

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
COUNTY CENTER 2ND FLOOR
MARCH 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. PUBLIC COMMENT

Three (3) Minutes Are Allowed for Each Speaker

II. CITIZENS' ENVIRONMENTAL ADVISORY COMMITTEE

Report from the CEAC Chairman – Danny Alberdi

III. CONSENT AGENDA

A. Approval of Minutes: February 18, 2010	3
B. Monthly Activity Reports	7
C. Pollution Recovery Fund Report	19
D. Gardinier Settlement Trust Fund Report	20
E. Legal Case Summaries	21
F. Request authority to take appropriate legal action against Kelly Wishau	27
G. Request authority to take appropriate legal action against Greg Hart.....	29
H. Request authority to take appropriate legal action against Rainbow Food Mart of Tampa, Inc. and Abdel Karim A. Nabi	31

IV. PUBLIC HEARING

Conduct Public Hearing to Consider Amendments to Chapter 1-13, Delegation Rule,
allowing for delegation of portion of state ERP program

33

V. EXECUTIVE DIRECTOR

Cost Recovery Recommendations and a Request to set a Public Hearing for
April EPC Meeting (4/15/2010 at 9:00 a.m.) to consider Amendments to Chapter
1-6, Services – Fee Schedule Rule.....

37

VI. AIR DIVISION

Air Monitoring Update

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VII. LEGAL DEPARTMENT

A. Legislative Session Update.....	41
B. Environmental Resource Permitting (ERP) Delegation Update	45

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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FEBRUARY 18, 2010 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, February 18, 2010, 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 (arrived at 9:14 a.m.), Jim Norman, Mark Sharpe (arrived at 9:05 a.m.), and Kevin White.

The following member was absent: Commissioner Ken Hagan (schedule conflict).

Chairman Higginbotham called the meeting to order at 9:04 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, stated there were no changes to the agenda. Chairman Higginbotham called for a motion. **Commissioner White so moved, seconded by Commissioner Beckner, and carried five to zero.** (Commissioner Ferlita had not arrived; Commissioner Hagan was absent.)

PUBLIC COMMENT

Ms. Janet Dougherty, 8214 Revels Road, spoke on mulch best management practices (BMP) and enforcement, distributed information regarding the fertilizer rule, and thanked EPC staff. Ms. Vivian Bacca, 413 El Greco Drive, addressed BMPs related to sinkholes.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, Daniel Alberdi Jr. - Mr. Alberdi reported the February 2010 CEAC meeting involved an update on the proposed fertilizer rule, Environmental Protection Agency (EPA) numeric nutrient criteria, conceptual cost recovery, a planning session, and the pollution recovery fund (PRF).

CONSENT AGENDA

- A. Approval of minutes: December 9, 2009, EPC fertilizer workshop and the December 17, 2009, EPC regular meeting.
- B. Monthly activity reports.
- C. PRF report.
- D. Gardinier Settlement Trust Fund report.
- E. Quarterly customer service survey report.
- F. Legal case summaries - January 2010 and February 2010.

THURSDAY, FEBRUARY 18, 2010 - DRAFT MINUTES

- G. Request a public hearing for the March 18, 2010, EPC meeting to approve amendments to Chapter 1-13, Delegation Rule.
- H. Fourth quarterly hybrid report.

Chairman Higginbotham called for a motion to approve the Consent Agenda. **Commissioner Norman so moved, seconded by Commissioner White, and carried five to zero.** (Commissioner Ferlita had not arrived; Commissioner Hagan was absent.)

EXECUTIVE DIRECTOR

Fertilizer Workshop/Hearing Schedule - Dr. Garrity commented on feedback concerning staff efforts and the fertilizer and landscape management workshop timeline. Commissioner Ferlita thanked Dr. Garrity for working on the schedule. In reply to Commissioner Norman, Dr. Garrity noted dialogue would be held with Busch Gardens representatives.

LEGAL DEPARTMENT

Legislative Issues - EPC General Counsel Richard Tschantz reported staff was monitoring Senate Bill 494, which involved local governments adopting more stringent rules, and responded to Commissioner Sharpe regarding sponsorship. Attorney Tschantz detailed a bill dealing with environmental resource permitting program delegation and expressed concern with the requirement for local governments to apply for delegation by June 1, 2011. Responding to Commissioner Beckner, Attorney Tschantz explained the process was complicated and the EPC was not prepared to move forward with the application process. Dr. Garrity noted difficulty with acquiring delegation. Commissioner Beckner suggested the EPC continue discussion with the Southwest Florida Water Management District (SWFWMD) and report back at the March 2010 meeting. Attorney Tschantz agreed. Dr. Garrity said the EPC was close to acquiring delegation for the Florida Department of Environmental Protection (FDEP). Attorney Tschantz touched on the Right to Farm Act amendment, noting the proposal would eliminate existing regulations on agricultural land. The EPC would recommend the regulations that were in place at the time of passage be grandfathered in if the bill was passed.

