

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
COUNTY CENTER 2ND FLOOR
FEBRUARY 18, 2010
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.	<u>PUBLIC COMMENT</u>	
	Three (3) Minutes Are Allowed for Each Speaker	
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	Report from the CEAC Chairman – Danny Alberdi	
III.	<u>CONSENT AGENDA</u>	
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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 9, 2009 - ENVIRONMENTAL PROTECTION COMMISSION WORKSHOP - DRAFT
MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Workshop Meeting to discuss Fertilizer Use and Landscape Maintenance, scheduled for Wednesday, December 9, 2009, at 2:00 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Al Higginbotham and Commissioners Kevin Beckner, Rose Ferlita (arrived at 2:18 p.m.), Ken Hagan (arrived at 2:06 p.m.), Mark Sharpe (arrived at 2:06 p.m.), and Kevin White.

The following member was absent: Commissioner Jim Norman (death in family).

Chairman Higginbotham called the meeting to order at 2:03 p.m., led in the pledge of allegiance to the flag, and gave the invocation.

Dr. Richard Garrity, EPC Executive Director, recalled history of the issue and workshop discussions and outlined reasons for focus on lawn fertilizer.

Mr. Robert Stetler, Director, EPC Wetlands and Watershed Management Division, highlighted a presentation on Hillsborough County nutrient impaired waters, Tampa Bay Estuary Program (TBEP) nitrogen findings, water quality/total maximum daily loads compliance, nitrogen pollution remediation costs, water quality cause and effect, additional factors/considerations, actions in the Tampa Bay area/Florida related to fertilizer management since late 2007, Senate Bill (SB) 494, main areas of consensus/nonconsensus at workshops, a comparison of local State ordinances, basic concepts included in all models/ordinances, and a preliminary range of options for fertilizer regulations.

Mr. Joe Pergola, Director, Cooperative Extension Office, reviewed current training/licensing provided at the Cooperative Extension Office. Mr. Stetler enumerated education concepts to maximize citizen participation/compliance. EPC General Counsel Richard Tschantz reported questions on whether the County should adopt an EPC rule or a County ordinance; stated Hillsborough County and the municipalities must adopt the State model ordinance at a minimum; explained most stakeholders agreed one EPC rule was preferable, noting the municipalities could opt out of a countywide ordinance but could not make an EPC rule less stringent; requested direction on how to proceed; and discussed compliance/education considerations. Dr. Garrity presented four preliminary fertilizer regulation options.

PUBLIC COMMENT

Chairman Higginbotham asked for a motion on the time allowed for public comment. **Commissioner White moved two minutes each speaker, seconded by**

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Commissioner Beckner, and carried six to zero. (Commissioner Norman was absent.)

INVITED GUEST SPEAKERS

Mr. Philip Compton, Tampa Bay Group of the Sierra Club (Sierra Club), outlined a presentation, including photographs/effects of harmful algae blooms/outbreaks, special State concerns/recommendations, reasons more nitrogen was running into waterways, ordinances passed in other areas since 2007/exemptions, city of St. Petersburg ordinance requirements, Pinellas County plans to adopt an ordinance, and rainy season nitrogen and phosphorous application ban standards/alternatives. He pointed out a rainy season ban did not preclude the continued use of turf in urban landscapes, commented on lack of science to suggest turf could not thrive during a nitrogen ban, referenced research on the use of a six-month controlled release nitrogen fertilizer, reviewed ways turf received nitrogen naturally, expounded on costs to clean up waterways and prevent harmful algae blooms through mechanical/chemical means, showed educational materials from other areas, and read a statement from the The Snook Foundation Incorporated.

Ms. Holly Greening, director, TBEP, thanked Hillsborough County for regional leadership in water quality improvement and highlighted a presentation on seagrass coverage increases, meeting water quality regulatory requirements, assurance of continued compliance, nitrogen-fueled issues, regulatory requirements for reductions, challenges, TBEP policy board direction for staff to facilitate workshops on the development of a regional nonagricultural fertilizer application model ordinance, issues addressed at workshops, key technical findings, rainfall patterns across the State, defining runoff events, a graphic of the city of Plant City rainfall, a Safety Harbor sediment study, the importance of education, proposed projects, and potential benefits of summer application/retail sale restrictions.

Dr. George Hochmuth, associate dean for research, agricultural experiment station, University of Florida Institute of Food and Agricultural Sciences (IFAS), discussed protecting water quality with science-based lawn/landscape management practices, the role of science in solving problems, unintended consequences, peer-review science, publications/reports, a diagram on the nitrogen cycle, national studies, and a photograph comparing unfertilized/fertilized grass.

Ms. Erica Santella, representing green industries, including the lawn and ornamental service industry, as the Florida Pest Management Association of Green Industries task force chairman, stressed the industry understood/shared

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local government concerns, reported the lawn and ornamental industry spoke as one unified voice in support of the model ordinance endorsed by the State in enacting SB 494, and discussed the value of lawns/landscape, environmental benefits, how turf acted as a filter, industry practices related to fertilizer, the Florida Department of Environmental Protection best management practices manual, the model ordinance task force process from 2007 to 2009, ensuring model ordinance development process benefits, non-SB 494 ordinances, the Sarasota ordinance, in-the-field observations, and green industry support.

PUBLIC COMMENT - RESUMED

Mr. Hugh Gramling, Agriculture Economic Development Council chairman, requested adoption of an ordinance limiting inappropriate application of fertilizer unless based on science. On behalf of the Tampa Bay Wholesale Growers, he opined the two options for consideration were to adopt the model ordinance or adopt the Orlando model, perceived laws would be violated by adopting the TBEP model ordinance, stated no science was presented supporting a blackout period, and referenced SB 494 and SB 2080 requirements.

Mr. Gus Muench Jr., 3031 Manatee Avenue, Agency on Bay Management commercial industry representative and the State Blue Crab Advisory Board, reported fish, shrimp, and crabs were disappearing in the bay area and the County needed to strive to make positive changes for the bay.

Ms. Stephanie Shatila, Florida pest control company employee, commented on the need to focus on training/education rather than a blackout period and impacts to homeowner rights.

Mr. Travis Council, 3935 Southeast 24th Street, spoke about not banning nitrogen fertilizer during the rainy season, perceived research was sound, and asked the EPC Board to consider jobs and the ordinance supported by the landscape industry.

Ms. Lindsey Pickel, 205 South Matanzas Avenue, representing the Florida Coastal and Ocean Coalition, requested a strong ordinance to protect the environment that mirrored the TBEP model ordinance and asked the EPC to consider the health of communities and the environment.

Ms. Cris Costello, Sierra Club regional representative and red tide campaign coordinator, submitted/reviewed information related to fertilizer ordinances/regulations.

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Mr. Michael Holsinger, horticultural consultant/retired Sarasota County extension director, read a written statement and submitted a letter regarding turf management strategies.

Dr. Christian Wells, University of South Florida associate professor and office of sustainability director, provided a statement regarding eutrophication, managing the overuse of nitrate containing fertilizer, and policies regulating application/discharge of turf fertilizers in residential settings leading to dramatic reductions to Florida ecosystems and encouraged approval of the TBEP model ordinance.

Dr. Richard Brown, 1214 East Park Circle, commented on peer-review science, the County impaired waterways map, and opposition to a blackout period.

Councilwoman Linda Saul-Sena, city of Tampa City Council, urged adoption of the TBEP model ordinance and to select the most cost-effective/environmentally sensitive choice.

Mr. John Miller, 802 Congress Court, professional geologist, submitted a written statement regarding the potential for nitrogen-bearing groundwater to move to surface water bodies.

Mr. Armando Campos, agronomist/horticulturalist, recommended consideration of peer-review validity, opined a blackout period was unnecessary, and perceived model ordinance passage could be reconsidered if issues arose.

Mr. Peter Snyder, Florida Turfgrass Association Incorporated, remarked on fields/plots getting smaller and the use of healthy, managed turf to minimize leaching/runoff.

Mr. Chris Wible, Scotts Miracle-Gro Company, discussed urban turf rules and the need to rely on good information and to pass a strong ordinance, refuted statements regarding fertilizer use increases, and encouraged TBEP model ordinance implementation.

Mr. Barry Troutman, ValleyCrest Landscape Maintenance Incorporated, supported the State model ordinance and spoke on training, peer-review science, and avoiding a blackout period.

Ms. Mary Hartney, Florida Fertilizer and Agrichemical Association Incorporated, stressed State regulations required Florida-friendly fertilizers contain either low or no phosphorus and reduced nitrogen and suggested SB 494, in conjunction with the urban turf rule, outlined a strong model ordinance.

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Ms. Betsy Scherzer, Tampa resident, supported the TBEP model ordinance and commented on impacts of excess nitrogen fertilizer usage and potential benefits of the ordinance.

Mr. David Johnson, County resident, supported SB 494, saw no support for the blackout period, and commented on costs of replacing turf/homeowner impacts.

Ms. Cathy Harrelson, Pinellas County environmental science forum/planning authority and TBEP education committee, discussed businesses that benefited from water quality.

Mr. Joe Welch, Middleton Lawn and Pest Control, noted support for the State ordinance, which did not include a blackout period, and refuted comments related to nitrogen in the bays.

Mr. Mark Barkhurst, who was experienced in nitrogen research, reviewed his experience in lawn care and support for the TBEP model ordinance and opined turf grass could survive a rainy season ban with proper management.

Mr. Darren Booth, County resident/developer, commented on fertilizer use.

Ms. Mariella Smith, distributed petitions in support of a strong fertilizer ordinance, including a sales/application ban, and discussed the importance of education.

Mr. Joseph Murphy, Gulf Restoration Network, supported the TBEP model ordinance and remarked on impacts of polluted water and the importance of education.

The following people spoke in support of the TBEP model ordinance: Mr. Ed Ross, County resident; Mr. Troy Springer, landscape contractor; Ms. Ingrid Jacoba Smith, 5605 North Suwanee Avenue; Ms. Giovanna Chao, County resident; and Ms. Beverly Griffiths, Sierra Club.

Ms. Robin Baldwin, 2800 Cove Cay Drive, Clearwater, spoke regarding wildlife in the area, red tide impacts, and science reports and supported the Sierra Club and the TBEP.

Mr. John Hendershot, 8210 La Serena Drive, discussed red tide/algae bloom impacts to Pico Pond.

Mr. Tom Krumreich, Florida Consumer Action Network Incorporated, opined many supported a strong fertilizer control ordinance such as the TBEP model ordinance, perceived the summer/rainy season ban was critical, and urged support for a strong model ordinance to control fertilizer application.

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Ms. Janet Doherty, representing various agencies, had participated in public workshops to develop the model ordinance, suggested adopting a fertilizer ordinance based on science and including enforcement, promoted the use of compost, referenced other pending rules, and supported the TBEP model ordinance.

BOARD DISCUSSION/DIRECTION

Commissioner Sharpe commented on science, protecting the environment, lawn maintenance education, purpose/importance of nitrogen, summer-friendly fertilizers, unintended consequences, and working with lawn businesses if a ban was enacted. Mr. Stetler remarked on slow-release fertilizers, the misuse of fertilizer possibly being the biggest source of nitrogen, and impaired waterways. Commissioner Sharpe would support restrictive enforcement, leaned heavily toward TBEP recommendations, had concerns with ways to proceed with private business partners and education, and asked about a market-based solution/replacement during the summer months. Dr. Garrity acknowledged a summer-safe fertilizer. Commissioner Sharpe sensed the business industry would eventually benefit.

In response to Commissioner White, Dr. Garrity explained professional applicators would be included in the TBEP model ordinance. Commissioner White expressed concern regarding nitrogen released in the bay, saw enforcement as a big issue as well as environmental protection, opined everyone could work together, and would support the TBEP model ordinance. Commissioner Ferlita sensed the County could be environmentally responsible and support businesses at the same time; commented on the importance of education, being environmentally responsible, and partnering with municipalities; referenced staff options; and suggested the Board discuss preferences and consider a reasonable grace period. In response to Commissioner Ferlita, Dr. Garrity reviewed the expected timeline for implementation. Commissioner Ferlita wanted to allow enough time but also did not want a long delay and requested continued communication regarding findings. Responding to Commissioner Beckner, Dr. Garrity stated the regulations would not apply to the agricultural industry or golf courses.

