

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
COUNTY CENTER 2ND FLOOR
AUGUST 18, 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: July 28, 2011	3
B. Monthly Activity Reports	7
C. Pollution Recovery Fund Report, July 2011.....	19
D. Gardinier Settlement Trust Fund Report, July 2011.....	20
E. Legal Case Summary, August 2011.....	21
F. Request for Authority to take appropriate legal action against John M. and Joanna Roberts.....	25
G. Request for Authority to take appropriate legal action against Peter L. Kadyk/Eco Wood Systems, Inc.	27

IV. AIR MANAGEMENT DIVISION

A. Central Florida Pipeline Jet Fuel Spill Update	29
B. Ambient Air Monitoring near Mosaic's Phosphogypsum Stack.....	31

V. WASTE MANAGEMENT DIVISION

Groundwater Protection and Groundwater Cleanup in Hillsborough County	33
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VI. WATER MANAGEMENT DIVISION

Update on Proposed Numeric Nutrient Criteria	35
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VII. LEGAL & ADMINISTRATIVE SERVICES DIVISION

A. Pasco County Landfill Update.....	37
B. MOU between County and EPC for Exotics Removal and Mangrove Enhancement Work at Bahia Beach	39

VIII. EXECUTIVE DIRECTOR REPORT

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

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JULY 28, 2011 - ENVIRONMENTAL PROTECTION COMMISSION

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, July 28, 2011, 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 9:03 a.m.), Ken Hagan (arrived at 9:06 a.m.), Al Higginbotham, Lesley Miller Jr., Sandra Murman, and Mark Sharpe (arrived at 9:11 a.m.).

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

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, referenced Item II, stating the Citizens Environmental Advisory Committee did not meet in July 2011; recommended Items F and H be removed from the Consent Agenda since those cases were settled through consent orders; inserted an update on the recent jet fuel spill after the Consent Agenda; and under Executive Director Report, said Item V.B. should read Environmental Protection Agency (EPA) ambient air monitoring audit and added Item D to summarize an EPA grant received. Chairman Beckner asked for a motion to approve the changes. **Commissioner Murman so moved, seconded by Commissioner Miller, and carried five to zero.** (Commissioners Hagan and Sharpe had not arrived.)

PUBLIC COMMENT

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

CONSENT AGENDA

- A. Approval of minutes: May 19, 2011.
- B. Monthly activity reports.
- C. Pollution Recovery Fund reports, May and June 2011.
- D. Gardinier Settlement Trust Fund reports, May and June 2011.
- E. Legal case summaries, June and July 2011.
- F. Request for authority to take appropriate legal action against Automated Petroleum and Energy Company Incorporated and Sailfish Real Estate LLC.
Deleted from the agenda.

THURSDAY, JULY 28, 2011

- G. Request for authority to take appropriate legal action against PATCO Transport Incorporated and Chip Investment 2 LLC.
- H. Request for authority to take appropriate legal action against CRF - Panther V LLC. **Deleted from the agenda.**

Chairman Beckner called for a motion to approve the Consent Agenda. **Commissioner Crist so moved, seconded by Commissioner Murman, and carried five to zero.** (Commissioners Hagan and Sharpe had not arrived.)

JET FUEL SPILL UPDATE

Dr. Garrity introduced the item. Mr. Alain Watson, EPC, spoke to the jet fuel spill, emergency response efforts, and establishing a unified command, as furnished in background material, and answered Commissioner Crist relative to ongoing investigations, penalties, and cleanup costs. Attorney Rick Muratti, EPC Legal Department, confirmed the County would be entitled to damages should liability be determined. Discussion ensued regarding gross negligence and equipment deterioration. Dr. Garrity responded to Chairman Beckner about collecting expenses/damages from the responsible party later. Commissioner Miller and Dr. Garrity gave laudatory comments to staff involved. (Resumed later in the meeting.)

AIR MANAGEMENT DIVISION

Davis Productivity Award - Dr. Garrity emphasized the item. Mr. Sterlin Woodard, EPC, Air Management Division, explained collaborative efforts between Kinder Morgan, the Florida Department of Environmental Protection (FDEP), and the EPC corresponding to a fuel recovery project, as provided in background material; talked about the award received; and announced Murphy Oil Corporation was working on a similar project. Commissioner Murman presented a certificate of commendation to Mr. Woodard for exceptional service.

Hillsborough County Government Energy and Sustainability Plan (ESP) - Dr. Garrity highlighted the item. Ms. Margaret Rush, EPC, summarized the plan, as provided in background material, and mentioned websites for accessing ESP information. Commissioner Sharpe expounded on establishing charging stations in Hillsborough County and transitioning from oil/diesel to electric vehicles and compressed natural gas. Dr. Heike Naigur, Carbon Solutions America LLC, and Ms. Megan Miller, Public Utilities, responded to Commissioner Miller about measuring commuter habits and methane gas conversion costs. Commissioner Miller opined savings would result from partnering with other fleet systems. Commissioner Murman supported the project and emphasized implementing a

THURSDAY, JULY 28, 2011

strategic plan, long-term goals, budgeting, consolidating efforts with the city of Tampa (Tampa), sending a letter to the County Administrator, and next steps. Ms. Rush replied to Commissioner Sharpe concerning committee existence and composition.

Mr. Randy Klindworth, Facilities Management Services, remarked on accomplishing low energy costs in County buildings and recommended developing energy saving teams. Dr. Garrity pointed out the return on investment for energy savings. In reply to Commissioners Murman and Sharpe regarding County investment required to maintain savings, Mr. Jerry Campbell, Director, EPC Air Management Division, stated an organized list on implementation, cost, and return on investment would be compiled and presented to the EPC Board for a decision. Commissioner Murman mentioned inviting former St. Petersburg Mayor Rick Baker to appear at an EPC Board meeting to give a perspective on the topic. Dr. Garrity agreed to follow up.

EXECUTIVE DIRECTOR

FDEP Audit of the EPC Air Management Division and EPA Ambient Air Monitoring Audit - Dr. Garrity highlighted the item intent and audit findings, as depicted in background material, and thanked staff involved in attaining favorable results.

Business Feedback Group Update - Dr. Garrity recognized workgroup members and summarized recent and future topics, as provided in background material. Commissioner Sharpe commended Dr. Garrity for initiating improvement changes and suggested sharing the process with other sections of County government.

EPA Grant Announcement - Dr. Garrity recognized EPC staff who received an EPA grant for wetlands mitigation projects.

JET FUEL SPILL UPDATE - RESUMED

In response to Chairman Beckner, Dr. Garrity elaborated on EPC accessibility to the community affected by the gas spill, acknowledged scheduling neighborhood meetings, noted telephone numbers and other information were posted on the EPC website, and would report back to the EPC Board.