WETLANDS AND WATERSHED MANAGEMENT DIVISION

Briefing on Proposed Numeric Nutrient Standards/Classification System - Dr. Garrity commented on a workshop held in Orlando on numeric nutrient criteria. Mr. Richard Boler, EPC, presented a report on the EPA proposed numeric nutrient criteria for Florida fresh water streams and lakes. Responding to

THURSDAY, FEBRUARY 18, 2010 - DRAFT MINUTES

Commissioner Beckner, Mr. Boler explained the proposed rule was in the comment period and would be adopted in October 2010 and he was unsure of the timeline for compliance. Following comments on the recommendation to write a letter expressing EPC Board concerns with nutrient loads, **Commissioner Beckner moved that letter.** In reply to Chairman Higginbotham, Mr. Boler clarified the letter intent and expounded on ways to determine the downstream of protective loads. Dr. Garrity stated the work completed by local groups, counties, the Tampa Bay Estuary Program, and the Tampa Bay Nitrogen Management Consortium had developed science-based allocations to protect Tampa Bay and staff would request the EPA use those allocations as a standard. **Commissioner Norman seconded the motion, which carried six to zero.** (Commissioner Hagan was absent.)

WASTE MANAGEMENT DIVISION

Mulch BMPs - Mr. Hooshang Boostani, Director, EPC Waste Management Division, gave a report on policy development, workshops held, agency efforts, and policy overview and requested Dr. Garrity sign the document, which would be implemented as policy. Mr. Boostani said the document would be incorporated in the Planning and Growth Management Department and the SWFWMD agricultural exemption and regulatory threshold process. Mr. Jeff Whealton, SWFWMD, confirmed the policy was consistent with SWFWMD operations. Dr. Garrity verified there was no duplication of services.

Memorandum of Understanding with the Affordable Housing Department - Mr. Boostani detailed negotiations for EPC to provide environmental expertise/assessment on Affordable Housing Department, U.S. Department of Housing and Urban Development, projects.

Plastic Bag Regulations Update - Mr. Boostani discussed energy climate change, workshops held, container types, the FDEP summary report, impacts, strategies/available options, and retail innovations and recommended the legislature review options and encourage the use of reusable bags. Discussion included recovery value, citizen hardship, operational costs, fiscal analysis, and impacts.

AIR MANAGEMENT DIVISION

Asbestos Update - Mr. Marvin Blount, EPC, provided a presentation on asbestos in County-owned buildings. Mr. Donald Harwig, Director, Facilities Management Division, Real Estate Department, talked about the asbestos abatement program and responded to queries from Commissioner Beckner regarding inspections, asbestos buildings, and taking additional action. Commissioner Beckner

THURSDAY, FEBRUARY 18, 2010 - DRAFT MINUTES

requested a list of the infected buildings. Commissioner Ferlita thanked Mr. Harwig for work efforts.

There being no further business, the meeting was adjourned at 10:30 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**

FEB FY TO DATE

A. Public Outreach/Education Assistance

1.	Phone calls	153	608
2.	Literature Distributed	1	23
3.	Presentations	1	8
4.	Media Contacts	1	3
5.	Internet	56	241
6.	Host/Sponsor Workshops, Meetings, Special Events	-	5

B. Industrial Air Pollution Permitting

1.	Permit Applications received (Counted by Number of Fees Received)		
	a. Operating	8	33
	b. Construction	9	31
	c. Amendments	-	2
	d. Transfers/Extensions	3	12
	e. General	-	-
	f. Title V	-	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	-	18
	b. Construction ^1	6	38
	c. Amendments ^1	1	1
	d. Transfers/Extensions ^1	-	-
	e. Title V Operating ^2	-	38
	f. Permit Determinations ^2	-	-
	g. General	-	3
3.	Intent to Deny Permit Issued	-	-

C. Administrative Enforcement

1.	New cases received	-	2
2.	On-going administrative cases		
	a. Pending	1	5
	b. Active	11	56
	c. Legal	1	14
	d. Tracking compliance (Administrative)	11	66
	e. Inactive/Referred cases	-	-
	TOTAL	24	141
3.	NOIs issued	1	3
4.	Citations issued	-	-
5.	Consent Orders Signed	2	7
6.	Contributions to the Pollution Recovery Fund	\$ 7,000	\$ 10,976
7.	Cases Closed	2	8

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

FEB FY TO DATE

D. Inspections

1. Industrial Facilities	12	59
2. Air Toxics Facilities		
a. Asbestos Emitters	-	-
b. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	1	8
c. Major Sources	2	24
3. Asbestos Demolition/Renovation Projects	17	69

