warning Notices Issued	3
2.	Warning Notices Closed	7
1/ 3.	Complaints Closed	15
4.	Complaint Inspections	35

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

DEC

5.	Return Compliance Inspections for Open Cases	22
6.	Mitigation Monitoring Reports	28
7.	Mitigation Compliance Inspections	25
8.	Erosion Control Inspections	26
9.	MAIW Compliance Site Inspections	20
10.	TPA Compliance Site Inspections	23
2/ 11	Mangrove Compliance Site Inspections	4
1/ 12	Conservation Easement Inspection	-

D. Enforcement

1.	Active Cases	19
2.	Legal Cases	2
3.	Number of "Notice of Intent to Initiate Enforcement"	2
4.	Number of Citations Issued	-
5.	Number of Consent Orders Signed	-
6.	Administrative - Civil Cases Closed	1
7.	Cases Referred to Legal Department	2
8.	Contributions to Pollution Recovery	\$ 325
9.	Enforcement Costs Collected	\$ -

E. Ombudsman

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

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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 11 POLLUTION RECOVERY TRUST FUND
10/1/2010 through 12/31/2010**

<i>REVENUE</i>		
Balance (beginning)	\$	620,687
Interest Accrued	\$	1,776
Deposits	\$	20,103
Refunds from closed Projects	\$	76,571
Revenue Total	\$	719,137

<i>EXPENDITURES</i>		
Project Management (EPE06009)	\$	20,835
Artificial Reef (EPE03025)	\$	29,556
Expenditures Total	\$	50,391

<i>ENCUMBRANCES</i>		
FY 11 Project Obligations	\$	-
Project Monitoring (EPE06009)	\$	108,635
Artificial Reef Program (EPE03025)	\$	113,874
Encumbrances Total	\$	222,509

<i>RESERVES</i>		
Minimum Balance	\$	120,000
EST. FY12 Budget: Artificial Reef & Project Management	\$	199,900
Remediation of Illegally Dumped Asbestos (EPE03045)	\$	5,000
Reserves Total	\$	324,900

NET POLLUTION RECOVERY FUND	\$	121,337
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PROJECT	Project Amount	Project Balance
FY 06 Projects		
#04-03 - Bahia Beach Restoration	150,000	20,918
	\$ 150,000	\$ 20,918
FY 07 Projects		
#06-04A - Erosion Control/Oyster Bar Habitat Creation	75,000	50,000
	\$ 75,000	\$ 50,000
FY 08 Projects		
#07-04 - Restoration of MOSI	125,000	1,636
#07-03 - Invasive Plant Removal Egmont Key	133,000	12,415
#07-05 - Testing Reduction of TMDL in Surface Water F	19,694	7,479
	\$ 277,694	\$ 21,530
FY 09 Projects		
#08-05 - MacDill Phase 2 Seagrass Transplanting	79,196	17,745
#08-01 - McKay Bay Sediment Quality	55,000	25,303
#08-04 - Mini FARMS BMP Implementation	50,000	28,819
#08-08 - Site Assessment & Removal of Contaminated S	25,000	6,360
#08-03 - Wetland Restoration on County Owned Lands	120,000	106,000
	\$ 329,196	\$ 184,227
FY 10 Projects		
#09-01 - Basis of Review for Borrow Pit Applications	\$ 68,160	\$ 62,050
#09-02 - Effects of Restoration on Use of Habitat	84,081	69,914
#09-03 - Artificial Wetland Cells	5,500	5,500
#09-05 - East Lake Watershed	46,300	46,300
#09-04 - Pilot Project for Outfall Water Quality Lake Ma	92,000	92,000
#09-06 - Greenhouse Gas Inventory	75,000	50,751
	\$ 371,041	\$ 326,515

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 11 GARDINIER SETTLEMENT TRUST FUND
10/1/2010 - 12/31/2010**

Fund Balance as of 10/1/10	\$ 252,021
Interest Accrued	320
Disbursements FY 11	-
	<hr/>
Fund Balance	\$ 252,341
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	\$ 252,341
	<hr/>
Total Encumbrances	\$ 252,341
	<hr/>
Fund Balance Available	<u><u>\$ -</u></u>



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 27, 2011

Subject: Legal Case Summary for January 2011

Consent Agenda **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: January 2011 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
January 2011

ADMINISTRATIVE CASES

LMJ Investments, LLP, Monique M. Agia, Lisa Agia Individually and as Trustees of the Agia Children Irrevocable Trust [LEPC10-016]: On September 8, 2010 the Appellant filed a request for an extension of time to file an Appeal of a denial of a wetland impact. The request was granted and the Appellant has until October 4, 2010 to file an Appeal in this matter. On October 4, 2010, the Appellant filed a second request for an extension of time until October 8, 2010. The request was granted, and on October 8, 2010 an Appeal was filed. The case has been assigned to a Hearing Officer who will conduct an administrative hearing. (AZ)