OFF THE AGENDA ITEM

Commissioner Sharpe relayed unease about the Pasco County landfill negatively impacting the Hillsborough County watershed and asked EPC Board members to request Dr. Garrity continue monitoring the situation and/or authorize the EPC Chairman to send a letter to the FDEP waste management division director

THURSDAY, JULY 28, 2011

voicing concerns. Dr. Garrity spoke to FDEP conclusions in that area. Commissioner Crist suggested working with the Legislative Delegation and talked about collaborative efforts between Pasco County and Hillsborough County. Commissioner Murman touched on Tampa Bay Water (TBW) involvement. Commissioner Sharpe recalled previous dialogue on the issue resulting in legal decisions concerning TBW.

Mr. Hooshang Boostani, Director, EPC Waste Management Division, explained how groundwater flowed away from Hillsborough County, which in the past, decreased TBW standing. Discussion ensued regarding Pasco County, TBW, water quality in Tampa, researching historical data, and reaching out to the Governor and the FDEP. In reply to Commissioner Sharpe, Dr. Garrity said a study was currently under review by the new FDEP director and action could be taken to send a letter from the EPC Chairman expressing concerns. **Commissioner Sharpe would make that motion, seconded by Commissioner Murman.** Commissioner Sharpe clarified the letter would be sent from the EPC Chairman to the FDEP waste management division director expressing apprehensions regarding the Pasco County landfill issue and should note the EPC supported the original decision and ask the FDEP to stand by the original decision. Commissioner Murman wanted a copy to be sent to Mr. Gerald Seeber, TBW. Commissioner Sharpe agreed. **The motion carried six to zero.** (Commissioner Hagan was out of the room.)

There being no further business, the meeting was adjourned at 10:24 a.m.

READ AND APPROVED: _____

CHAIRMAN OR VICE CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____
Deputy Clerk

ph

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

JUL

A. Public Outreach/Education Assistance

1. Phone calls	161
2. Literature Distributed	100
3. Presentations	2
4. Media Contacts	0
5. Internet	60
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	0
c. Amendments / Transfers / Extensions	2
d. Title V Operating:	0
e. Permit Determinations	0
f. General	5
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	3
b. Construction ^1	18
c. Amendments / Transfers / Extensions^1	0
d. Title V Operating ^2	9
e. Permit Determinations	0
f. General	6
3. Intent to Deny Permit Issued	0

C. Administrative Enforcement

1. New cases received	0
2. On-going administrative cases	
a. Pending	4
b. Active	11
c. Legal	2
d. Tracking compliance (Administrative)	10
e. Inactive/Referred cases	0
TOTAL	27
3. NOIs issued	0
4. Citations issued	0
5. Consent Orders Signed	0
6. Contributions to the Pollution Recovery Fund	\$ -
7. Cases Closed	

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

JUL

D. Inspections

1. Industrial Facilities	2
2. Air Toxics Facilities	
a. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	2
b. Major Sources	4
3. Asbestos Demolition/Renovation Projects	28

E. Open Burning Permits Issued

1

F. Number of Division of Forestry Permits Monitored

370

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

1

K. Test Reports Reviewed

53

L. Compliance

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

M. AOR's Reviewed

19

N. Permits Reviewed for NESHAP Applicability

1

O. Planning Documents coordinated for Agency Review

5

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

JUL

A. ENFORCEMENT

1.	New cases received	1
2.	On-going administrative cases	101
	Pending	10
	Active	37
	Legal	10
	Tracking Compliance (Administrative)	44
	Inactive/Referred Cases	-
3.	NOI's issued	2
4.	Citations issued	-
5.	Consent Orders and Settlement Letter Signed	3
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$8,180
7.	Enforcement Costs Collected (\$)	\$1,836
8.	Cases Closed	3

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	1
2.	FDEP Permits Reviewed	1
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	2
4.	Other Permits and Reports	
	County Permits Received	8
	County Permits Reviewed	10
	Reports Received (SW/HW + SQG)	21
	Reports Reviewed (SW/HW + SQG)	16
5.	Inspections (Total)	
	Complaints (SW/HW + SQG)	22
	Compliance/Reinspections (SW/HW + SQG)	27
	Facility Compliance	34
	Small Quantity Generator Verifications	212
	P2 Audits	2
6.	Enforcement (SW/HW + SQG)	
	Complaints Received	23
	Complaints Closed	21
	Warning Notices Issued	1
	Warning Notices Closed	4
	Compliance Letters	106
	Letters of Agreement	
	Agency Referrals	3
7.	Pamphlets, Rules and Material Distributed	159

C. STORAGE TANK COMPLIANCE

1.	Inspections	
	Compliance	42
	Installation	9
	Closure	7
	Compliance Re-Inspections	2
2.	Installation Plans Received	8

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

JUL

3.	Installation Plans Reviewed	7
4.	Closure Plans & Reports	
	Closure Plans Received	4
	Closure Plans Reviewed	4
	Closure Reports Received	3
	Closure Reports Reviewed	1
5.	Enforcement	
	Non-Compliance Letters Issued	22
	Warning Notices Issued	1
	Warning Notices Closed	-
	Cases Referred to Enforcement	-
	Complaints Received	3
	Complaints Investigated	2
	Complaints Referred	-
6.	Discharge Reporting Forms Received	2
7.	Incident Notification Forms Received	9
8.	Cleanup Notification Letters Issued	-

D. STORAGE TANK CLEANUP

1.	Inspections	29
2.	Reports Received	67
3.	Reports Reviewed	67
	Site Assessment Received	5
	Site Assessment Reviewed	9
	Source Removal Received	1
	Source Removal Reviewed	-
	Remedial Action Plans (RAP'S) Received	6
	Remedial Action Plans (RAP'S) Reviewed	4
	Site Rehabilitation Completion Order/No Further Action Rec'd	2
	Site Rehabilitation Completion Order/No Further Action Revw'd	3
	Active Remediation/Monitoring Received	43
	Active Remediation/Monitoring Reviewed	40
	Others Received	10
	Others Reviewed	11

E. RECORD REVIEWS

15

F. LEGAL PIR'S

11

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

JUL

A. ENFORCEMENT

1.	New Enforcement Cases Received	1
2.	Enforcement Cases Closed	-
3.	Enforcement Cases Outstanding	42
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	2
	(i) Types I and II	-
	(ii) Type III	2
	b. Collection Systems - General	5
	c. Collection systems-Dry Line/Wet Line	5
	d. Residuals Disposal	-
2.	Permit Applications Approved	12
	a. Facility Permit	4
	b. Collection Systems - General	3
	c. Collection systems-Dry Line/Wet Line	5
	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	30
	a. Facility Permit	11
	b. Collection Systems - General	6
	c. Collection systems-Dry Line/Wet Line	13
	d. Residuals Disposal	-
7.	Permit Determination	4
8.	Special Project Reviews	-
	a. Reuse	-