Commissioner Beckner was concerned with waterways/water quality, agreed the presence of excessive nitrogen was a detriment to the environment, respected science, noted the need to work with industries, understood the blackout period would not necessarily ban fertilizer application just nitrogen-based fertilizer, referenced regional discussions, saw sense in having unified

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policies, stressed the importance of education, and was leaning toward supporting the TBEP model ordinance and an EPC rule.

Ms. Santella responded to queries from Commissioner Sharpe regarding how to keep lawns green/healthy during summer months with a ban. Commissioner Ferlita asked that the porosity issue be addressed. Dr. Garrity agreed. Chairman Higginbotham complimented participants; referenced the Orange County ordinance, the need for education, and concerns regarding red tide; and asked about peer-review publications to support/refute claims that nitrogen caused red tide. Dr. Garrity perceived nitrogen from fertilizer could contribute to harmful algae blooms and would research publications. Chairman Higginbotham stressed the need to ensure facts were accurate and to have common ground, pointed to a lack of discussion regarding taxes being raised due to enforcement issues, and read State statutes related to adopting more stringent standards.

There being no further business, the meeting was adjourned at 5:14 p.m.

READ AND APPROVED: _____

CHAIRMAN OR VICE CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____
Deputy Clerk

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DECEMBER 17, 2009 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, December 17, 2009, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Al Higginbotham and Commissioners Kevin Beckner, Rose Ferlita, Jim Norman, and Kevin White (arrived at 9:10 a.m.).

The following members were absent: Commissioners Ken Hagan and Mark Sharpe (schedule conflict).

Chairman Higginbotham called the meeting to order at 9:05 a.m., led in the pledge of allegiance to the flag, and gave the invocation.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, said Item III.F., Agreement S0483, petroleum cleanup program contracts, was withheld for discussion by Commissioner Beckner and could be discussed with Item V.B., legislative agenda and petroleum cleanup program funding. After stating she would be attending a funeral, Commissioner Ferlita asked to move Item IV, Executive Director, to the end of the agenda to be present for items requiring a vote. Noting a quorum was needed, **Commissioner Norman moved the changes, seconded by Commissioner Ferlita, and carried four to zero.** (Commissioner White had not arrived; Commissioners Hagan and Sharpe were absent.)

PUBLIC COMMENT

Ms. Nanette O'Hara, representing the Tampa Bay Estuary Program (TBEP), thanked the EPC Board for discussion on local fertilizer management regulations; stated she was speaking on behalf of Ms. Holly Greening, director, TBEP; and was available to answer questions on the TBEP process and model ordinance.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson reported the CEAC reviewed the committee bylaws, outlined the recommended changes, and requested approval of the recommendation. **Commissioner Norman so moved, seconded by Commissioner Beckner, and carried five to zero.** (Commissioners Hagan and Sharpe were absent.)

CONSENT AGENDA

- A. Approval of minutes: October 15, 2009.
- B. Monthly activity reports.

THURSDAY, DECEMBER 17, 2009 - DRAFT MINUTES

- C. Pollution Recovery Fund report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summaries - November 2009 and December 2009.
- F. Agreement S0483, petroleum cleanup program contracts. **Withheld for discussion.**
- G. Tampa Bay Nitrogen Management Consortium reasonable assurance agreement.
- H. Memorandum of agreement between EPC and the Florida Department of Health for provision of radon monitoring at Mosaic Fertilizer LLC.

Commissioner Norman moved the remainder of the Consent Agenda except for Item III.F., seconded by Commissioner Ferlita, and carried five to zero. (Commissioners Hagan and Sharpe were absent.)

CONSENT AGENDA ITEM WITHHELD FOR DISCUSSION/QUESTIONS

Agreement S0483, Petroleum Cleanup Program Contracts - Commissioner Beckner inquired about program funding. Dr. Garrity explained the contract was with the State and the funding was separate. Mr. Hooshang Boostani, Director, EPC Waste Management Division, expounded on contract funding, noting changes through the legislature; was unsure if funding would change; and responded to Commissioner Beckner regarding County liability. **Commissioner Beckner moved the item, seconded by Commissioner Ferlita, and carried five to zero.** (Commissioners Hagan and Sharpe were absent.)

LEGAL DEPARTMENT

Executive Director Contract Extension - EPC General Counsel Richard Tschantz discussed the evaluation/three-year contract renewal, which would expire July 1, 2010; stated the Executive Director requested extending the agreement for another three years to July 1, 2013, with no additional contract changes; and mentioned the lack of merit/salary increases in the past two fiscal years. Given the performance of Dr. Garrity and lack of changes/increases, **Commissioner Ferlita moved the recommendation to extend the contract for another three years, seconded by Commissioner Beckner, and carried five to zero.** (Commissioners Hagan and Sharpe were absent.)

Legislative Agenda and Petroleum Cleanup Program Funding - Attorney Tschantz reported the legislative session would begin on March 2, 2010; outlined policies established by the EPC Board; recommended obtaining a letter from the EPC Chairman regarding inland protection trust funding; explicated reasons for

THURSDAY, DECEMBER 17, 2009 - DRAFT MINUTES

funding; and requested authority for the EPC Chairman to sign a letter to restore funding, which would be sent to key legislators. **Commissioner Ferlita moved the request.** Commissioner Beckner asked if staff needed authority to continue talking to legislators about program education and the program. Attorney Tschantz said that would be beneficial. **Commissioner Ferlita amended the motion to include that information, seconded by Commissioner Beckner, and carried five to zero.** (Commissioners Hagan and Sharpe were absent.)

WETLANDS AND WATERSHED MANAGEMENT DIVISION

Update on Fertilizer Use and Landscape Maintenance Workshop Assignments - Chairman Higginbotham addressed the workshop held and drafting EPC rules to move forward on the issue of nitrogen. Following comments on a productive workshop, Dr. Garrity provided a recap on fertilizer regulation options, EPC Board comments/tasks, and proposed fertilizer education. After passing the gavel to Vice Chairman Beckner, Chairman Higginbotham moved to hold three workshops and ask staff to include, as they drafted the local rule, incorporating the estuary suggestions as well as the Orange County model and work with consensus making sure there was clear notification to those who were representative members of the public, science and industry, concerned citizens who expressed interest, and include as moderators, EPC estuary representative, representatives from the science side, such as the University of Florida Institute of Food and Agricultural Sciences staff, seconded by Commissioner Ferlita. (The motion was not voted on.) **Commissioner Ferlita made that motion, seconded by Commissioner Norman, and carried five to zero.** (Commissioners Hagan and Sharpe were absent.)

AIR MANAGEMENT DIVISION

Noise Standards for Eastbay Raceway - Ms. Kay Strother, EPC, summarized a presentation on the noise rule study, including measurement of metric changes, standards, location, complaint history, study conclusion, and the recommendation, which was to not make changes to the rule, and responded to Chairman Higginbotham regarding new expansions to the track.

Report on General Chemical Nuisance Issue - Mr. Jason Waters, EPC, highlighted a presentation on emissions, location, correction timeline, park fumigation, scrubbing system, emission comparison, and results.

EXECUTIVE DIRECTOR

EPC Affirmative Action Plan Update - Mr. Sterlin Woodard, EPC, provided an affirmative action plan update, as presented in background material.

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EPC Mission, Vision, and Values - Dr. Garrity reviewed the mission, vision, and values, as provided in background material.

State of the Environment Rack Card - Dr. Garrity stated the card incorporated the mission, vision, and values; summarized environmental issues; referenced card costs; thanked staff; noted future challenges with impaired waterways and standards for air quality; said the card was available online; and discussed card distribution.

There being no further business, the meeting was adjourned at 9:48 a.m.

READ AND APPROVED: _____

CHAIRMAN OR VICE CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____
Deputy Clerk

ssg

**FY 10 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

DEC JAN FY TO DATE

A. Public Outreach/Education Assistance

1. Phone calls	138	139	455
2. Literature Distributed	-	22	22
3. Presentations	2	1	7
4. Media Contacts	-	-	2
5. Internet	63	62	185
6. Host/Sponsor Workshops, Meetings, Special Events	3	2	5

B. Industrial Air Pollution Permitting

1. Permit Applications received (Counted by Number of Fees Received)			
a. Operating	10	7	25
b. Construction	5	1	22
c. Amendments	-	-	2
d. Transfers/Extensions	4	2	9
e. General	-	-	-
f. Title V	-	1	1
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ^1 (Counted by Number of Fees Collected) - ^2 Counted by Number of emission Units affected by the Review)			
a. Operating ^1	1	4	18
b. Construction ^1	15	1	32
c. Amendments ^1	-	-	-
d. Transfers/Extensions ^1	-	-	-
e. Title V Operating ^2	-	-	38
f. Permit Determinations ^2	-	-	-
g. General	3	-	3
3. Intent to Deny Permit Issued	-	-	-

C. Administrative Enforcement

1. New cases received	2	-	2
2. On-going administrative cases			
a. Pending	2	2	4
b. Active	11	10	45
c. Legal	2	4	13
d. Tracking compliance (Administrative)	13	10	55
e. Inactive/Referred cases	-	-	-
TOTAL	28	26	117
3. NOIs issued	-	-	2
4. Citations issued	-	-	-
5. Consent Orders Signed	-	1	5
6. Contributions to the Pollution Recovery Fund	\$ -	\$ 1,600	\$ 3,976
7. Cases Closed	-	4	6

D. Inspections

**FY 10 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

	<u>DEC</u>	<u>JAN</u>	<u>FY TO DATE</u>
1. Industrial Facilities	4	20	47
2. Air Toxics Facilities			
a. Asbestos Emitters	-	-	-
b. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	2	4	7
c. Major Sources	2	5	22
3. Asbestos Demolition/Renovation Projects	17	10	52

E. Open Burning Permits Issued	1	2	6
F. Number of Division of Forestry Permits Monitored	235	145	1,011
G. Total Citizen Complaints Received	57	57	231
H. Total Citizen Complaints Closed	58	56	219
I. Noise Sources Monitored	2	5	13
J. Air Program's Input to Development Regional Impacts	1	1	9
K. Test Reports Reviewed	15	49	92
L. Compliance			
1. Warning Notices Issued	5	6	19
2. Warning Notices Resolved	1	2	11
3. Advisory Letters Issued	5	-	12
M. AOR's Reviewed	-	-	39
N. Permits Reviewed for NESHAP Applicability	2	-	4
O. Planning Documents coordinated for Agency Review	-	3	3

**FY 10 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

**FY TO
DATE**

DEC

JAN

A. ENFORCEMENT

	DEC	JAN	FY TO DATE
1. New cases received	-	3	10
2. On-going administrative cases	121	121	489
Pending	7	7	23
Active	47	47	192
Legal	9	9	37
Tracking Compliance (Administrative)	46	46	189
Inactive/Referred Cases	12	12	48
3. NOI's issued	-	-	2
4. Citations issued	-	-	6
5. Consent Orders and Settlement Letter Signed	2	-	7
6. Civil Contributions to the Pollution Recover Fund (\$)	\$ 4,527	\$ 14,607	\$ 27,449
7. Enforcement Costs Collected (\$)	\$ 4,264	\$ 2,199	\$ 9,821
8. Cases Closed	2	4	12

B. SOLID AND HAZARDOUS WASTE

1. FDEP Permits Received	-	2	2
2. FDEP Permits Reviewed	-	1	1
3. EPC Authorization for Facilities NOT Requiring DEP Permit	3	4	13
4. Other Permits and Reports			
County Permits Received	11	12	23
County Permits Reviewed	10	16	26
Reports Received	30	36	111
Reports Reviewed	21	36	111
5. Inspections (Total)	694	178	2,460
Complaints	23	31	92
Compliance/Reinspections	10	9	43
Facility Compliance	23	25	89
Small Quantity Generator	638	113	2,233
P2 Audits	-	-	3
6. Enforcement			
Complaints Received	27	35	106
Complaints Closed	28	14	84
Warning Notices Issued	4	6	13
Warning Notices Closed	2	3	8
Compliance Letters	20	92	209
Letters of Agreement	-	-	-
Agency Referrals	2	3	10
7. Pamphlets, Rules and Material Distributed	22	159	326