Evelyn Romano et al. v. EPC and City of Tampa [LEPC09-005]: On March 7, 2009 the Appellant filed a request for an extension of time to file a Notice of Appeal to challenge a wetland impact approval and mitigation agreement. The Legal Department granted the request and the Appellant has until April 30, 2009 to file an appeal in this matter. On April 27, 2009 the Appellant filed a Notice of Appeal and the matter has been transferred to a Hearing Officer to conduct an administrative hearing. The parties conducted a case management conference and set the final hearing date in this matter for January 7, 2010. The parties conducted the administrative appeal on January 7, 2010 and the Hearing Officer issued his recommendation on February 19, 2010 upholding the Executive Director's decision. A final hearing before the Commission was held during the April EPC regular meeting. On April 15, 2010 the Commission voted to remand the matter back to the Hearing Officer. The parties submitted memoranda of law on the legal issues and scheduled an oral argument for August 18, 2010. Oral argument was heard on August 18, 2010. The parties submitted additional memoranda regarding the entry of the Remand Order and the Hearing Officer entered his recommended order on November 15, 2010. The matter will be heard in the future. (AZ)

CIVIL CASES

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)

Glenn Sussan Ford Ledford [LEPC10-018]: On September 16, 2010 the Commission granted authority to take legal action against Defendant Glen Sussan Ford Ledford for failure to comply with the terms of a signed Consent Order. On October 21, 2010 the EPC filed a Statement of Claim in County Court (Small Claims Court) and a Notice to Appear for Pretrial Conference/Mediation was issued by the Court. A default was entered against the Defendant for failure to appear at the Pre-trial conference on December 16, 2010. The EPC Legal Department is seeking a Default Judgment now. (AZ)

Lambert Marine Construction, LLC. [LEPC10-017]: On September 16, 2010 the Commission granted authority to take legal action against Defendant Lambert Marine Construction, Inc. for failure to comply with the terms of an agreed upon Settlement Letter. (AZ)

Adam Lakhani, L&D Petroleum and Roberto Diaz (Chevron 41) [LEPC10-015]: On July 15, 2010 the Commission granted authority to take legal action against the parties for violations of the EPC Act, Chapter 1-7, Rules of the EPC, and Chapter 62-770, F.A.C. for unresolved petroleum contamination on property owned and managed by the parties. The parties are negotiating a settlement of the case. (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 violations of the EPC Act, Chapter 1-11, Rules of the EPC, and the terms of a conservation easement encumbering the Respondents' property. The case involves wetland violations and prohibited impacts in a conservation easement. 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. A Case Management Conference was scheduled with the judge for May 24, 2010 and the parties were directed to complete mediation within sixty days. Mediation occurred on July 16, 2010 but resulted in an impasse. The EPC Legal Department filed a Motion for Partial Summary Judgment in the case. The parties have been sent back to mediation but are also preparing for trial. (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 EPC Board granted authority to take legal action against Respondent for violations of the EPC Act and EPC Rules, Chapter 1-10. 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 against the Defendant. The Defendant did not respond to the complaint and the EPC filed a Motion for Default on June 29, 2010. The default was not accepted. On August 27, 2010, the EPC filed a Motion for a Court ordered default. The Default was issued on September 30, 2010. On January 14, 2011, EPC filed a Motion to Set Cause for Trial. (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)

Realty Group, LLC., SRJ Enterprises, LLC and Surinder Joshi [LEPC08-028]: On November 13, 2008, the EPC Board granted authority to take legal action against the Defendants for unresolved violations of several EPC Rules including the Waste Management Rule, Chapter 1-7, the Storage Tank Rule, Chapter 1-12, and the Water Quality Rule, Chapter 1-5 at the 301 Truck Stop. On April 23, 2009, the EPC Legal Department filed a lawsuit seeking all corrective actions as well as assessment of civil penalties and costs in the matter. A non-jury trial was conducted on June 14, 2010. The Court issued a final judgment against the previous owners on June 15, 2010 directing the Defendant to complete all corrective actions and to pay \$7,098.26 in costs and \$95,390.00 in penalties. The property has been acquired by a new owner after a foreclosure. The EPC Legal Department is in negotiations with the new owner concerning a settlement. SJ Realty is appealing the foreclosure and this case will remain open pending the results of the appeal. (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)