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

JUL

b. Residuals/AUPs	-
c. Others	-

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	7
a. Inspection (CEI)	3
b. Sampling Inspection (CSI)	4
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance	34
a. Inspection (RI)	5
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	29
d. Enforcement Inspection (ERI)	-
3. Engineering Inspections	21
a. Reconnaissance Inspection (RI)	3
b. Sample Reconnaissance Inspection (SRI)	-
c. Residual Site Inspection (RSI)	-
d. Preconstruction Inspection (PCI)	2
e. Post Construction Inspection (XCI)	16
f. On-site Engineering Evaluation	-
g. Enforcement Reconnaissance Inspection (ERI)	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	3
a. Facility Permit	
(i) Types I and II	-
(ii) Type III with Groundwater Monitoring	-
(iii) Type III w/o Groundwater Monitoring	1
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
2. Permits Recommended to DEP for Approval	1
3. Special Project Reviews	1
a. Facility Permit	1
b. General Permit	-
4. Permitting Determination	-
5. Special Project Reviews	52
a. Phosphate	5

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

JUL

b. Industrial Wastewater	11
c. Others	36

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	18
a. Inspection (CEI)	16
b. Sampling Inspection (CSI)	2
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance (Total)	15
a. Inspection (RI)	4
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	9
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	32
(i) Received	20
(ii) Closed	12
b. Industrial	16
(i) Received	9
(ii) Closed	7
2. Warning Notices	
a. Domestic	3
(i) Issued	2
(ii) Closed	1
b. Industrial	3
(i) Issued	1
(ii) Closed	2
3. Non-Compliance Advisory Letters	9
4. Environmental Compliance Reviews	
a. Industrial	53
b. Domestic	113
5. Special Project Reviews	5

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

JUL

G. RECORD REVIEWS

1.	Permitting Determination	6
2.	Enforcement	2

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

1.	Air division	33
2.	Waste Division	-
3.	Water Division	11
4.	Wetlands Division	-
5.	ERM Division	200
6.	Biomonitoring Reports	8
7.	Outside Agency	30

I. SPECIAL PROJECT REVIEWS

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

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

JUL

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	37
Timeframes Met	100%
Year to Date	99%

Formal Wetland Delineation Surveys

Projects	5
Total Acres	43
Total Wetland Acres	15
# Isolated Wetlands < 1/2 Acre	3
Isolated Wetland Acreage	0.59

Construction Plans Approved

Projects	11
Total Wetland Acres	50
# Isolated Wetlands < 1/2 Acre	0
Isolated Wetland Acreage	0
Impacts Approved Acreage	0.98
Impacts Exempt Acreage	0.98

Mitigation Sites in Compliance

Ratio	183/189
Percentage	97%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	0.50
Acreage of Water Quality Impacts	0.00
Acreage Restored	0.30

TPA Minor Work Permit

Permit Issued	13
Permits Issued Fiscal Year 2011	168
Cumulative Permits Issue Since TPA Delegation (07/09)	379

REVIEW TIMES

# of Reviews	284
% On Time	99%
% Late	1%

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

JUL

A. General

1.	Telephone conferences	559
2.	Unscheduled Citizen Assistance	397
3.	Scheduled Meetings	252
4.	Correspondence	1,724
1/ 5.	Interagency Coordination	265
1/ 6.	Trainings	24
1/ 7.	Public Outreach/Education	7
1/ 8.	Quality Control	60

B. Assessment Reviews

1.	Wetland Delineations	19
2.	Surveys	12
3.	Miscellaneous Activities in Wetland	44
4.	Mangrove	3
5.	Notice of Exemption	4
6.	Impact/Mitigation Proposal	22
7.	Tampa Port Authority Reviews	74
8.	Wastewater Treatment Plants (FDEP)	
9.	Development Regn'l Impact (DRI) Annual Report	
10.	On-Site Visits	134
11.	Phosphate Mining	5
12.	Comp Plan Amendment (CPA)	-
1/ 13.	AG SWM	2
	Sub-Total	

Planning and Growth Management Review

14.	Land Alteration/Landscaping	-
15.	Land Excavation	-
16.	Rezoning Reviews	5
17.	Site Development	24
18.	Subdivision	9
19.	Wetland Setback Encroachment	1
20.	Easement/Access-Vacating	2
21.	Pre-Applications	36
1/ 22.	Agriculture Exemption	-
	Sub-Total	
	Total Assessment Review Activities	

C. Investigation and Compliance

1.	Warning Notices Issued	6
2.	Warning Notices Closed	3
1/ 3.	Complaints Closed	22
4.	Complaint Inspections	39
5.	Return Compliance Inspections for Open Cases	38

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

JUL

6.	Mitigation Monitoring Reports	4
7.	Mitigation Compliance Inspections	24
8.	Erosion Control Inspections	18
9.	MAIW Compliance Site Inspections	2
10.	TPA Compliance Site Inspections	3
2/ 11	Mangrove Compliance Site Inspections	4
1/ 12	Conservation Easement Inspection	3

D. Enforcement

1.	Active Cases	12
2.	Legal Cases	3
3.	Number of "Notice of Intent to Initiate Enforcement"	-
4.	Number of Citations Issued	1
5.	Number of Consent Orders Signed	5
6.	Administrative - Civil Cases Closed	3
7.	Cases Referred to Legal Department	3
8.	Contributions to Pollution Recovery	\$5,490
9.	Enforcement Costs Collected	\$3,188

E. Ombudsman

1.	Agriculture	2
2.	Permitting Process & Rule Assistance	5
3.	Staff Assistance	3
4.	Citizen Assistance	1

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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 11 POLLUTION RECOVERY TRUST FUND
10/1/2010 through 7/31/2011**

REVENUE		EXPENDITURES		RESERVES		NET PRF
Beginning Balance	\$ 620,687	Artificial Reef	\$ 143,430	Minimum Balance	\$ 120,000	
Interest	\$ 8,887	Project Monitoring	\$ 129,470	PROJ. FY 12 Budgets	\$ 260,159	
Deposits	\$ 135,405	FY 11 Projects	\$ -	Asbestos Removal	\$ 5,000	
Refunds	\$ 76,571					
Total	\$ 841,550	Total	\$ 272,900	Total	\$ 385,159	\$ 183,491