C. STORAGE TANK COMPLIANCE

1. Inspections			
Compliance	11	82	284
Installation	14	15	51
Closure	9	11	52
Compliance Re-Inspections	-	8	34

**FY 10 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

	<u>DEC</u>	<u>JAN</u>	<u>FY TO DATE</u>
2. Installation Plans Received	11	16	56
3. Installation Plans Reviewed	9	15	50
4. Closure Plans & Reports			
Closure Plans Received	15	12	56
Closure Plans Reviewed	15	11	52
Closure Reports Received	10	8	33
Closure Reports Reviewed	2	7	18
5. Enforcement			
Non-Compliance Letters Issued	21	71	203
Warning Notices Issued	-	4	14
Warning Notices Closed	1	-	2
Cases Referred to Enforcement	1	2	4
Complaints Received	2	2	8
Complaints Investigated	2	2	8
Complaints Referred	-	-	-
6. Discharge Reporting Forms Received	1	2	4
7. Incident Notification Forms Received	10	3	43
8. Cleanup Notification Letters Issued	1	2	4
9. Public Assistance	-	-	-

D. STORAGE TANK CLEANUP

1. Inspections	14	16	74
2. Reports Received	75	73	318
3. Reports Reviewed	72	91	317
Site Assessment Received	6	11	33
Site Assessment Reviewed	7	13	32
Source Removal Received	1	2	6
Source Removal Reviewed	1	3	7
Remedial Action Plans (RAP'S) Received	5	8	30
Remedial Action Plans (RAP'S) Reviewed	3	7	21
Site Rehabilitation Completion Order/No Further Action Rec'd	6	2	13
Site Rehabilitation Completion Order/No Further Action Revw'd	4	3	11
Active Remediation/Monitoring Received	39	37	164
Active Remediation/Monitoring Reviewed	39	50	169
Others Received	18	13	72
Others Reviewed	18	15	77

E. RECORD REVIEWS

15	17	49
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F. LEGAL PIR'S

-	-	11
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G. PUBLIC INFORMATION PROJECTS

-	-	-
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**FY 10 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>DEC</u>	<u>JAN</u>	<u>FY TO DATE</u>
A. ENFORCEMENT			
1. New Enforcement Cases Received	2	-	10
2. Enforcement Cases Closed	1	-	9
3. Enforcement Cases Outstanding	51	49	202
4. Enforcement Documents Issued	5	-	17
5. Recovered Costs to the General Fund	\$ 381	\$ 156	\$ 3,361
6. Contributions to the Pollution Recovery Fund	\$1,298	\$ 298	\$ 9,092
B. PERMITTING/PROJECT REVIEW - DOMESTIC			
1. Permit Applications Received	13	9	51
a. Facility Permit	2	-	14
(i) Types I and II	-	-	5
(ii) Type III	2	-	9
b. Collection Systems - General	4	4	19
c. Collection systems-Dry Line/Wet Line	7	4	16
d. Residuals Disposal	-	1	2
2. Permit Applications Approved	13	5	45
a. Facility Permit	4	-	13
b. Collection Systems - General	2	2	12
c. Collection systems-Dry Line/Wet Line	7	3	20
d. Residuals Disposal	-	-	-
3. Permit Applications Recommended for Disapproval	-	-	1
a. Facility Permit	-	-	-
b. Collection Systems - General	-	-	-
c. Collection systems-Dry Line/Wet Line	-	-	1
d. Residuals Disposal	-	-	-
4. Permit Applications (Non-Delegated)	-	-	-
a. Recommended for Approval	-	-	-
5. Permits Withdrawn	-	-	-
a. Facility Permit	-	-	-
b. Collection Systems - General	-	-	-
c. Collection systems-Dry Line/Wet Line	-	-	-
d. Residuals Disposal	-	-	-
6. Permit Applications Outstanding	39	43	163
a. Facility Permit	18	18	76
b. Collection Systems - General	6	8	25
c. Collection systems-Dry Line/Wet Line	15	16	61
d. Residuals Disposal	-	1	-
7. Permit Determination	2	1	6
8. Special Project Reviews	1	-	1

**FY 10 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>DEC</u>	<u>JAN</u>	<u>FY TO DATE</u>
a. Reuse	-	-	-
b. Residuals/AUPs	1	-	1
c. Others	-	-	-

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	9	7	30
a. Inspection (CEI)	4	-	5
b. Sampling Inspection (CSI)	5	7	25
c. Toxics Sampling Inspection (XSI)	-	-	-
d. Performance Audit Inspection (PAI)	-	-	-
2. Reconnaissance	58	44	192
a. Inspection (RI)	9	22	47
b. Sample Inspection (SRI)	-	-	-
c. Complaint Inspection (CRI)	49	22	143
d. Enforcement Inspection (ERI)	-	-	2
3. Engineering Inspections	30	23	91
a. Reconnaissance Inspection (RI)	2	-	5
b. Sample Reconnaissance Inspection (SRI)	-	-	-
c. Residual Site Inspection (RSI)	-	-	-
d. Preconstruction Inspection (PCI)	3	1	9
e. Post Construction Inspection (XCI)	25	22	77
f. On-site Engineering Evaluation	-	-	-
g. Enforcement Reconnaissance Inspection (ERI)	-	-	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	7	1	13
a. Facility Permit	3	-	7
(i) Types I and II	2	-	4
(ii) Type III with Groundwater Monitoring	-	-	2
(iii) Type III w/o Groundwater Monitoring	1	-	1
b. General Permit	1	-	1
c. Preliminary Design Report	3	1	5
(i) Types I and II	-	-	-
(ii) Type III with Groundwater Monitoring	3	-	3
(iii) Type III w/o Groundwater Monitoring	-	1	2
2. Permits Recommended to DEP for Approval	-	-	-
3. Special Project Reviews	3	1	8
a. Facility Permit	3	-	7
b. General Permit	-	1	1
4. Permitting Determination	-	-	1
5. Special Project Reviews	25	25	130

**FY 10 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>DEC</u>	<u>JAN</u>	<u>FY TO DATE</u>
a. Phosphate	5	5	26
b. Industrial Wastewater	12	10	47
c. Others	8	10	57

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	9	7	39
a. Inspection (CEI)	9	7	39
b. Sampling Inspection (CSI)	-	-	-
c. Toxics Sampling Inspection (XSI)	-	-	-
d. Performance Audit Inspection (PAI)	-	-	-
2. Reconnaissance (Total)	12	9	42
a. Inspection (RI)	4	9	20
b. Sample Inspection (SRI)	-	-	-
c. Complaint Inspection (CRI)	8	-	22
d. Enforcement Inspection (ERI)	-	-	-
3. Engineering Inspections (Total)	3	8	21
a. Compliance Evaluation (CEI)	3	8	21
b. Sampling Inspection (CSI)	-	-	-
c. Performance Audit Inspection (PAI)	-	-	-
d. Complaint Inspection (CRI)	-	-	-
e. Enforcement Reconnaissance Inspections (ERI)	-	-	-

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints	50	33	156
a. Domestic	42	29	125
(i) Received	19	24	71
(ii) Closed	23	5	54
b. Industrial	8	4	31
(i) Received	5	-	14
(ii) Closed	3	4	17
2. Warning Notices	11	9	51
a. Domestic	8	8	41
(i) Received	4	4	20
(ii) Closed	4	4	21
b. Industrial	3	1	10
(i) Received	1	-	5
(ii) Closed	2	1	5
3. Non-Compliance Advisory Letters	11	10	44
4. Environmental Compliance Reviews	181	133	597
a. Industrial	60	25	240
b. Domestic	121	108	357

**FY 10 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	<u>DEC</u>	<u>JAN</u>	<u>FY TO DATE</u>
5. Special Project Reviews	-	5	5

G. RECORD REVIEWS

1. Permitting Determination	2	5	19
2. Enforcement	1	-	2

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

1. Air division	53	60	204
2. Waste Division	-	-	-
3. Water Division	11	17	70
4. Wetlands Division	-	-	-
5. ERM Division	142	137	626
6. Biomonitoring Reports	10	6	25
7. Outside Agency	21	11	76

I. SPECIAL PROJECT REVIEWS

1. DRIs	-	-	7
2. ARs	-	-	-
3. Technical Support	2	5	16
4. Other	-	-	-

**FY 10 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

FY TO

DEC JAN DATE

ASSESSMENT REPORT

Agriculture Exemption Report

# Agricultural Exemptions Reviews	-	-	1
# Isolated Wetlands Impacted	-	-	1
# Acres of Isolated Wetlands Impacted	-	-	0.11
# Isolated Wetlands qualify for Mitigation Exemption	-	-	1
# Acres of Wetlands qualify for Mitigation Exemption	-	-	0.11

PGMD Reviews Performance Report

# of Reviews	58	57	225
Timeframes Met	98%	100%	100%
Year to Date	99%	99%	99%

Formal Wetland Delineation Surveys

Projects	5	6	25
Total Acres	713	257	1,187
Total Wetland Acres	88	117	275
# Isolated Wetlands < 1/2 Acre	-	4	6
Isolated Wetland Acreage	0	0.9	1.06

Construction Plans Approved

Projects	17	16	53
Total Wetland Acres	18	2	27
# Isolated Wetlands < 1/2 Acre.	2	-	3
Isolated Wetland Acreage	0.08	0	0.26
Impacts Approved Acreage	0.08	0.81	1.24
Impacts Exempt Acreage	0.08	0.62	0.7

Mitigation Sites in Compliance

Ratio	198/207	199/207	199/207
Percentage	96%	96%	96%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	1	0.90	3.20
Acreage of Water Quality Impacts	-	0.00	0.10
Acreage Restored	1	0.70	31.84

General

Telephone Conferences	640	608	2,489
Scheduled Meetings	285	280	1,026
Unscheduled Citizen Assistance	269	345	1,204

REVIEW TIMES

# of Reviews	233	235	884
% On Time	97%	97%	97%
% Late	3%	3%	3%

**FY 10 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

		<u>DEC</u>	<u>JAN</u>	<u>FY TO DATE</u>
A. General				
1.	Telephone conferences	640	608	2,489
2.	Unscheduled Citizen Assistance	269	345	1,204
3.	Scheduled Meetings	285	280	1,026
4.	Correspondence	1,241	1,430	4,669
1/ 5.	Intergency Coordination	46	86	251
1/ 6.	Trainings	8	21	77
1/ 7.	Public Outreach/Education	2	2	8
1/ 8.	Quality Control	113	93	323

B. Assessment Reviews				
1.	Wetland Delineations	13	7	42
2.	Surveys	13	12	44
3.	Miscellaneous Activities in Wetland	23	27	127
4.	Mangrove	-	5	9
5.	Notice of Exemption	2	-	9
6.	Impact/Mitigation Proposal	25	15	76
7.	Tampa Port Authority Permit Applications	57	40	205
8.	Wastewater Treatment Plants (FDEP)	-	-	1
9.	Development Regn'l Impact (DRI) Annual Report	-	-	6
10.	On-Site Visits	82	88	339
11.	Phosphate Mining	4	2	14
12.	Comp Plan Amendment (CPA)	1	2	22
1/ 13.	AG SWM	-	1	1
	Sub-Total	220	199	895

Planning and Growth Management Review				
14.	Land Alteration/Landscaping	-	-	1
15.	Land Excavation	2	3	11
16.	Rezoning Reviews	20	20	49
17.	Site Development	39	20	83
18.	Subdivision	11	8	33
19.	Wetland Setback Encroachment	-	1	21
20.	Easement/Access-Vacating	1	1	3
21.	Pre-Applications	11	8	47
1/ 22.	Agriculture Exemption	-	1	1
	Sub-Total	84	62	249
	Total Assessment Review Activities	304	261	1,144

C. Investigation and Compliance				
1.	Warning Notices Issued	10	4	26
2.	Warning Notices Closed	5	5	29
1/ 3.	Complaints Closed	48	19	113
4.	Complaint Inspections	42	26	119

**FY 10 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

		<u>DEC</u>	<u>JAN</u>	<u>FY TO DATE</u>
5.	Return Compliance Inspections for Open Cases	39	41	157
6.	Mitigation Monitoring Reports	28	21	89
7.	Mitigation Compliance Inspections	30	22	112
8.	Erosion Control Inspections	17	4	85
9.	MAIW Compliance Site Inspections	9	11	39
10.	TPA Compliance Site Inspections	6	12	39
2/ 11	Mangrove Compliance Site Inspections	-	-	4
1/ 12	Conservation Easement Inspection	3	-	4

D. Enforcement

1.	Active Cases	20	19	75
2.	Legal Cases	-	-	-
3.	Number of "Notice of Intent to Initiate Enforcement"	2	1	4
4.	Number of Citations Issued	-	-	-
5.	Number of Consent Orders Signed	1	3	7
6.	Administrative - Civil Cases Closed	2	5	18
7.	Cases Referred to Legal Department	-	-	-
8.	Contributions to Pollution Recovery	\$ 1,725	\$ 8,700	\$ 14,175
9.	Enforcement Costs Collected	\$ 360	\$ 1,266	\$ 2,554

E. Ombudsman

1.	Agriculture	1	4	13
2.	Permitting Process & Rule Assistance	-	1	4
3.	Staff Assistance	-	6	8
4.	Citizen Assistance	1	1	9

1/ Reported activity beginning with April 2009.