Ecoventure New Port I, LLC [LEPC08-006]: Authority to take appropriate legal action against Ecoventure New Port I, LLC for failure to assess petroleum contamination in accordance with EPC and State regulations was granted on March 20, 2008. The property owner is 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. On April 27, 2010, the EPC filed a civil lawsuit against the Defendant. The Defendant did not respond to the lawsuit and the EPC Legal Department filed a Motion for Default on June 1, 2010. The Clerk of Court issued a Default on June 4, 2010. The EPC obtained a Final Judgment against the Defendant for injunctive relief and a lien of \$1,789 in costs and \$100,275.00 in penalties for failure to comply with the petroleum cleanup regulation rules. The judgment will also attach to the property pending a future sale or conveyance. Case has been closed in Legal. (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 requiring the facility to temporarily shut down until the facility is remediated. (RM)

Miley's Radiator Shop [LEPC06-011]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Miley's Radiator Shop, Calvin Miley, Jr., Calvin Miley, Sr., and Brenda Joyce Miley Tyner for waste management violations for improper storage and handling of car repair related wastes on the subject property. In addition, a citation was entered against the respondents on October 28, 2005 requiring specific corrective actions. The Respondents have not complied with the citation. The EPC is preparing to file a lawsuit for the referenced violations. (AZ)

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)

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. [EPC10-024]: On December 17, 2010 the Petitioner filed a request for an extension of time to file a petition challenging an Air permit. The request was granted and the Petitioner has until February 11, 2011 to file a petition in this matter. (RM)

Johnson Controls Battery Group, Inc. [LEPC10-23]: On November 17, 2010, the Petitioner filed a request for an extension of time to file a petition challenging an Air Construction permit. The request was granted and the Petitioner has until December 17, 2010 to file a petition in this matter. All issues have been resolved and the Petitioner withdrew their extension of time on December 14, 2010. This case has been closed. (RM)

U.S.H. & B Corporation [LEPC10-022]: On November 8, 2010 the Petitioner filed a request for an extension of time to file a petition challenging the Notice of Permit Denial issued on November 3, 2010. The request was granted and the Petitioner has until February 16, 2011 to file a petition in this matter. (RM)

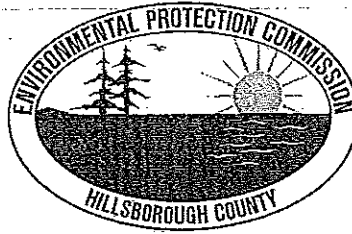
Pine Oaks Mobile Home Park, LLC [LEPC10-013]: On July 1, 2010 the Petitioner filed a request for an extension of time to challenge a domestic wastewater permit denial. The request was granted and the Petitioner had until October 6, 2010 to file a petition in this matter. On September 30, 2010 the Petitioner filed a second request for an extension of time. The request was granted and the Petitioner had until January 4, 2011 to file a petition in this matter. The petitioner filed a third request for an extension of time which was granted. The deadline for filing a petition in this matter is March 7, 2011. (RM)

Roshini Investments, LLC [LEPC10-008]: On April 9, 2010 the Appellant submitted a request for an extension of time to file a Notice of Appeal to challenge a Citation of Violation and Order to Correct Issued by the EPC on March 19, 2010. The request was granted and the Appellant had until May 12, 2010 to file an Appeal. Three subsequent requests for extensions of time were filed and granted. The parties are working to resolve the issues and the appellant has until November 8, 2010 to file a petition in this matter. (AZ)

Circle K Stores, Inc. [LEPC10-003]: On February 23, 2010 the Appellant filed a request for an extension of time to file a Notice of Appeal regarding the Citation of Violation and Order to Correct that was issued on February 12, 2010. The request was granted and the Appellant has until June 7, 2010 to file an appeal in this matter. (AZ)

Caracara, LLC a/k/a Karakara, LLC [LEPC09-019]: On October 27, 2009, the Appellant filed a request for an extension of time to file an Appeal regarding a Citation of Violation and Order to Correct that was issued on September 30, 2009. The request was granted and the Appellant had until January 18, 2010 to file an appeal in this matter. On January 7, 2010 the Appellant filed a second request for an extension of time. The request was granted and the Appellant had until April 19, 2010 to file an appeal in this matter. A third request for an extension of time was granted and the Appellant has until July 19, 2010 to file an appeal in this matter. The Appellant filed an Appeal in this matter on October 19, 2009. The issues have been resolved and on December 13, 2010, the EPC withdrew the Citation of Violation and Order to Correct and on December 15, 2010 the Appellant withdrew their appeal. **This case has been closed. (AZ)**

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 27, 2011

Subject: *Evelyn Romano, Warren Dixon and Andrea Braboy vs. City of Tampa, Department of Public Works, and EPC - Final Order Hearing*

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

Division: Wetland Management Division and Legal Department

Recommendation: Review the Hearing Officer's Amended Recommended Order After Remand, Hear Oral Argument from the Parties, and Render a Final Order.