PROJECT	Project Amount	Project Balance
FY 06 Projects		
#04-03 - Bahia Beach Restoration	150,000	303
	\$ 150,000	\$ 303
FY 07 Projects		
#06-04A - Erosion Control/Oyster Bar Habitat Creation	75,000	-
	\$ 75,000	\$ -
FY 08 Projects		
#07-03 - Invasive Plant Removal Egmont Key	133,000	10,065
#07-05 - Testing Reduction of TMDL in Surface Water Flow	19,694	-
	\$ 152,694	\$ 10,065
FY 09 Projects		
#08-05 - MacDill Phase 2 Seagrass Transplanting	79,196	11,640
#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 Soils	25,000	700
#08-03 - Wetland Restoration on County Owned Lands	120,000	65,920
	\$ 329,196	\$ 132,382
FY 10 Projects		
#09-01 - Basis of Review for Borrow Pit Applications	\$ 68,160	\$ 12,389
#09-02 - Effects of Restoration on Use of Habitat	84,081	55,830
#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 Mag	92,000	92,000
#09-06 - Greenhouse Gas Inventory	75,000	10,751
	\$ 371,041	\$ 222,770
		\$ 365,520

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
FY 11 GARDINIER SETTLEMENT TRUST FUND
10/1/2010 - 7/31/2011**

Fund Balance as of 10/1/10	\$ 252,021
Interest Accrued	1,854
Disbursements FY 11	-
	<hr/>
Fund Balance	\$ 253,875
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	\$ 253,875
	<hr/>
Total Encumbrances	\$ 253,875
	<hr/>
Fund Balance Available	<u><u>\$ -</u></u>



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2011

Subject: Legal Case Summary for August 2011

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: **August 2011 EPC Legal Case Summary**

EPC LEGAL DEPARTMENT MONTHLY REPORT

August 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 and the administrative hearing began on July 7 and concluded on July 13, 2011. The Recommended Order will be filed in accordance with Chapter 1-2, Rules of the EPC. (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)

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 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 EPC's Motion for Partial Summary Judgment was denied and the parties were sent back to mediation. The second mediation on January 21, 2011, resulted in a very limited partial settlement with EPC and full settlement with the County. Defendant Hart's motion to dismiss was heard on April 12 and was denied. The matter has been set for trial the week of September 19, 2011. (RM)

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

Dubliner North, Inc. [LEPC09-015]: On September 17, 2009 the Commission granted authority to take legal action against Respondent for violations of the EPC Act and EPC Rules, Chapter 1-10. 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. 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. EPC's Motion was heard on February 3, 2011 and a Trial has been set for the week of May 9, 2011. . In compliance with the Court's Order, the parties conducted a mediation conference on April 22, 2011. A Mediation Settlement Agreement was entered on April 22, 2011 and executed by the parties. On August 8, 2011, the EPC filed a Notice of Voluntary Dismissal but will continue to monitor compliance with 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)

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)

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)

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. Due to PRF expenditures to help correct violations, this case may be resolved soon. (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)

PATCO and Chip Investment 2: On July 28, 2011, the EPC staff received authority to take legal action for various solid waste/landfill violations. (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.

Motiva Enterprises LLC [11-EPC-004]: On July 25, 2011 the Petitioner filed a request for an extension of time to a petition to challenge the concurrent draft Construction/Title V Operating Permit and the Title V Air Operation Permit for the Port Tampa terminal. The extension was granted and the Petitioner has until October 31, 2011 to file a petition in this matter.

Carmen Smith Barkett vs. Anthony Ekonomou and EPC [11-EPC-003]: On July 15, 2011 the Appellant filed a request for an extension of time to challenge a Consent Order that was executed on July 6, 2011. The extension was granted and the Appellant has until August 16, 2011 to file an Appeal in this matter. (AZ)

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 regarding a wastewater permit for Eastwood Estates MHP. The request was granted and the Petitioner had until February 16, 2011 to file a petition in this matter. On February 9, 2011, the Petitioner filed a request for a second extension of time, the request was granted and the Petitioner has until April 18, 2011 to file a petition in this matter. An additional request for an extension of time was filed, the request was granted and the Petitioner has until May 18, 2011 to file a petition. The permit application was withdrawn and no challenge was filed, thus the Legal case will be closed. (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)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2011

Subject: Request for authority to take appropriate legal action against John M. and Joanna Roberts

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

Division: Wetlands Management Division

Recommendation: Grant authority to pursue appropriate legal action and grant Executive Director settlement authority.

Brief Summary: Between 2006 and 2008, the property owner was responsible for clearing wetland vegetation within a deeded conservation easement and a jurisdictional wetland on the property located at 4139 Causeway Vista Drive, Tampa in Hillsborough County, Florida. The activities are violations of the EPC Wetland Rule Chapter 1-11 and the conservation easement held in favor of the EPC.

Financial Impact: There is no immediate financial impact anticipated for this item. Funding is budgeted within the general fund monies. EPC will seek to recover the costs of any litigation.

Background: On July 13, 2006, and March 4, 2008, EPC staff issued Warning Notices #2006-3577E and #2008-9461E, respectively to the property owners for mowing and clearing vegetation within a deeded conservation easement area as well as a jurisdictional wetland. The conservation easement recorded on the property in July 1997 and the EPC Wetland Rule Chapter 1-11 both prohibit clearing vegetation within these areas located seaward of the seawall on the property. The EPC has sent multiple demand letters to the property owners seeking to resolve the matter and no adequate response has been made. Based on the failure to timely resolve this matter the EPC Executive Director is seeking authority to take appropriate legal action to compel corrective actions and to recover the administrative costs and penalties.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2011

Subject: Request for authority to take appropriate legal action against Peter L. Kadyk/Eco Wood Systems, Inc.

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

Division: Wetlands Management Division

Recommendation: Grant authority to pursue appropriate legal action and grant Executive Director settlement authority.

Brief Summary: Peter L. Kadyk is the President of Eco Wood Systems, Inc.. The business is located at 4818 N. Grady Avenue, Tampa, Florida. Mr. Kadyk has failed to comply with the terms of Short Form Consent Order #2009-0148E that was entered into to resolve wetland Rule violations on May 4, 2010. Failure to comply with an order of the agency constitutes a violation of Chapter 84-446, as amended, Laws of Florida (EPC Act).

Financial Impact: There is no immediate financial impact anticipated for this item. Funding is budgeted within the general fund monies. EPC will seek to recover the costs of any litigation.