2/ Reported activity beginning with May 2009.

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**OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 01/31/10**

		As of 1/31/10
Beginning Fund Balance, 10/01/08	\$	555,831
Interest Accrued		10,231
Deposits		65,415
Disbursements		(70,752)
Intrafund Budget Transfers to Project Fund		(371,041)
Intrafund Budget Transfers from Project Fund		18,717
Pollution Recovery Fund Balance	\$	<u>208,401</u>
Encumbrances:		
Pollution Prevention/Waste Reduction (101)	\$	1,429
Artificial Reef Program		104,820
PRF Project Outreach		(4,983)
PRF Project Monitoring		107,055
Total Encumbrances	\$	<u>208,321</u>
Minimum Balance (Reserves)	\$	120,000
Balance Available 01/31/10	\$	<u>(119,920)</u>

PROJECT FUND

		Project Amount		Project Balance
Open Projects				
FY 06 Projects				
Bahia Beach Restoration (contract 04-03)		150,000		41,067
	\$	150,000	\$	41,067
FY 07 Projects				
Tank Removal	\$	25,000	\$	1,570
Agriculture Best Management Practice Impl		150,000		100,857
Lake Thonotosassa Assessment		75,000		75,000
Seagrass & Longshore Bar Recovery		75,000		30
Seawall Removal Cotanchobee Ft Brooke Park		100,000		100,000
Oyster Reef Shore/Stab & Enhance		30,000		35
Nitrogen Emission/Deposition Ratios, Air Pollution		40,906		5,867
Erosion Control/Oyster Bar Habitat Creation		75,000		62,500
Remediation of Illegally Dumped Asbestos		4,486		4,486
	\$	575,392	\$	350,345
FY 08 Projects				
Australian Pine Removal E.G. Simmons Park	\$	80,000	\$	29,375
Restoration of MOSI		125,000		49,626
Invasive Plant Removal Egmont Key		133,000		12,415
Lake Magdalene Special Disposition District		66,954		18,879
Testing Reduction of TMDL in Surface Water Flow		19,694		9,081
Assessing Bacteria Lake Carroll		101,962		1,650
	\$	526,610	\$	121,026
FY 09 Projects				
Agriculture Pesticide Collection & Education Day	\$	24,000	\$	8,860
Agriscience, Food & Natural Resources Department		2,275		2,275
MacDill Phase 2 Seagrass Transplanting		79,196		41,620
McKay Bay Sediment Quality		55,000		55,000
Mini FARMs BMP Implementation		50,000		50,000
Petrol Mart, Inc Tank Removal		75,000		75,000
Site Assessment & Removal of Contaminated Soils		25,000		25,000
Wetland Restoration on County Owned Lands		120,000		120,000
	\$	430,471	\$	377,755
FY 10 Projects				
Basis of Review for Borrow Pit Applications	\$	68,160	\$	68,160
Effects of Restoration on Use of Habitat		84,081		84,081
Artificial Wetland Cells		5,500		5,500
East Lake Watershed		46,300		46,300
Pilot Project for Outfall Water Quality Lake Mag		92,000		92,000
Greenhouse Gas Inventory		75,000		75,000
	\$	371,041	\$	371,041

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
AS OF 01/31/10**

Fund Balance as of 10/1/09	\$ 247,322
Interest Accrued	1,685
Disbursements FY 10	-
Fund Balance	<u>\$ 249,007</u>
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	249,007
Total Encumbrances	<u>\$ 249,007</u>
Fund Balance Available 01/31/10	<u><u>\$ -</u></u>

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

September- December 2009 QUARTERLY SURVEY CARD RESULTS

Ratings are on a scale of one to five, where 5 is Excellent and 1 is Poor.

Division		Prompt Service	Profess' al Courteous	Concerns Addressed	Easy to find Person	EPC Rules Easy	EPC Website Friendly	Overall Satisf
Air	0 SURVEY CARDS - TOTAL POINTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	AVERAGE	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	Comments:						0	
Waste	4 SURVEY CARDS - TOTAL POINTS	20.0	20.0	20.0	20.0	18.0	20.0	20.0
	AVERAGE	5.0	5.0	5.0	5.0	4.5	5.0	5.0
	Comments: <i>Good Service</i> <i>Excellent staff to work with</i>							
Water	0 SURVEY CARDS - TOTAL POINTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	AVERAGE	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	Comments:							0
Wetlands	0 SURVEY CARDS - TOTAL POINTS	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	AVERAGE	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	Comments:							0 0
	4 CARDS TOTAL EPC AVERAGE	5.0	5.0	5.0	5.0	4.5	5.0	5.0

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: February 18, 2010

Subject: Legal Case Summary for January 2010

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

Division: Legal Department

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 2010 EPC Legal Case Summary**

EPC LEGAL DEPARTMENT MONTHLY REPORT

January 2010

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [1]

Eva El-Najdawi [LEPC09-023]: On November 19, 2009 Appellant filed a request for an extension of time to file an appeal regarding a revocation letter that was issued on September 15, 2009. The request was granted and the Appellant had until December 21, 2009 to file a Notice in this matter. On December 21, 2009 the Appellant filed a Notice of Appeal in this matter and the case will be transferred to a Hearing Officer to conduct an administrative hearing. (AZ)

EXISTING ADMINISTRATIVE CASES [5]

Florida Gas Transmission Co., LLC [LEPC08-029]: On October 31, 2008 Florida Gas Transmission Company, LLC filed an application for an order granting a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline and compression facilities and to acquire pipeline facilities. On November 13, 2008 the EPC Board granted the Legal Dept. authority to intervene in the FERC certification process to protect the interests of Hillsborough County's environment. The EPC filed its motion to intervene on November 26, 2008. A draft Environmental Impact Statement (EIS) was issued by FERC and the EPC provided comments on the draft in early June 2009. The final EIS was issued on September 18 and the pipeline certification was issued on November 19, 2009. Technical staff found no reason to file any challenge to either, but other parties are challenging the certification in part. (RT/RM).

Martini Island Land Co. [LEPC07-023]: On August 29, 2007, the Appellant filed a request for an extension of time to file an appeal to challenge a Citation to Cease and Order to Correct that was issued by the Water Mgmt Division. The request was granted and the Appellant had until September 21, 2007 to file an appeal. On Sept. 21, 2007 the Appellant did file an Appeal challenging the Citation to Cease and Order to Correct. The parties are negotiating and the facility is going through foreclosure. (RM)

Michael and Jemimah Ruhala v. DEP and EPC [LEPC08-012]: On May 16, 2008, the Ruhalas filed Chp. 120 petitions against two wastewater treatment permits the DEP Parks Department requested and received modifications on for an expanded effluent sprayfield system at the Hillsborough River State Park. The parties conducted settlement negotiations twice in June and the DEP is investigating reasonable modifications. The parties placed the case in a brief abeyance in an effort to seek settlement. (RM)

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 are preparing the proposed Recommended Orders for the hearing Officer's consideration. (AZ)

Vertis, Inc. [LEPC09-009]: On April 22, 2009 Vertis, Inc. filed a Petition for Administrative Hearing to challenge Operating Permit #0570254-022-AF for its facility located at 4646 S. Grady Avenue in Tampa. The parties are negotiating. (RM)

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES [0]

EXISTING CIVIL CASES [17]

Michael Robilotta [LEPC08-032]: On December 18, 2008 the EPC Board granted authority to take legal action against Respondent Michael Robilotta, owner and operator of the Old Estates Mobile Home Park, for violations of the EPC Act and EPC Rules Chapter 1-1, General Rules and Chapter 1-5, Water Pollution. Respondent failed to respond to the Citation issued on September 15, 2008 and also failed to respond to the Consent Order offered on November 3, 2008. The Citation became final and is enforceable in Circuit Court. One February 18, 2009 the EPC filed a Complaint in Circuit Court for civil penalties and injunctive relief. Due to lack of response the Clerk's office entered a default against Robilotta on May 7, 2009. (RM)

Fuego Churrascaria Steakhouse Corp. [LEPC08-027]: On November 13, 2008, the EPC Board granted authority to take legal action against Respondent Fuego Churrascaria Steakhouse Corp. for violations of the Noise Rule, Chapter 1-10. On March 18, 2008 staff hand delivered a Citation to Cease and Order to Correct Violation. Respondent failed to respond and the Citation became final and is enforceable in Circuit Court. On February 18, 2009 the EPC filed a Complaint in Circuit Court for civil penalties and injunctive relief. On April 24, 2009, the Clerk of Court granted the EPC's motion for default. The owner has recently entered negotiations with the EPC. (RM)

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. Although the parties are in negotiations concerning a settlement of the matter the Defendant has filed bankruptcy. The EPC Legal Department is monitoring the bankruptcy and researching appropriate remedies to get the site into compliance. (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. (AZ)

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)

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)

Medallion Convenience Stores, Inc. and MDC6, LLC [LEPC07-034]: The Commission granted authority to take appropriate action against Medallion Convenience Stores, Inc. and MDC6, LLC on December 13, 2007 for failure to comply with a consent order. The consent order required the facility to submit a Discharge Report Form for petroleum discharge and submit proof of an N.P.D.E.S. permit for de-watering activities at the site. The EPC is attempting to negotiate a settlement in this matter. (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. The Defendants have only partially complied with the CFJ, thus the case has been re-opened in the Circuit Court in order to enforce the CFJ and hold the Defendants in contempt. A hearing was held on April 28, 2008, wherein the judge awarded the EPC additional penalties. The Legal Dept. filed a proposed Supplemental Judgment with the Court. The Court entered the Order on May 15, 2008, and the Defendants have yet to pay any supplemental costs or penalties. The EPC has filed for contempt proceedings and additional penalties for ongoing violations of the CFJ. A hearing has been scheduled for January 25, 2010. The Judge found the Defendants in contempt and levied stipulated penalties/costs, and order shall be prepared. (RM)

2601 Hillsborough, LLC and Charlie Mavros [LEPC09-006]: On March 19, 2009 the EPC Board granted authority to take legal action against the Respondents for violations of various wastewater regulations in Chapters 62-620, 62-660, and 62-4, F.A.C. A Citation of Violation was issued on November 25, 2008, the Respondents failed to appeal the citation and it became a final order of the Agency enforceable in Court. The violations have not been corrected and a lawsuit will be filed. (RM)

Hindu Religious Center, Inc. [LEPC09-008]: On April 16, 2009 the EPC Board granted authority to take legal action against the Respondent for violations of the EPC Act and Chapter 1-10, Rules of the EPC (Noise Pollution). In September 2008 Respondent and EPC staff entered into a Consent Order to address the violations. Respondent has failed to comply with the corrective measures contained therein and, as a result, continues to violate the EPC noise standards. The Center has begun to modify the facility in an effort to comply with the Consent Order and EPC will evaluate the recent upgrades. The remedies have not been effective and a complaint was filed in Circuit Court on October 8, 2009. The Defendant has been given complaint response extensions through mid-February to provide a settlement offer. (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. (AZ)