Brief Summary: On April 27, 2009, Evelyn Romano et. al, filed an appeal challenging an EPC wetland impact authorization to the City of Tampa for the construction of the New Tampa Boulevard Extension (NTBE). The parties conducted an administrative hearing on January 7, 2010. The Hearing Officer's Recommended Order found in favor of the City of Tampa and the EPC, thus upholding the wetland impact authorization for the project. Exceptions to the Recommended Order were timely filed by Evelyn Romano and the EPC. At the Final Order Hearing on April 15, 2010, the Commission remanded the case back to the Hearing Officer for further findings of fact. On November 15, 2010, the Hearing Officer issued a Recommended Order After Remand upholding the wetland impact authorization for the project. The Appellants filed Exceptions and the Respondents filed a Response to the Exceptions and a Motion to Strike. Pursuant to Chapter 1-2, Rules of the EPC, the Commission must review the exceptions and response and adopt, reject, reverse, or modify the Recommended Order or, if appropriate, the Commission can remand the case for more fact finding. The parties have an opportunity to present oral argument at the Final Order hearing.

Financial Impact: No Financial Impact Anticipated

Background:

On January 2, 2008, the Executive Director issued a Wetland Permit approving an estimated 2.2 acres of wetland impact for the construction of the NTBE which begins at the current western dead-end of New Tampa Boulevard in New Tampa and bridges over I-75 to Commerce Boulevard. The Wetland Permit included the findings that (1) the "proposed impact to the wetland is necessary for the reasonable use of the Applicant's property" and (2) the mitigation plan "would provide adequate protection of the environmental benefits" of the wetland, meaning the mitigation proposed satisfied the requirements under Sections 1-11.08 and 1-11.09(1)(b), Rules of the EPC. The Appellant filed a Notice of Appeal pursuant to EPC Rule 1-2.30(b)

challenging the Wetland Permit. The Appellant then filed her appeal pursuant to Section 9 of the EPC enabling act, Chapter 84-446, Laws of Florida, challenging the Executive Director's approval. The issues are whether the Appellant has standing to challenge the decision and, if so, whether Tampa has provided reasonable assurance that the "proposed impact to the wetland is necessary for the reasonable use" of Tampa's property under the EPC Act, the EPC Wetland Rule Chapter 1-11, and Chapter III of the adopted "Basis of Review For Authorization of Activities Pursuant to Chapter 1-11 -- Wetlands.

An Administrative Hearing was conducted on January 7, 2010. The Hearing Officer, issued a Recommended Order on February 19, 2010. The Hearing Officer found that based on the facts and the law, the Appellant lacks standing to bring this appeal and even if the Appellant had standing, the appeal fails on the merits. The Hearing Officer recommended a Final Order be issued dismissing the appeal and that the permit be issued for a time period of two years and two months after the date of the Final Order. The Appellant and the Executive Director filed exceptions to the Recommended Order.

At the Final Order Hearing on April 15, 2010, the Commission remanded the case back to the Hearing Officer for further findings of fact. On November 15, 2010, the Hearing Officer issued a Recommended Order After Remand revising certain findings of facts and conclusions of law and upholding the wetland impact authorization for the project. The Appellants filed Exceptions and the Respondents filed a Response to the Exceptions and a Motion to Strike.

Pursuant to Chapter 1-2.35, Rules of the EPC, Counsel for the parties may present oral argument to the Commission on issues raised in the Exceptions to the Amended Recommended Order After Remand. The Commission has set a time limit of 20 minutes for each party to address the Exceptions and Response to the Exceptions and Motion to Strike. The Commission must adopt, reject, reverse, or modify the Amended Recommended Order After Remand via a Final Order or, if appropriate, the Commission may remand the case for more fact finding. If there is no remand, the Commission is charged with issuing a Final Order after hearing argument from all the parties during the Commission meeting. Even though this is not a public hearing, the Commission has the discretion to allow the public limited comment. If the public does comment on the case, the parties have an opportunity for a brief closing argument. No evidence may be taken by the Commission.

The Commission will then discuss and vote on the matter. Chapter 1-2.35, Rules of the EPC explains that the "Commission may reject, reverse or modify a finding of fact only if it finds that the fact is not supported by substantial competent evidence in the record." Furthermore, nothing in the Final Order can be contrary to the EPC Act or rules. Subsequent to the Board meeting, a Final Order will then be drafted, executed by the Chairman, and issued to the parties based on the decision of the Commission.

List of Attachments: Pleadings in Commissioners' Notebooks are available on-line