Background: On May 4, 2010, Mr. Kadyk entered into a Short Form Consent Order with the Executive Director of the Environmental Protection Commission of Hillsborough County (EPC) in resolution of Warning Notice #2009-0148E for dock structure not built in compliance with permit. To date, EPC has not received payment for the remaining balance of \$1,193.75 due for the agreed upon settlement. Therefore, EPC staff is requesting authority to take appropriate legal action to compel compliance with the EPC Act.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting:

Subject: CFPL Jet Fuel Pipeline Spill

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

Division: EPC Air Management

Recommendation: Informational Report

Brief Summary: Presentation on the status of the cleanup activity and environmental impacts caused by the Central Florida Pipeline (CFPL) jet fuel spill into the Lake Mango Outfall Canal.

Financial Impact: Expenses to be determined

Background: On July 22, 2011 Hillsborough County Fire Rescue discovered the ruptured Central Florida Pipeline carrying jet fuel through the Mango area in Eastern Hillsborough County. The leak was contained on Saturday, July 23, 2011 and the damaged portion of pipeline replaced on Monday, July 25, 2011. However, the petroleum product is entrained in the soils and vegetation along the Lake Mango Outfall Canal.

The collection and containment of petroleum contaminated water and any emulsified or weathered jet fuel continues under the oversight of the Florida Department of Environmental Protection and the EPC staff. As the responsible party, CFPL is providing the equipment and resources to clean up the canal, to remove contaminated vegetation and soils, to monitor the air and water quality, and to eventually mitigate and restore the impacted area.

Information on the response and recovery activity is provided on the EPC public website. Staff is working with CFPL to provide the public access to operational plans and environmental monitoring results as they become available.

The emergency response phase of this event is expected to transition into a petroleum cleanup and wetlands restoration project in the coming week. However, the timing is dependent on minimal delays caused by the weather. When the transition is complete, the EPC will seek reimbursement for staff time and expenses encumbered during the response phase.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2011

Subject: Ambient Air Monitoring near Mosaic's Phosphogypsum Stack

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

Division: Air Management Division

Recommendation: None, informational report

Brief Summary: EPC was contracted by Mosaic to conduct ambient air monitoring for dust and radon gas near their phosphogypsum stack, just east of US Highway 41 in Riverview, in fulfillment of Development of Regional Impact (DRI) #242. EPC Air Management staff monitored for dust and concluded the gypsum stack added no significant dust to current County levels. Staff contracted with the Florida Department of Health, Bureau of Radiation Control to conduct a radon gas study. The study included sampling around the phosphogypsum stack and three surrounding schools. Based on the initial study, the results do not indicate any elevated readings at any of the schools. However, additional sampling periods are proposed to try and reconcile the seasonal variations and enhance the statistical viability of the study results.

Financial Impact: No Financial Impact

Background: In June 2000, under resolution #R00-111, DRI #242 was established to allow Mosaic to expand their phosphogypsum system with specific conditions. One specific condition of the Development Order required Mosaic to conduct ambient air monitoring related to the gypstack expansion east of US Hwy 41 in Riverview. Mosaic was required to install and operate ambient air dust samplers and radon gas monitors and if the monitoring results indicated a violation of any applicable air quality standard, Mosaic was required to mitigate the situation. EPC Air Management Division was later contracted by Mosaic to meet the air monitoring condition.

In 2003, ambient air dust samplers were placed at two local schools, Progress Village Middle School and Gibsonton Elementary School for a period of five years. Results from the monitoring indicated that there was no statistically significant difference in concentration of ambient air particulates between the two air monitoring stations located at the schools and the other four existing monitoring sites in Hillsborough County.

In 2010, EPC contracted with the Florida Department of Health, Bureau of Radiation Control to conduct ambient air radon gas study in the same areas. The monitoring locations included 16 sites around the phosphogypsum stack, three schools (Progress Village Middle School, Gibsonton Elementary School, and Ippolito Elementary School), and a control site about 4 miles east of the stack.

Monitors were left in place for at least 90 days during two monitoring periods, one during the cooler months and one period during the warmer months. Based on the initial study, the results do not indicate any elevated readings at any of the schools. The results do show a seasonal difference in the amount of radon gas present at the sampling locations. To reconcile the seasonal variations and enhance the statistical viability of the results, additional monitoring is proposed.

List of attachments: *None*

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2011

Subject: Groundwater Protection and Groundwater Cleanup in Hillsborough County.

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

Division: Division Of Waste Management

Recommendation: Informational Report

Brief Summary: Overview of groundwater protection and contamination cleanup programs in Hillsborough County.

Financial Impact: No Financial Impact

Background: Groundwater is an extremely important asset due to the water needs for human consumption, industry, agriculture, and even recreational activities at Florida springs. Over the years, the EPC has actively engaged in both cleanup programs and programs to help protect our groundwater resources in Hillsborough County. The preventative efforts eliminate the need for costly cleanup activities. This presentation is an overview of programs enacted by EPC, the State of Florida, and the Federal Government to protect our groundwater resources.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2011

Subject: Update on Proposed Numeric Nutrient Criteria

Consent Agenda _____ **Regular Agenda** XX **Public Hearing** _____

Division: Water Management Division

Recommendation: Informational Report

Brief Summary: EPA has promulgated numeric criteria for Florida for nitrogen and phosphorus for lakes and flowing streams, with implementation to begin March, 2012.

Financial Impact: No Immediate Financial Impact consequent to this report, however, achieving numeric nutrient criteria may represent significant obligation to the County.

Background:

In January 2011, EPA promulgated rules to establish numeric criteria for Florida for nitrogen and phosphorus for lakes and flowing streams, with implementation to begin March, 2012. This action was in response to a federal consent decree.

These numeric criteria will have over-arching bearing on the application of Impaired Water Rule 62-303 F.A.C. and the formulation of Total Maximum Daily Loads (TMDL) for surface water in Hillsborough County and Tampa Bay. The EPA rule has prompted wide ranging comment regarding the scientific basis of its developments, how it would be implemented and its potential cost.

In April 2011, the Florida Department of Environmental Protection (FDEP) petitioned EPA to withdraw its rule and allow FDEP to have primary authority to set water quality standards for Florida. EPA will hold in abeyance any action on the FDEP petition pending the progress and the substance of rule making by FDEP to develop and implement standards that sufficiently protect Florida waters.

To this end, FDEP has held conceptual scoping meetings, public workshops, and prepared draft changes to the rules relevant to nutrient management.