Dubliner 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 on July 24, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in Court. (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 of the EPCA Act and EPC Rules, Chapter 1-1. A Notice of violation 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)

Florida Gas Transmission Company, LLC [LEPC09-021]: On November 3, 2009, Petitioner Florida Gas Transmission Company, LLC filed a Petition in Eminent Domain naming the EPC as a Defendant in the Case. On December 8, 2009 Petitioner filed a Notice dropping EPC as a party from the case. The case has been closed. (AZ)

U.S. Bankruptcy Court in re SJ Realty Group, LLC [LEPC09-022]: On November 6, 2009 the US Bankruptcy Court Middle District of Florida filed A Notice of Chapter 11 Bankruptcy regarding SJ Realty Group, LLC. The EPC has until May 5, 2009 to file a Proof of Claim with the Court and will determine if there is an appropriate basis of claim and the amount. (AZ)

U.S. Bankruptcy Court in re DRSRJ Development, LLC: On November 6, 2009 the US Bankruptcy Court Middle District of Florida filed A Notice of Chapter 11 Bankruptcy regarding DRSRJ Development, LLC. The EPC has until May 5, 2009 to file a Proof of Claim with the Court and will determine if there is an appropriate basis of claim and the amount. (AZ)

RECENTLY RESOLVED CIVIL CASES [1]

Phillips & Munzel Oil Co., Inc. Robert G. Phillips, Individually, and Clyde W. Munzel Individually [LEPC09-003]: On February 19, 2009 the EPC Board granted authority to take legal action against the Respondents for violations of the EPC Act, Chapter 1-7, EPC Rules and Chapter 62-770, FAC. Citations of Violation were issued on June 25, 2008, the

Respondents failed to appeal the citations and they became final orders of the Agency enforceable in Court. The parties entered into a settlement and the case has been closed. (AZ)

C. OTHER OPEN CASES [11]

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.

Patco Transport, Inc. [LEPC09-012]: On July 2, 2009 the Appellant filed a request for an extension of time to file an Appeal regarding a Citation of Violation that was issued by the EPC on June 9, 2009. The request was granted and the Appellant has until August 31, 2009 to file an appeal in this matter. (AZ)

Separation Technologies LLC [LEPC09-014]: On September 11, 2009 Petitioner Separation Technologies LLC filed a request for an extension of time to challenge draft Air Operating Permit #0571326-003-AO. The request was granted and Petitioner has until November 9, 2009 to file a petition in this matter. A subsequent request for a second extension of time was filed by the Petitioner. The request was granted and the Petitioner has until December 28, 2009 to file a petition in this matter. (RM)

Heron Holdings, Inc. [LEPC09-018]: 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 19, 2010 the EPC withdrew the Citation against Heron Holdings, Inc. and this case has been closed. (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 has until April 19, 2010 to file an appeal in this matter. (AZ)

Trademark Nitrogen Corp. [LEPC09-025]: On November 24, 2009 Petitioner Trademark Nitrogen Corp. filed a request for an extension of time to challenge a draft air operating/construction permit issued on November 23, 2009. The request was granted and the Petitioner has until January 7, 2010 to file a petition in this matter. (RM)

Gulf Marine Repair Corporation [LEPC09-026]: On November 24, 2009 Petitioner Gulf Marine Repair Corp. filed a request for an extension of time to challenge a draft air construction permit issued on October 23, 2009. The request was not timely filed and the extension was denied with leave to amend. (RM)

General Chemical, LLC [LEPC09-027]: On November 24, 2009 Petitioner General Chemical, LLC filed a request for an extension of time to challenge a draft air operating permit issued on November 12, 2009. The request was granted and the Petitioner has until December 31, 2009 to file a petition in this matter. On December 21, 2009, the EPC issued a new draft permit and the extension request for the original draft permit expired on December 31, 2009. This case has been closed. (RM)

Gulf Coast Metals Co., Inc. [LEPC09-028]: On November 30, 2009 Petitioner Gulf Coast Metals Co., Inc. filed a request for an extension of time to challenge a draft air construction permit issued on November 10, 2009. The request was not timely filed and the request was denied with leave to amend. (RM)

International Ship Repair and Marine Services, Inc. [LEPC09-029]: On December 4, 2009 Petitioner International Ship Repair and Marine Services, Inc. filed a request for an extension of time to challenge a draft Title V air permit issued on November 20, 2009. The request was granted and the Petitioner had until January 6, 2010 to file a petition in this matter. The Petitioner filed two subsequent requests for extensions of time and was granted an extension until February 25, 2010 to file a petition in this matter. (RM)

TRANSFLO Terminal Services, Inc. [LEPC09-030]: on December 23, 2009 the Petitioner submitted a request for an

extension of time to file a Petition for Administrative Hearing to challenge a draft Air Construction Permit. The Legal Department granted the request and the Petitioner has until January 29, 2010 to file a petition in this matter. (RM)

General Chemical, LLC [LEPC09-0]: On January 6, 2010 the Petitioner General Chemical, LLC filed a request for an extension of time to challenge a draft air operating permit issued on November 12, 2009. On January 25, 2010 the Petitioner accepted the draft permit and withdrew the extension of time request. (RM).



EPC Agenda Item Cover Sheet

Date of EPC Meeting: February 18, 2010

Subject: Legal Case Summary for February 2010

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

Division: Legal Department

Recommendation: None, informational update.

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

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

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

List of Attachments: **February 2010 EPC Legal Case Summary**

EPC LEGAL DEPARTMENT MONTHLY REPORT
February 2010

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [6]

Florida Gas Transmission Co., LLC [LEPC08-029]: On October 31, 2008 Florida Gas Transmission Company, LLC filed an application for an order granting a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline and compression facilities and to acquire pipeline facilities. On November 13, 2008 the EPC Board granted the Legal Dept. authority to intervene in the FERC certification process to protect the interests of Hillsborough County's environment. The EPC filed its motion to intervene on November 26, 2008. A draft Environmental Impact Statement (EIS) was issued by FERC and the EPC provided comments on the draft in early June 2009. The final EIS was issued on September 18 and the pipeline certification was issued on November 19, 2009. Technical staff found no reason to file any challenge to either, but other parties are challenging the certification in part. (RT/RM).

Martini Island Land Co. [LEPC07-023]: On August 29, 2007, the Appellant filed a request for an extension of time to file an appeal to challenge a Citation to Cease and Order to Correct that was issued by the Water Mgmt Division. The request was granted and the Appellant had until September 21, 2007 to file an appeal. On Sept. 21, 2007 the Appellant did file an Appeal challenging the Citation to Cease and Order to Correct. The parties are negotiating and the facility is going through foreclosure. (RM)

Michael and Jemimah Ruhala v. DEP and EPC [LEPC08-012]: On May 16, 2008, the Ruhalas filed Chp. 120 petitions against two wastewater treatment permits the DEP Parks Department requested and received modifications on for an expanded effluent sprayfield system at the Hillsborough River State Park. The parties conducted settlement negotiations twice in June and the DEP is investigating reasonable modifications. The parties placed the case in a brief abeyance in an effort to seek settlement. (RM)

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 are preparing the proposed Recommended Orders for the hearing Officer's consideration. (AZ)

Vertis, Inc. [LEPC09-009]: On April 22, 2009 Vertis, Inc. filed a Petition for Administrative Hearing to challenge Operating Permit #0570254-022-AF for its facility located at 4646 S. Grady Avenue in Tampa. The parties are negotiating. (RM)

Eva El-Najdawi [LEPC09-023]: On November 19, 2009 Appellant filed a request for an extension of time to file an appeal regarding a revocation letter that was issued on September 15, 2009. The request was granted and the Appellant had until December 21, 2009 to file a Notice in this matter. On December 21, 2009 the Appellant filed a Notice of Appeal in this matter and the case will be transferred to a Hearing Officer to conduct an administrative hearing. (AZ)

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES [1]

Florida Gas Transmission Company, LLC [LEPC10-002]: On January 26, 2010, Petitioner Florida Gas Transmission Company, LLC served upon EPC a Summon to Show Cause, Notice of Eminent Domain and Notice of Hearing for a Petition in Eminent Domain filed on December 30, 2009 naming the EPC as a Defendant in the case. (AZ)

EXISTING CIVIL CASES [17]

Michael Robilotta [LEPC08-032]: On December 18, 2008 the EPC Board granted authority to take legal action against Respondent Michael Robilotta, owner and operator of the Old Estates Mobile Home Park, for violations of the EPC Act and EPC Rules Chapter 1-1, General Rules and Chapter 1-5, Water Pollution. Respondent failed to respond to the Citation issued on September 15, 2008 and also failed to respond to the Consent Order offered on November 3, 2008. The Citation became final and is enforceable in Circuit Court. One February 18, 2009 the EPC filed a Complaint in Circuit Court for civil penalties and injunctive relief. Due to lack of response the Clerk's office entered a default against Robilotta on May 7, 2009. (RM)

Fuego Churrascaria Steakhouse Corp. [LEPC08-027]: On November 13, 2008, the EPC Board granted authority to take legal action against Respondent Fuego Churrascaria Steakhouse Corp. for violations of the Noise Rule, Chapter 1-10. On March 18, 2008 staff hand delivered a Citation to Cease and Order to Correct Violation. Respondent failed to respond and the Citation became final and is enforceable in Circuit Court. On February 18, 2009 the EPC filed a Complaint in Circuit Court for civil penalties and injunctive relief. On April 24, 2009, the Clerk of Court granted the EPC's motion for default. The owner has recently entered negotiations with the EPC. (RM)

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. Although the parties are in negotiations concerning a settlement of the matter the Defendant has filed bankruptcy. The EPC Legal Department is monitoring the bankruptcy and researching appropriate remedies to get the site into compliance. (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. (AZ)

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)

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)

Medallion Convenience Stores, Inc. and MDC6, LLC [LEPC07-034]: The Commission granted authority to take appropriate action against Medallion Convenience Stores, Inc. and MDC6, LLC on December 13, 2007 for failure to comply with a consent order. The consent order required the facility to submit a Discharge Report Form for petroleum

discharge and submit proof of an N.P.D.E.S. permit for de-watering activities at the site. The EPC is attempting to negotiate a settlement in this matter. (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. The Defendants have only partially complied with the CFJ, thus the case has been re-opened in the Circuit Court in order to enforce the CFJ and hold the Defendants in contempt. A hearing was held on April 28, 2008, wherein the judge awarded the EPC additional penalties. The Legal Dept. filed a proposed Supplemental Judgment with the Court. The Court entered the Order on May 15, 2008, and the Defendants have yet to pay any supplemental costs or penalties. The EPC has filed for contempt proceedings and additional penalties for ongoing violations of the CFJ. A hearing has been scheduled for January 25, 2010. The Judge found the Defendants in contempt and levied stipulated penalties/costs, and order shall be prepared. (RM)

2601 Hillsborough, LLC and Charlie Mavros [LEPC09-006]: On March 19, 2009 the EPC Board granted authority to take legal action against the Respondents for violations of various wastewater regulations in Chapters 62-620, 62-660, and 62-4, F.A.C. A Citation of Violation was issued on November 25, 2008, the Respondents failed to appeal the citation and it became a final order of the Agency enforceable in Court. The violations have not been corrected and a lawsuit will be filed. (RM)

Hindu Religious Center, Inc. [LEPC09-008]: On April 16, 2009 the EPC Board granted authority to take legal action against the Respondent for violations of the EPC Act and Chapter 1-10, Rules of the EPC (Noise Pollution). In September 2008 Respondent and EPC staff entered into a Consent Order to address the violations. Respondent has failed to comply with the corrective measures contained therein and, as a result, continues to violate the EPC noise standards. The Center has begun to modify the facility in an effort to comply with the Consent Order and EPC will evaluate the recent upgrades. The remedies have not been effective and a complaint was filed in Circuit Court on October 8, 2009. The Defendant has been given complaint response extensions through mid-February to provide a settlement offer. (RM)

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Dubliner 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 on July 24, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in Court. (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 of the EPCA Act and EPC Rules, Chapter 1-1. A Notice of violation 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)

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U.S. Bankruptcy Court in re DRSRJ Development, LLC: On November 6, 2009 the US Bankruptcy Court Middle District of Florida filed A Notice of Chapter 11 Bankruptcy regarding DRSRJ Development, LLC. The EPC has until May 5, 2009 to file a Proof of Claim with the Court and will determine if there is an appropriate basis of claim and the amount. (AZ)

RECENTLY RESOLVED CIVIL CASES [0]

C. OTHER OPEN CASES [9]

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.