FDEP's Draft Rule changes to 62-302, Water Quality Standards Rule:

http://www.dep.state.fl.us/water/wqssp/nutrients/docs/62-302_nutrients-71411-draft.pdf

FDEP's Draft Rule changes to 62-303, Impaired Water Rule:

http://www.dep.state.fl.us/water/wqssp/nutrients/docs/62-303_nutrients-071411-draft.pdf

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2011

Subject: Status Report on Angelo's Aggregate Material Landfill Permit Application

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

Division: Legal and Administrative Services Division

Recommendation: Informational Report

Brief Summary: Pursuant to the Commission vote on July 28, 2011, EPC staff prepared a letter for signature by the EPC Chair voicing concerns about the potential for a landfill being placed in sinkhole prone land just north of the Hillsborough County line and asking DEP to not change its original permit denial. Additionally, the EPC staff discussed the status of the Angelo's Aggregate Landfill Permit Application with various DEP and Pasco County staff. The DEP is currently reviewing the proposed revisions, but original permit is still denied and in the process of being challenged via the Division of Administrative Hearings by various citizens, the City of Tampa, the City of Zephyrhills, and water bottling companies.

Financial Impact: No Financial Impact

Background: In February 2009, the Florida Department of Environmental Protection (DEP) denied a permit application that Angelo's Aggregate Materials, Ltd. d/b/a Angelo's Recycled Material ("Angelos") had applied for to operate a Class I landfill in southern Pasco County close to the Hillsborough County line. The denial was based on a number of grounds, but most notably was the concern that the landfill is located on top of geological formations (i.e. karst topography) and that Angelos had not provided reasonable assurance that there was support for the solid waste. Thus, the DEP was concerned that sinkholes could form and waste enter the groundwater. Angelos challenged the denial via the Division of Administrative Hearings (DOAH), as did other persons and corporations (e.g. Nestle Water North America). Additionally, other parties have intervened in the challenge, including the City of Tampa, the City of Zephyrhills, and Crystal Spings Preserve, Inc. The EPC and County did not elect to petition or intervene in the matter after a review of the facts in mid-2009.

The DOAH hearing process is in abeyance through August 31, 2011. At that time the parties must give a status report and potential hearing dates. The most recent reason for abeyance was to give the DEP additional time to review the alternate plans for a smaller landfill that Angelos submitted to the DEP in June 2011. Pursuant to the Commission vote on July 28, 2011, EPC staff prepared a letter for signature by the EPC Chair voicing concerns about the potential for the

proposed, revised-design landfill being placed on land just north of the Hillsborough County line and asking DEP to not change its original permit denial. Additionally, the EPC staff discussed the status of the landfill application with various DEP and Pasco County staff. Pasco County still continues to oppose the landfill and elected officials (Senator Fasano and Representative Legg) in Pasco also voiced their continued opposition to the project via a letter to the DEP.

No action is necessary; staff continues to monitor the permit challenge process.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2011

Subject: MOU between County and EPC for exotics removal and mangrove enhancement work at Bahia Beach

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

Division: Water Division

Recommendation: Approve the MOU between EPC and Hillsborough County perform exotic removal/mangrove enhancement at Bahia Beach and approve use of the Pollution Recovery Fund for this project.

Brief Summary: Hillsborough County Parks, Recreation and Conservation Department staff has agreed to oversee the exotic removal/mangrove enhancement work on behalf of the EPC at Bahia Beach. The Bahia Beach Restoration Project is a partnership between EPC, the Southwest Florida Water Management District, and Hillsborough County.

Financial Impact: By this amendment, the EPC will fund the County's Parks, Recreation and Conservation Department by an amount not to exceed \$56,700, using the Pollution Recovery Fund.

Background: The Bahia Beach Restoration Project is a partnership between EPC, the Southwest Florida Water Management District, and Hillsborough County. To date, the County has been involved in the project design and permitting process. EPC has been involved with the initial funding of the project through the Pollution Recovery Fund as well as design review and permitting assistance. The Southwest Florida Water Management District has been involved with the design and is funding the construction of the project as well as overseeing the contractor selection. The restoration is expected to begin in the upcoming winter and construction management will be a joint effort between all three agencies.

In addition, \$56,700 was deposited to the Pollution Recovery Fund through a consent order entered into by the EPC and The Reserve at Old Tampa Bay Homeowners Association, Inc for mangrove trimming violations. The US Army Corps of Engineers (USACOE) and EPC staff agreed to utilize the settlement specifically for Bahia Beach mangrove restoration efforts. Hillsborough County Parks, Recreation and Conservation Department staff has agreed to oversee the exotic removal/mangrove enhancement work on behalf of the EPC at Bahia Beach. To initiate this phase of the project, the EPC and the County propose to enter into an agreement. Staff recommends approval of the Agreement and authorization to use above-mentioned \$56,700

settlement money which has been deposited in the Pollution Recovery Fund to pay the County for the proposed enhancement project.

List of Attachments: Draft Agreement

COOPERATIVE AGREEMENT
Between the
Environmental Protection Commission of Hillsborough County
and
Hillsborough County
for Bahia Beach Project Mangrove Enhancement

THIS COOPERATIVE AGREEMENT, (the "Agreement") is made and entered into by and between Hillsborough County, a political subdivision of the State of Florida (the "COUNTY") and the Environmental Protection Commission of Hillsborough County (the "EPC"), a political subdivision of the State of Florida.

WITNESSETH:

WHEREAS, the EPC is a local government environmental agency created by Special Act 84-446, Laws of Florida as amended, that implements various environmental regulatory programs, restoration projects, and conducts activities designed to prevent and minimize pollution; and

WHEREAS, the COUNTY manages certain lands designated for conservation or preservation, including, but not limited to, Bahia Beach and adjacent properties (Exhibit I); and

WHEREAS, the EPC has negotiated fines that were deposited to the Pollution Recovery Fund (PRF) through a consent order entered into by the EPC and The Reserve at Old Tampa Bay Homeowners Association, Inc for mangrove trimming violations. Through an informal agreement with the U.S. Army Corps of Engineer, the settlement PRF funds are specifically targeted for mangrove restoration efforts; and

WHEREAS, the EPC agreed to use the funds for mangrove enhancement including exotic removal (Enhancement) as part of the Bahia Beach Restoration Project (Project); and

WHEREAS, the COUNTY has agreed to perform the above described Enhancement through its Parks, Recreation and Conservation Department; and

WHEREAS, the EPC and the COUNTY agree that a Cooperative Agreement wherein the EPC pays the COUNTY to perform the Enhancement is an efficient allocation of resources to achieve a common goal of habitat restoration.