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Separation Technologies LLC [LEPC09-014]: On September 11, 2009 Petitioner Separation Technologies LLC filed a request for an extension of time to challenge draft Air Operating Permit #0571326-003-AO. The request was granted and Petitioner has until November 9, 2009 to file a petition in this matter. A subsequent request for a second extension of time was filed by the Petitioner. The request was granted and the Petitioner has until December 28, 2009 to file a petition in this matter. (RM)

Heron Holdings, Inc. [LEPC09-018]: 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 19, 2010 the EPC withdrew the Citation against Heron Holdings, Inc. and this case has been closed. (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 has until April 19, 2010 to file an appeal in this matter. (AZ)

Trademark Nitrogen Corp. [LEPC09-025]: On November 24, 2009 Petitioner Trademark Nitrogen Corp. filed a request for an extension of time to challenge a draft air operating/construction permit issued on November 23, 2009. The request was granted and the Petitioner has until January 7, 2010 to file a petition in this matter. (RM)

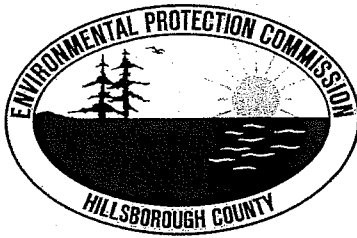
Gulf Marine Repair Corporation [LEPC09-026]: On November 24, 2009 Petitioner Gulf Marine Repair Corp. filed a request for an extension of time to challenge a draft air construction permit issued on October 23, 2009. The request was not timely filed and the extension was denied with leave to amend. (RM)

Gulf Coast Metals Co., Inc. [LEPC09-028]: On November 30, 2009 Petitioner Gulf Coast Metals Co., Inc. filed a request for an extension of time to challenge a draft air construction permit issued on November 10, 2009. The request was not timely filed and the request was denied with leave to amend. (RM)

International Ship Repair and Marine Services, Inc. [LEPC09-029]: On December 4, 2009 Petitioner International Ship Repair and Marine Services, Inc. filed a request for an extension of time to challenge a draft Title V air permit issued on November 20, 2009. The request was granted and the Petitioner had until January 6, 2010 to file a petition in this matter. The Petitioner filed two subsequent requests for extensions of time and was granted an extension until February 25, 2010 to file a petition in this matter. (RM)

TRANSFLO Terminal Services, Inc. [LEPC09-030]: on December 23, 2009 the Petitioner submitted a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Construction Permit. The Legal Department granted the request and the Petitioner has until January 29, 2010 to file a petition in this matter. A second request for an extension of time was granted through March 15, 2009. (RM)

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: February 18, 2010

Subject: Request to hold a public hearing on March 18, 2010 to approve amendments to the Delegation Rule, Ch. 1-13, Rules of the EPC.

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

Division: Wetlands and Watershed Management Division and Legal Department

Recommendation: Hold a public hearing at the EPC Board Meeting on March 18, 2010, at 9 a.m., to consider amendments to the Delegation Rule, Ch. 1-13, Rules of the EPC.

Brief Summary: Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve or amend a rule. The EPC staff requests that the Board approve holding a Ch. 1-13, EPC Delegation Rule amendment public hearing at its regularly scheduled meeting on March 18, 2010, at 9 a.m. The rule amendment will involve adopting relevant portions of the State of Florida Environmental Resource Permitting (ERP) program so as to obtain delegation from the Department of Environmental Protection of parts of the state ERP program.

Financial Impact: No Financial Impact.

Background: On August 16, 2007, the EPC Board approved the Hybrid Plan, a plan to streamline the EPC's wetlands regulatory program. As part of the Hybrid Plan, the EPC will seek delegation of wetland and surface water permitting from the Florida Department of Environmental Protection environmental resource permitting (ERP) program. In accordance with the requirements of the state delegation rule for local governmental authority over the ERP program, the EPC must adopt the relevant sections of the state ERP rules as well as adopt administrative rules substantially equivalent to the State administrative procedures found in Chapter 120, Florida Statutes. Although some amendments were adopted in July 2008, additional amendments to the existing Delegation Rule Chapter 1-13 are necessary for delegation.

Pursuant to Section 5.2 of the Hillsborough County Environmental Protection Act (EPC Act), the EPC Board must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the Board approve holding the rule amendment public hearing at the regularly scheduled meeting on March 18, 2010, at 9 a.m.

List of Attachments: Draft amended Chapter 1-13 Delegation Rule

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: February 18, 2010

Subject: Wetlands Hybrid Plan Quarterly Report

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

Division: Wetlands & Watershed Management Division

Recommendation: Informational Report

Brief Summary: Final Quarterly update of the Wetlands Hybrid Plan performance measures pertaining to internal control, streamlining operations and enhancement of customer service.

Financial Impact: No Financial Impact

Background: In August 2007, the EPC Board unanimously approved The Wetlands Hybrid Plan. Implementation of the Plan resulted in changes to EPC Wetland Rule, Chapter 1-11. Hillsborough County's Accounting Department conducted a performance audit to provide objective information, advice and assurance to the EPC Board that the Plan was appropriately implemented. The audit was conducted in a manner consistent with professional accounting principles and standards. The scope of the audit was limited to performance measures necessary to provide factual information that documented the streamlining efforts implemented per the Wetlands Hybrid Plan. The EPC Board also directed Wetlands staff to address permit process delays and other efficiencies.

One of the Hybrid goals was to identify opportunities for changes in rules and procedures that would improve internal control, streamline operations and enhance customer service. A Basis of Review (BOR) was developed with stakeholders input and adopted into the Wetlands Rule by the EPC Board in July 2008. The BOR successfully achieved its goals to provide clarification and further definition of the standards for wetland and surface water impact approvals. Rule changes that streamlined the permitting process and enhance customer service include noticed and standard exemptions that allow for impacts to upland cut ponds and ditch maintenance.

Other performance measures successfully implemented include the development of an Applicant's Handbook, a user friendly manual available on EPC's website. Performance measures now documented and incorporated in the EPC monthly agenda backup include an Assessment report of Agricultural Exemptions, a timeliness report on Planning and Growth Management Reviews and acreages of wetland impacts including unauthorized impact acreages as well as restoration/creation done as a result of Compliance actions.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: February 18, 2010

Subject: 2010 EPC Legislative Session Update

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

Division: Legal Department

Recommendation: Receive staff report.

Brief Summary: The 2010 Florida Legislative Session runs from March 2 through April 30, 2010. The EPC staff will track, analyze, and comment on relevant bills pursuant to the continuing EPC Board Policy No. 2007-02. Currently, the EPC staff is aware of a few proposed bills that may impact the EPC and other local government regulatory powers as it relates to wetland regulations and fertilizer regulations.

Financial Impact: None.

Background: The 2010 Florida Legislative Session commences on March 2, 2010 and will close on April 30, 2010. The EPC staff tracks dozens of environmental and administrative bills and comments on them to the County's Public Affairs Office and the Florida Association of Counties. The EPC Board approved a legislative strategy (Policy No. 2007-02) on March 15, 2007, that gives staff continuing direction to monitor and comment on bills that impact the functions of the EPC. When there is a bill of major concern, the EPC staff seeks authorization from the Chair and/or the full EPC Board to issue a position letter regarding the bill to our local legislative delegation and other elected officials. On December 17, 2009, the EPC Board authorized EPC staff to work with the Legislative members to help ensure full funding for the Inland Protection Trust Fund (which supports the Petroleum Cleanup Program). Even before the session has commenced, the EPC staff has been tracking proposed bills that attempt to weaken local government powers.

1. **FERTILIZER BILL.** Currently there is a placeholder bill, SB 564, that at this point merely states that there will be a fertilizer law revision. The bill described in this summary is titled No. 20-01367-10. This proposed glitch bill tightens up how local governments can pass more stringent local fertilizer rules. Last year SB 494, now Sec. 403.9337, Florida Statutes, passed that required all local governments with nutrient impaired waters to pass fertilizer rules/codes in their jurisdictions. The current law also provides for how a local government can pass a more stringent local rule. This bill would add additional conditions to the existing law that state that if the more stringent rule is not part of a State-approved TMDL basin management action plan, then the scientific justification for the more

stringent rule must be placed in the public record. Additionally, the rule would require making a public record of any technical and economic feasibility studies conducted by the local government, but it is unclear if it is a mandate that they must be conducted.

2. ENVIRONMENTAL RESOURCE PERMITTING DELEGATION. The Senate Select Committee on Florida's Economy has proposed an omnibus economic stimulus bill date February 3, 2010, that has some environmental permitting matters of concern to local governments. The bill has some language to encourage local governments to seek delegation of the Florida environmental resource permitting (ERP) program issued by the FDEP and Water Management Districts (i.e., wetland and stormwater permitting) so the local governments can administer the state program in their jurisdiction. It also provides more avenues to challenge the denial of delegation by allowing an appeal to the Florida Governor and Cabinet. However, the bill also has language that may eliminate local government regulatory powers. If a local government does not seek ERP delegation by June 1, 2011, then the local government would be barred from requiring persons from acquiring a local permit if it is substantially similar to what the state ERP requires. There is some ambiguity as to whether a local government can ever apply for delegation after June 1, 2011. This bill not only impacts the EPC, but it could impact the County's permitting program that also handles wetland impacts and stormwater management.

The EPC has already applied for partial ERP delegation (e.g., building single family homes, docks, etc. in wetlands) from the DEP, but the agency has not applied for ERP delegation from SWFWMD for the wetland impacts of larger developments such as subdivisions, commercial property, etc. Arguably, EPC would have to apply to the DEP and SWFMWD for these other areas of ERP permitting before June 1, 2011, to keep the local permitting program intact. Failing to obtain the delegation would then eliminate the local regulation.

3. REGULATION OF WETLAND ON AGRICULTURAL LANDS. Committee meetings have been held to discuss a bill that would prevent local government from regulating wetlands on agricultural lands. This language has been proposed in the past, sometimes grandfathering existing local programs, and has failed. This year the proposals do not appear to have any grandfathering provision. Thus, EPC may be barred from regulating wetlands on agricultural lands.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: February 18, 2010

Subject: Briefing on Proposed Numeric Nutrient Standards/Classification System

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

Division: Wetlands and Watersheds

Recommendation: Informational Report

Brief Summary: EPA has proposed numeric criteria for nitrogen and phosphorus for lakes and flowing streams

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

Background:

As the consequence of a formal complaint filed by Florida Wildlife Federation and others, EPA signed a consent decree "to promptly" set numeric water quality criteria for nitrogen and phosphorus in Florida's waters. On January 29, 2010, EPA published its proposed rule for establishing numeric water quality criteria for the lakes and flowing waters of Florida in the Federal Register. EPA accepts comments on the proposal for 60 days. The proposed regulation shall be finalized by a notice of final rulemaking in the Federal Register by October 15, 2010.

In addition, EPA must propose regulations establishing numeric water quality criteria for coastal and estuarine waters in Florida by January, 2011 and finalized by October, 2011.

As proposed, 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.

EPA's proposed rule establishing numeric water quality criteria for the lakes and flowing waters of Florida is lengthy and is posted on the internet at:
<http://www.epa.gov/waterscience/standards/rules/florida/>

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: 2/18/10

Subject: Update Regarding Development of Mulch Guidance Document

Consent Agenda ____ **Regular Agenda** x **Public Hearing** ____

Division: Waste Management Division

Recommendation: Informational Report

Brief Summary: Staff will provide an update report associated with the process of development of a Mulch Reuse Guidance document. A copy of the final version of the guidance document will be provided to the Board members.

Financial Impact: None

Background: Based the EPC's involvement in cases related to the land application of mulch and concerns expressed by citizens, representatives of mulch production facilities and end users of mulch, the EPC was instructed to take steps to develop a reasonable guidance document to provide all concerned parties with information and guidance related to the responsible reuse of mulch on Hillsborough County. A multi-agency workgroup was formed and the development of a guidance document has been completed.

List of Attachments: Mulch Reuse Guidance Document.

HILLSBOROUGH COUNTY MATERIAL REUSE AND MANAGEMENT GUIDANCE

REUSE AND DISPOSAL OF MULCH, YARD WASTE AND LAND CLEARING DEBRIS

- PART I. GENERAL INTENT**
- PART II. DEFINITIONS**
- PART III. BENEFICIAL USE**
- PART IV. PROHIBITIONS**
- PART V. PERMITS**
- PART VI. END USER RESPONSIBILITIES**
- PART VII. AGENCY CONTACTS**

PART I. GENERAL INTENT. Over the past years, the Environmental Protection Commission (EPC) as well as the Hillsborough County Planning and Growth Management Department (PGMD) and the Southwest Florida Water Management District (SWFWMD) have been confronted with issues related to the management, reuse and disposal of mulch, yard trash and land clearing debris. Based on the information gathered through staff's respective involvement in these matters, it has been concluded that concerns, confusion and a lack of clarity exist within the regulated community with regard to the options available to those wishing to use, reuse or dispose of these materials in a proper and accepted manner. In hopes of providing some needed clarification with respect to the means of proper management and reuse of yard trash, mulch and land clearing debris, the following guidance has been developed.

The information presented in this document outlines the criteria which must be met in Hillsborough County in order for mulch, yard trash and land clearing debris to be managed in compliance with existing regulations and with policies which have, through evaluation by representatives of commercial, agricultural and citizen groups, been deemed acceptable and reasonable.

Adherence to the following best management practice(s) and reuse

guidance by those wishing to land apply or land dispose mulch, yard trash and land clearing debris, should ensure compliance with applicable environmental regulations and local rules and ordinances related to solid waste management, zoning, land use, natural resources and storm water.

Nonetheless, in the event that questions arise pertaining to the proper and accepted use or disposal of yard trash, mulch and land clearing debris, staff with the EPC's Waste Management Division, the EPC's Wetlands and Watershed Management Division, the PGMD or the SWFWMD should be contacted.

NOTE: THE READER SHOULD BE ADVISED THAT THE INFORMATION PROVIDED IN THIS GUIDANCE APPLIES TO THE REUSE AND DISPOSAL OF MULCH, YARD TRASH AND LAND CLEARING DEBRIS ONLY. IT IS NOT INTENDED THAT THIS GUIDANCE BE ADHERED TO AS RELATES TO THE MANAGEMENT OF COMPOST. THE PRODUCTION, STORAGE, USE, REUSE AND DISPOSAL OF COMPOST IS SPECIFICALLY REGULATED PURSUANT TO CHAPTER 62-709, FLORIDA ADMINISTRATIVE CODE (F.A.C.). ADHERENCE TO THE GUIDELINES PROVIDED IN THIS DOCUMENT WILL NOT NECESSARILY RESULT IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 62-709, F.A.C., AS THEY PERTAIN TO COMPOST.

PART II. DEFINITIONS. In Hillsborough County, as pertains to the management and reuse of yard trash, processed yard trash, mulch and land clearing debris, the following definitions shall apply:

(1) "Beneficial Use" means that readily degradable organics, including processed yard trash, are placed on or in the soils to provide a viable benefit, such as, reducing erosion and water loss, regulating soil temperature, preventing the growth of weeds, or serving as a soil amendment upon decomposition. Placement of materials for purposes of disposal is not considered to be a beneficial use.

(2) "Clean Wood" means wood, including lumber, tree and shrub trunks,

branches, and limbs, which is free of paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, other wood preservatives or treatments.

(3) "Floodplain" means land which has been or may be covered by water as a result of a storm event, including but not limited to the 100 year storm.

(4) "Land Clearing Debris" means rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project. Land clearing debris does not include vegetative matter from lawn maintenance, commercial or residential landscape maintenance, right-of-way or easement maintenance, farming operations, nursery operations, or any other sources not related directly to a construction project.

(5) "Mulch" and "Processed Yard Trash" mean yard trash that has been mechanically processed so that it will pass through a six inch sieve. Mulch and processed yard trash are terms which can be used interchangeably.

(6) "Yard trash" means vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps. This definition shall also include clean wood.

PART III. BENEFICIAL USE. In Hillsborough County, land application of mulch up to and not exceeding twenty-four inches in depth is considered a beneficial use.

(1) Beneficial use of mulch shall not require a Director's Authorization, solid waste permit or other solid waste related approval from the EPC or from the Florida Department of Environmental Protection (FDEP) provided the beneficial use complies with the prohibitions and other guidance, recommendations and limitations outlined in this document.

(2) Unauthorized impacts to wetlands constitute violations of local, State and/or federal wetlands regulations. For proposals to land apply mulch on properties which may contain wetlands it is strongly recommended that the EPC's Wetlands and Watershed Management Division or SWFWMD be contacted to verify the existence of wetlands and/or wetland boundaries.

(a) Mulch, land applied for beneficial use, shall not be applied within a fifty-foot buffer from a wetland.

(b) Land application of mulch within a fifty foot buffer of a wetland must be approved by the EPC's Wetlands and Watershed Management Division and PGMD and will require a formal wetland delineation.

PART IV. PROHIBITIONS. In Hillsborough County, as pertains to the land application of mulch, the following prohibitions shall not be violated:

(1) Land application of yard trash which is not mulch and which does not meet the criteria for consideration as mulch (i.e. the yard trash is unprocessed yard trash) is considered disposal of solid waste.

(a) No person shall store, process, or dispose of solid waste except at an FDEP permitted solid waste management facility, an EPC Authorized site or a facility exempt from EPC and FDEP permitting.

(b) No person shall store, process, or dispose of solid waste in a manner or location that causes air quality standards to be violated or water quality standards or criteria of receiving waters to be violated.

(2) Mulch shall not be placed or used as fill material in any natural or artificial body of water including ground water. Mulch shall not be placed or used as fill material in a wetland, in an open sinkhole

or dewatered pit or in any area prone to frequent and/or periodic flooding.

(3) Mulch shall not be land applied solely as a means of and for the purpose of disposal. Disposal of mulch shall require a solid waste General Permit approved by the EPC and by the FDEP pursuant to Chapter 1-7, Rules of the Environmental Protection Commission and Chapter 62-701, F.A.C.

(4) Mulch shall not be land applied in a manner that adversely affects trees, natural plant communities, significant wildlife habitats and essential wildlife habitats as defined and protected by the Hillsborough County Land Development Code.

(5) Mulch shall not be land applied in any designated floodplain unless in accordance with the requirements set forth in the Hillsborough County Land Development Code and the Hillsborough County Storm Water Management Technical Manual.

(6) Land application of mulch shall not alter surface water drainage patterns to the detriment of on-site or off-site wetland hydrology and/or neighboring properties.

(7) Mulch shall not be land applied to depths greater than twenty-four inches without an EPC Director's Authorization.

(8) Mulch intended for beneficial reuse shall not remain staged, stored or stockpiled in excess of twenty-four inches in depth for periods exceeding fourteen calendar days.

(a) It is acknowledged that from an operational standpoint the temporary staging of mulch may be necessary during delivery of the material to a beneficial reuse site.

(b) It is acknowledged that mulch tipped from transport vehicles and not yet graded or spread to the required twenty-

four inch depth will not technically comply with the limitations outlined in this guidance.

(c) Mulch, delivered to a beneficial reuse site, which has not been graded or spread to the required depth, will not be considered as constituting a violation of applicable regulations or of this guidance provided that the mulch is not allowed to remain staged, stored or stockpiled in excess of twenty-four inches in depth for more than fourteen calendar days.

PART V. PERMITS. In Hillsborough County, land application of unprocessed yard trash and land application of mulch for the purpose of disposal is considered disposal of solid waste. Land application of mulch at depths greater than twenty-four inches is not considered beneficial use.

(1) Land application of mulch at depths greater than twenty-four inches shall require an EPC Director's Authorization.

(a) Attached, please find a copy of an application for Director's Authorization for land application of mulch greater than twenty-four inches in depth (**Attachment 1**).

(b) A Director's Authorization must be obtained prior to the initiation of land application activities.

(c) Land application of mulch at depths greater than twenty-four inches shall also require evaluations and approvals by other agencies including the SWFWMD and PGMD.

(2) Disposal of unprocessed yard trash and land application of mulch for the purpose of disposal shall require a Director's Authorization from the EPC and may require a solid waste General Permit from the FDEP.

(a) Attached, please find a copy of an FDEP General Permit Notification form (**Attachment 2**).

(b) Upon submission of a completed General Permit Notification form and the necessary supporting documentation to the FDEP, a copy of the Notification form and supporting documentation must be submitted to the EPC as well.

(c) A General Permit must be obtained prior to the initiation of disposal activities.

(d) Unprocessed yard trash disposal and/or mulch disposal shall also require evaluations and approvals by other agencies including the SWFWMD and PGMD.

PART VI. END USER RESPONSIBILITIES. It is the sole responsibility of the land owner(s), site operator(s) and/or responsible party(ies) to ensure that all agencies having jurisdiction or authority in matters associated with storm water, wetlands and land alteration have been contacted and that all necessary permits, approvals and exemptions have been obtained or verified.

(1) Land owner(s), site operator(s) and/or responsible party(ies) should be aware that the SWFWMD, the EPC's Wetlands and Watershed Management Division and PGMD allow for the exemption from permitting of certain agriculturally related activities provided certain criteria are met and certain information is verified.

(2) Land owner(s), site operator(s) and/or responsible party(ies) are urged in all cases to contact the SWFWMD, the EPC's Wetlands and Watershed Management Division and PGMD in order to coordinate the submittal of any necessary documentation and to schedule any recommended site visits by SWFWMD, EPC and/or PGMD staff.

(3) Land owner(s), site operator(s) and/or responsible party(ies) must be aware that in the event that the SWFWMD, the EPC's Wetlands and

Watershed Management Division and/or PGMD are not contacted as suggested, these agencies may become involved in matters associated with the beneficial use of mulch through the respective agency's compliance and enforcement activities.

(4) Nothing contained in this document shall be construed as providing those persons involved in the activities addressed in this document relief from the requirement(s) to comply with any and all applicable local, State and federal laws and regulations.

PART VII. AGENCY CONTACTS. In the event that questions arise pertaining to the proper and accepted use of yard trash derived materials, the following agency personnel can be contacted:

Ronald A. Cope, CHMM, General Manager,
Waste Management Division, Environmental
Protection Commission of Hillsborough County
Ph.: (813) 627-2600 x1292
Fax: (813) 627-2640
Email: cope@epchc.org

Michael Thompson, General Manager, Wetlands
and Watershed Management Division,
Environmental Protection Commission of
Hillsborough County
Ph.: (813) 627-2600 x1219
Fax: (813) 813-627-2630
Email: Thompson@epchc.org

John Schrecengost, Manager, Natural
Resources Section, Hillsborough County
Planning & Growth Management Department
Ph.: (813) 276-8399
Fax: (813) 272-5149
Email: schrecengostj@hillsboroughcounty.org

Jeff Whealton, Senior Agricultural
Environmental Scientist, Southwest Florida
Water Management District
Ph.: (863) 534-1448,
(800) 492-7862 x6119
Email: Jeff.whealton@swfwmd.state.fl.us

ATTACHMENT 1

APPLICATION FOR DIRECTOR'S AUTHORIZATION FOR
LAND APPLICATION OF MULCH GREATER THAN TWENTY-FOUR
INCHES IN DEPTH

Environmental Protection Commission of Hillsborough County

APPLICATION FOR DIRECTOR'S AUTHORIZATION LAND APPLICATION OF MULCH GREATER THAN TWENTY-FOUR INCHES IN DEPTH

GENERAL REQUIREMENTS:

Facilities, not otherwise requiring permitting by the Florida Department of Environmental Protection, which manage, process, dispose or, under certain criteria, beneficially reuse solid waste or recovered materials must obtain the specific, written authorization of the Executive Director of the Environmental Protection Commission in accordance with Chapter 1-7, Rules of the Environmental Protection Commission, Sections 1-7.200(3) and 1-7.202(1). Two (2) copies of this application, typed or printed in ink, must be submitted by the applicant by certified mail, with the appropriate Authorization application fee, made payable to the Environmental Protection Commission of Hillsborough County, and all supporting documentation, to the Environmental Protection Commission's Waste Management Division. The applicant, by completing, signing and submitting this application with the required application fee and supporting information, including professional engineering certification, where necessary, agrees to abide by the specifications, conditions, plans and procedures submitted herewith as conditions for the operation or implementation of the facility described.