NOW, THEREFORE, in consideration of the mutual covenants, promises and provision contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

PART I - EPC RESPONSIBILITIES

a) The EPC shall pay the COUNTY an amount not to exceed \$56,700.00 to perform the functions related to the Enhancement as specifically set forth in this Agreement.

b) The EPC shall reimburse the COUNTY through the use of an Inter-Organization Charge form ("IOC") process, and/or other accounting procedures, resulting in the actual transfer of funds to the COUNTY. The IOC, prepared by the COUNTY and including appropriate backup documentation, will charge the EPC's expense index code and credit the COUNTY's established revenue index code. The EPC shall reimburse the COUNTY in accordance with the time frame set forth in the Local Government Prompt Payment Act (Chp. 218, F.S.). EPC shall reimburse the COUNTY within 45 days of receiving a complete invoice from the COUNTY. In the event the COUNTY's request for reimbursement is not supported by adequate documentation, the EPC may request additional information in writing within 30 days. Upon receipt of additional documentation the EPC's reimbursement deadline of 45 days commences.

PART II - COUNTY RESPONSIBILITIES

a) The COUNTY shall, through its Parks, Recreation and Conservation Department, perform the following tasks within 24 months of execution of this Agreement within the project area (Exhibit II) as a part of the Bahia Beach Restoration Project:

- 1) Conduct a site visit with EPC staff and identify and record with GPS the locations of exotic plants on the property within 90 days of execution of this Agreement.
- 2) Determine the best removal technique (i.e. mechanical removal, spray in place, or a combination of both) to eradicate the exotic infestations
- 3) Determine if hydro-blasting portions of the mosquito ditches will help enhance the salt tern and mangrove forest
- 4) Develop a Request For Bid for the project and hire a qualified contractor
- 5) Oversee the activities of the contractor to insure they are meeting the objectives of this agreement
- 6) Provide a final report to the EPC within 90 days of completion of the items noted in (II)(a)1-5 above.

b) The COUNTY will prepare the IOC and shall attach appropriate back-up documentation supporting such IOC, if appropriate. If EPC has any questions or needs additional information to ensure that the reimbursement is appropriate under this Agreement, the County shall arrange to promptly provide the additional information in response to a written EPC request, as needed, prior to reimbursement.

PART III - MUTUAL CONSIDERATION and MISCELLANEOUS CONDITIONS

a) EPC and COUNTY staff will meet regularly to discuss the Enhancement and progress.

b) Modifications to this Agreement may be presented at any time and if mutually agreed upon, shall be placed in writing and executed by both parties.

c) This Agreement shall become effective as of the date of the filing of this Agreement with the Clerk of the Circuit Court of Hillsborough County, Florida (the "Effective Date"). The term of this Agreement shall be from the Effective Date and the Agreement shall expire 24 months after the Effective date, unless the parties mutually agree to a modification.

d) Key personnel are as follows and any written notices should be provided via U.S. mail or hand delivery to the following:

i. COUNTY: Richard Sullivan, Parks, Recreation and Conservation Department, 3709 Gulf City Road, Ruskin, FL, 33570.

ii. EPC: Laura Thorne, EPC Water Management Division, 3629 Queen Palm Drive, Tampa, FL 33619, (813) 627-2600.

Changes to key personnel may be made in writing to the other party, without need for modification to this Agreement.

e) Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its respective officers, agents, and employees arising from the duties related to this Agreement. Notwithstanding any provision in this Agreement, all issues relating to liability, including but not limited to waivers or assumptions of liability, in this Agreement are subject to, may not be contrary to, and are limited by the sovereign immunity laws, including but not limited to section 768.28, Florida Statutes.

f) If any provision of this Agreement is found invalid or unenforceable by any court of competent jurisdiction, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this Agreement which shall continue in full force and effect, provided the rights and obligations of the parties contained herein are not materially prejudiced and that the intentions of the parties can continue to be effected. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Venue of any disputes relating to this Agreement shall be in Hillsborough County, Florida.

g) This Agreement is subject to funding availability. In the event sufficient budget funds are not available for a new fiscal period, either party shall notify the other of such occurrence and the Agreement shall terminate on the last day of current fiscal period without penalty or expense to the COUNTY or EPC. The COUNTY shall be paid for all work performed up until the date of termination. Pursuant to section 218.77, F.S. the parties are aware that the EPC's funding for this Enhancement is contingent on receipt of federal funds or federal approval.

h) The parties shall allow public access to all documents, papers and letters made or received by the EPC in connection with this Agreement that are public records pursuant to Chapter 119, Florida Statutes.

i) This Agreement may be terminated in writing by either party provided that no termination may be effected unless the other party is given not less than sixty (60) calendar days written

notice, delivered by certified mail. Upon termination, the COUNTY shall promptly discontinue all affected work (unless the notice directs otherwise), and shall deliver or otherwise make available to the EPC all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the COUNTY in performing the Agreement, whether completed or in progress. The COUNTY shall be paid for all work performed up until the date of termination.

PART IV - RECORDING:

The Clerk of the Board of County Commissioners for the COUNTY is hereby authorized and directed, after approval of this Agreement by the respective governing bodies of the COUNTY and EPC and the execution thereof by the duly qualified and authorized representatives of each of the parties hereto, to file this Agreement with the Clerk of the Circuit Court of Hillsborough County, Florida, for recording in the public records of Hillsborough County, Florida.

IN WITNESS WHEREOF, the COUNTY and EPC have caused this Cooperative Agreement for Bahia Beach Project Mangrove Enhancement to be approved as of the dates noted below.

ATTEST:
PAT FRANK
CLERK OF CIRCUIT COURT

HILLSBOROUGH COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Al Higginbotham, Chairman
Board of County Commissioners

(OFFICIAL SEAL)