A. GENERAL INFORMATION:

1. Applicant name (operating authority): _____

2. Mailing Address: _____
Street or P.O. Box City State Zip Code

Contact person: _____ Telephone: _____

Title: _____

3. Facility Name: _____

Location: _____
Street or P.O. Box City State Zip Code

4. Facility Location Coordinates:

Section ____ Township ____ Range ____

Latitude: ____ ° ____ ' ____ " Longitude: ____ ° ____ ' ____ "

5. Land owner (if different from applicant): _____

Mailing Address: _____
Street or P.O. Box City State Zip Code

Contact person: _____ Telephone: _____

6. Acres within property boundary: _____

7. Acres utilized for mulch land application: _____

8. Planned term of disposal activities: _____

B. GENERAL SUPPORTING DOCUMENTATION:

1. If the property owner is different from the applicant, attach evidence of authorization to use the property for the proposed activities (i.e. contract, lease agreement, signed letter). [1-7.202(4)(c)].

2. Provide verification that the land application activities will not violate local zoning or land use ordinances. [1-7.202(4)(d)].

3. Attach a copy of a current boundary survey, legal description and property folio number or property identification number on file with the County Property Appraiser's Office. [1-7.202(4)(e)].

4. Provide a description of the general operating plan for the site, including mulch depths to be land applied, equipment to be used in the operations and number of personnel to be onsite while material is being accepted. [1-7.202(4)(h)].

5. Provide site plans of a scale no greater than one inch equals two hundred feet which include the following. [1-7.202(4)(i)].

(a) Project location and identification of all structures, roadways and other operational appurtenances;

(b) Location(s) and configurations of the proposed land application area(s);

(c) Total acreage of the site;

(d) Access control features and any other relevant physical features such as water bodies, wetlands, and areas subject to frequent or periodic flooding; and

(e) Identification of all potable water wells on or within five hundred feet (500') of the site boundary.

8. A copy of any permit for the control of storm water issued by the SWFWMD or the Florida Department of Environmental Protection or documentation that no permit is required. [1-7.202(4)(j)].

NOTE: Copies of Chapter 1-7, Rules of the Environmental Protection Commission, Chapter 1-2, Rules of the Environmental Protection Commission and the Florida Administrative Code(s) adopted therein, please visit www.epchc.org and www.dep.state.fl.us

C. CERTIFICATION BY APPLICANT

Applicant:

I, _____ the undersigned applicant, hereby certify that I will operate, maintain and close this site in accordance with applicable rules of the Hillsborough County Environmental Protection Act (Chapter 84-

446 as amended), and that I either own the land or have legal authorization from the land owner to use the land for the proposed facility. I agree to abide by the specifications, conditions, plans and procedures submitted herewith as conditions of the operation of the facility as described. I also agree that Commission personnel may enter onto the property to inspect the facility during normal business hours.

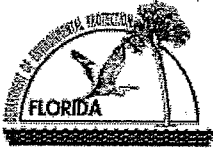
Signature

Date

Name and Title (please print)

ATTACHMENT 2

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTIFICATION OF INTENT TO USE A GENERAL PERMIT FOR A
LAND CLEARING DEBRIS DISPOSAL FACILITY



Florida Department of Environmental Protection
 Twin Towers Office Bldg. • 2600 Blair Stone Road • Tallahassee, FL 32399-2400

DEP Form # 62-701.800(3)
 Form Title Notification of Intent to Use a General Permit for a Land Clearing Debris Disposal Facility
 Effective Date 05-27-01
 DEP Application No. _____
 (Filled by DEP)

**STATE OF FLORIDA
 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**NOTIFICATION OF INTENT TO USE A GENERAL PERMIT
 FOR A
 LAND CLEARING DEBRIS
 DISPOSAL FACILITY**

GENERAL REQUIREMENT: Disposal facilities for land clearing debris are permitted in accordance with Florida Administrative Code (F.A.C.) Rule 62-701.803. The permit applicant, by completing, signing and sending this notice with the required information to the Department of Environmental Protection, agrees to the conditions for a land clearing debris disposal facility and is hereby granted a permit by rule provided Rule conditions are fulfilled. Send four copies of this notice with appropriate fee made payable to the Department of Environmental Protection and all supporting documentation by certified mail to the District Office of the Department in which the facility is located. Complete all entries by typing or printing in ink.

A. GENERAL INFORMATION

1. Applicant name (operating authority): _____

Mailing address: _____
 Street or P.O. Box City state Zip

Contact person: _____ Telephone: () _____

Title: _____

2. Facility name (if different): _____

Location (main entrance): _____

City: _____ County: _____

3. Facility location coordinates:

Section: _____ Township: _____ Range: _____

UTMS: Zone _____ km E _____ km N

Latitude: _____ ° _____ ' _____ " Longitude: _____ ° _____ ' _____ "

4. Landowner (if different than applicant): _____

Mailing address: _____
 Street or P.O. Box City state Zip

Contact person: _____ Telephone: () _____

5. Acres within property boundary: _____

6. Acres used for waste disposal: _____

7. Provide brief description of disposal facility operations planned by this notification including equipment and personnel planned for the operation and closure of the facility:

B. SUPPORTING DOCUMENTATION

1. If the property owner is different from the applicant, attach evidence of authorization to use property as a land clearing debris facility (e.g., contract, lease, or authorization letter) (Rule 62-701.803(1)(h), F.A.C.).
2. Attach a description of the operations including:
 - a. Equipment to be used and a training plan for the operating personnel (Rule 62-701.803(1)(c), F.A.C.);
 - b. Personnel for inspection of waste and training requirements for spotters (Rule 62-701.803(8), F.A.C.);
 - c. Closure plan (Rules 62-701.803(1)(f), (6), (10), and (11), F.A.C.);
 - d. Planned active life and design height of the facility (Rule 62-701.803(1)(e), F.A.C.);
 - e. Equipment and operational plan for the temporary storage and transport of waste other than land clearing debris to other approved disposal sites (Rule 62-701.803(5), F.A.C.);
 - f. Boundary survey, legal description and topographic survey of the property (Rule 62-701.803(1)(d), F.A.C.).
3. Site Plan including:
 - a. Scale not greater than 1" = 200' (Rule 62-701.803(1)(a), F.A.C.);
 - b. Total acreage of site and areas to be used for disposal (Rule 62-701.803(1)(a), F.A.C.);
 - c. Project location map (Rule 62-701.803(1)(a), F.A.C.);
 - d. Relevant features such as (Rule 62-701.803(1)(a), F.A.C.):
 1. Water bodies on or within 50 feet of the site;
 2. Wetlands on or within 50 feet of the site;
 3. Potable water wells on or within 200 feet of site;
 4. Geological formations or other subsurface features which indicate areas that may not provide support for solid waste (Rule 62-701.300(2)(a), F.A.C.);
 5. Ground water levels at the site, including the seasonal high ground water level if known (Rule 62-701.803(1)(b), F.A.C.);
 6. Location and depth of any pits within the disposal area (Rule 62-701.300(2)(d), F.A.C.);
 7. Any area subject to frequent and periodic flooding and details of any flood protection measures in place or proposed (Rule 62-701.300(2)(e), F.A.C.);
 8. Any right of ways, public highway, road or alley (Rule 62-701.300(2)(h), F.A.C.);
 9. Location of and details of access control features (Rule 62-701.803(7), F.A.C.).
 - e. Aspects of closure including (Rule 62-701.803(10), F.A.C.):
 1. Final cover cross section detail, depths and site contours;

2. Revegetation plan and details.

4. A copy of any valid permit for stormwater control or documentation that no permit is required, shall be submitted before the facility receives waste for disposal (Rule 62-701.803(4), F.A.C.).

C. CERTIFICATION BY APPLICANT

1. Applicant

I, _____, the undersigned applicant, hereby certify that I will operate, maintain and close this facility in accordance with applicable rules of the Florida Administrative Code, and that I either own the land or have legal authorization from the land owner to use the land for a disposal facility. I also agree that Department personnel may enter onto the property to inspect the facility during normal business hours.

Signature of Applicant

Mailing Address

Name and Title (please type)

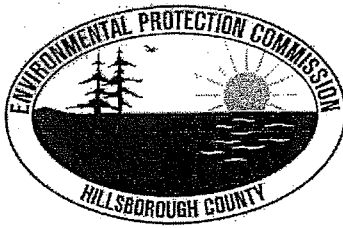
City, State, Zip Code

E-Mail address (if available)

() _____
Telephone Number

Date: _____

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: 2/18/10

Subject: Information Update Regarding MOU between the EPC and the Affordable Housing Department.

Consent Agenda ____ **Regular Agenda** x **Public Hearing** ____

Division: Waste Management Division

Recommendation: Informational Report

Brief Summary: In order to assist the local Affordable Housing Department (AHD) in the completion of federally required environmental assessments related to HUD funded projects, the EPC is in the process of executing an MOU with the AHD which outline expectations and funding requirements for EPC's performance of those activities.

Financial Impact: None

Background: As a result of talks between EPC and Hillsborough County's Code Enforcement Department, an agreement was reached that would provide the EPC with \$75,000.00 per year for two years, for the EPC's completion of environmental assessments which are required in association with HUD funded low to moderate income housing programs administered through the County's Affordable Housing Department (AHD). The MOU is currently under review by both the EPC and the AHD in draft form and its completion and execution are anticipated by the end of FEB 2010.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: 2/18/10

Subject: Update on the FDEP Report to the Legislature on Retail Bags

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

Division: Waste Management

Recommendation: Informational Report

Brief Summary: The report reviews the magnitude of the environmental costs of plastic and paper retail bags, and presents options for encouraging the use of reusable retail bags and reducing the use of single-use retail bags in Florida. The FDEP provided an overview of approaches used both across the United States and other nations, including taxes, deposits, educational campaigns, and multipronged approaches. Nationally, retail bag regulations are enacted or proposed at state and/or local levels in 30 states and regulations have been enacted on the six populated continents.

Financial Impact: No Financial Impact

Background: The Energy, Climate Change, and Economic Security Act of 2008 required the DEP to perform an analysis and submit a report to the Legislature by February 1, 2010 regarding the *necessity* and *efficacy* of both statewide and local regulation of bags used by consumers to carry products from retail establishments. Until such time that the Legislature adopts the recommendations of DEP, no local or state government may enact any regulation or tax on the use of such retail bags.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: February 18, 2010

Subject: Asbestos in County Owned Buildings

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

Division: Air Management Division

Recommendation: Informational Report

Brief Summary: To explain the coordination of efforts between EPC staff and County Real Estate/Facilities Management to properly address asbestos containing materials in county-owned buildings and to ensure compliance with the Asbestos National Emission Standard for Hazardous Air Pollutants (Asbestos NESHAP).

Financial Impact: No Financial Impact

Background: Commissioner Beckner inquired about the issue of asbestos containing materials in county-owned buildings and how the county addresses these activities. In follow-up, EPC staff coordinated a meeting with Don Harwig, Director, Facilities Management Division to discuss the policies, procedures and directives of his Asbestos Abatement Program. Don offered us his policy for review and comment to ensure that the procedures and guidelines comply with the asbestos NESHAP.

Over the past several months, EPC staff has reviewed and proposed comments to the policy. EPC and Facilities Management have each established a point of contact to address issues related to asbestos in county-owned and operated buildings.

This effort is intended to establish a systematic and coordinated protocol for asbestos containing materials in county-owned buildings that will ensure compliance with federal requirements and protect employees that work in those structures.

List of Attachments: None

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