Date: _____

ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH
COUNTY

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

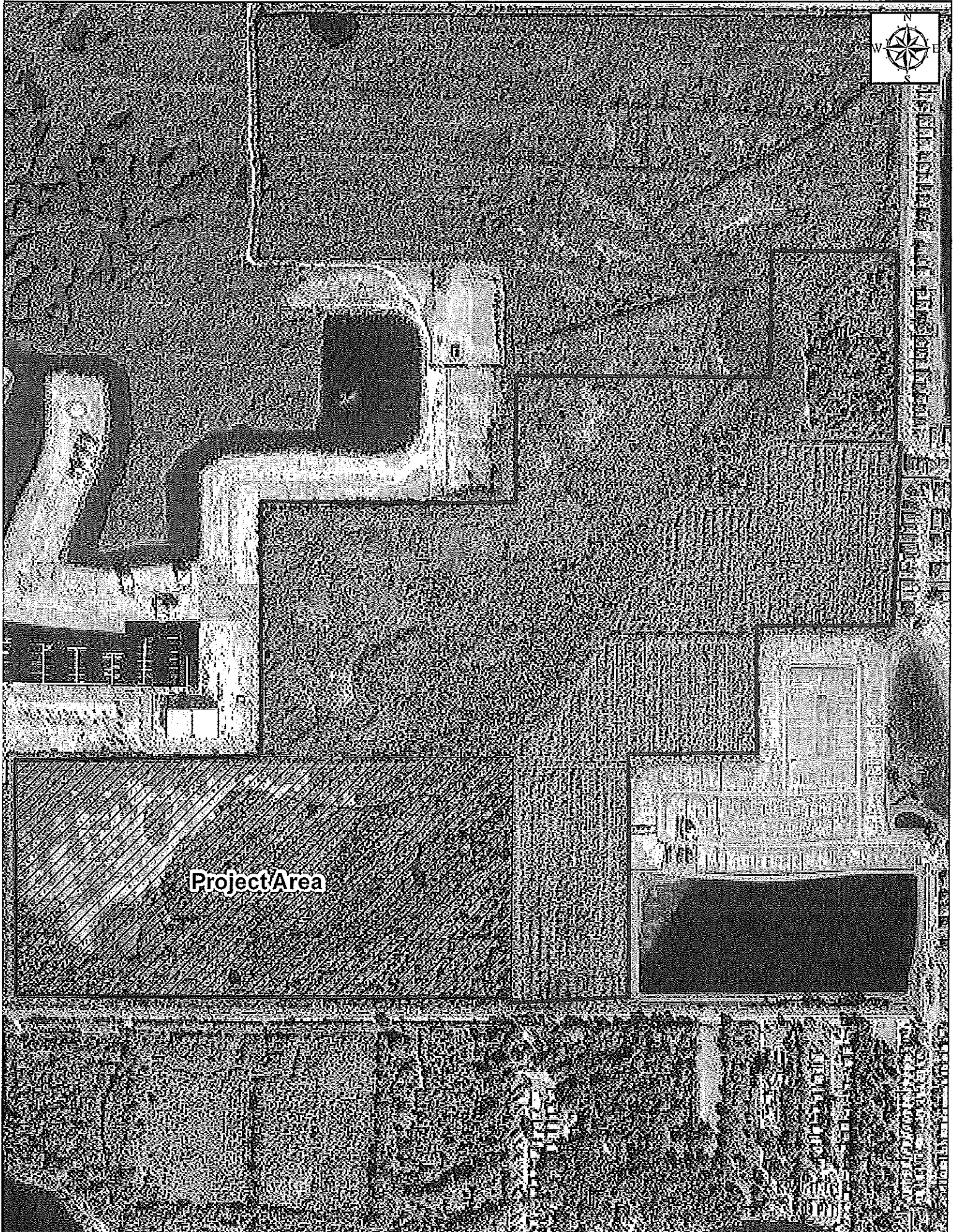
By: _____
Assistant County Attorney

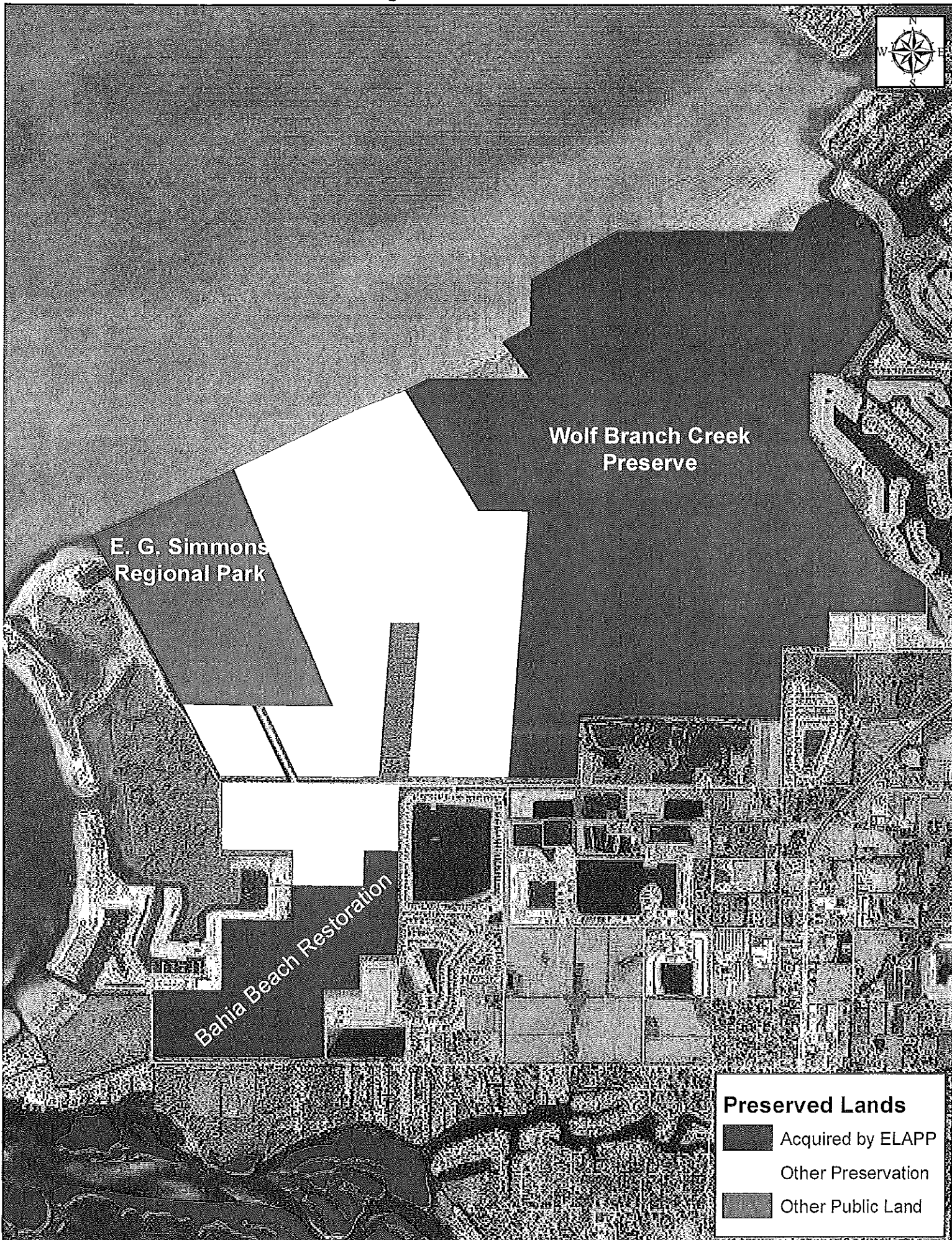
By: _____
Kevin Beckner, Chairman
Environmental Protection Commission

Date: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
EPC Attorney





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