E. Open Burning Permits Issued	1	7
F. Number of Division of Forestry Permits Monitored	228	1,239
G. Total Citizen Complaints Received	58	289
H. Total Citizen Complaints Closed	47	266
I. Noise Sources Monitored	4	17
J. Air Program's Input to Development Regional Impacts	2	11
K. Test Reports Reviewed	34	126
L. Compliance		
1. Warning Notices Issued	9	28
2. Warning Notices Resolved	3	14
3. Advisory Letters Issued	8	20
M. AOR's Reviewed	-	39
N. Permits Reviewed for NESHAP Applicability	1	5
O. Planning Documents coordinated for Agency Review	2	5

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

**FY TO
FEB DATE**

A. ENFORCEMENT

1.	New cases received	1	11
2.	On-going administrative cases	117	606
	Pending	7	30
	Active	49	241
	Legal	9	46
	Tracking Compliance (Administrative)	46	235
	Inactive/Referred Cases	6	54
3.	NOI's issued	-	2
4.	Citations issued	3	9
5.	Consent Orders and Settlement Letter Signed	-	7
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$ 567	\$ 28,016
7.	Enforcement Costs Collected (\$)	\$ 304	\$ 10,125
8.	Cases Closed	6	18

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	-	2
2.	FDEP Permits Reviewed	1	2
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	-	13
4.	Other Permits and Reports		
	County Permits Received	18	41
	County Permits Reviewed	10	36
	Reports Received	33	144
	Reports Reviewed	28	139
5.	Inspections (Total)	199	2,659
	Complaints	11	103
	Compliance/Reinspections	7	50
	Facility Compliance	25	114
	Small Quantity Generator	156	2,389
	P2 Audits	-	3
6.	Enforcement		
	Complaints Received	17	123
	Complaints Closed	14	98
	Warning Notices Issued	4	17
	Warning Notices Closed	2	10
	Compliance Letters	96	305
	Letters of Agreement	-	-
	Agency Referrals	4	14
7.	Pamphlets, Rules and Material Distributed	127	453

C. STORAGE TANK COMPLIANCE

1.	Inspections		
	Compliance	45	329
	Installation	14	65
	Closure	17	69
	Compliance Re-Inspections	15	49

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

	FEB	FY TO DATE
2. Installation Plans Received	14	70
3. Installation Plans Reviewed	16	66
4. Closure Plans & Reports		
Closure Plans Received	4	60
Closure Plans Reviewed	9	61
Closure Reports Received	11	44
Closure Reports Reviewed	9	27
5. Enforcement		
Non-Compliance Letters Issued	26	229
Warning Notices Issued	8	22
Warning Notices Closed	-	2
Cases Referred to Enforcement	2	6
Complaints Received	1	9
Complaints Investigated	1	9
Complaints Referred	-	-
6. Discharge Reporting Forms Received	6	10
7. Incident Notification Forms Received	5	48
8. Cleanup Notification Letters Issued	6	10
9. Public Assistance	-	-

D. STORAGE TANK CLEANUP

1. Inspections	27	101
2. Reports Received	90	408
3. Reports Reviewed	106	423
Site Assessment Received	5	38
Site Assessment Reviewed	12	44
Source Removal Received	2	8
Source Removal Reviewed	2	9
Remedial Action Plans (RAP'S) Received	7	37
Remedial Action Plans (RAP'S) Reviewed	8	29
Site Rehabilitation Completion Order/No Further Action Rec'd	6	19
Site Rehabilitation Completion Order/No Further Action Revw'd	6	17
Active Remediation/Monitoring Received	45	209
Active Remediation/Monitoring Reviewed	50	219
Others Received	25	97
Others Reviewed	28	105

E. RECORD REVIEWS

23	72
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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**

**FY TO
FEB DATE**

A. ENFORCEMENT

1.	New Enforcement Cases Received	3	13
2.	Enforcement Cases Closed	3	12
3.	Enforcement Cases Outstanding	48	250
4.	Enforcement Documents Issued	4	21
5.	Recovered Costs to the General Fund	\$ 818	\$ 4,179
6.	Contributions to the Pollution Recovery Fund	\$ 1,848	\$ 10,940

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1.	Permit Applications Received	13	64
	a. Facility Permit	4	18
	(i) Types I and II	1	6
	(ii) Type III	3	12
	b. Collection Systems - General	5	24
	c. Collection systems-Dry Line/Wet Line	4	20
	d. Residuals Disposal	-	2
2.	Permit Applications Approved	7	52
	a. Facility Permit	2	15
	b. Collection Systems - General	2	14
	c. Collection systems-Dry Line/Wet Line	3	23
	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	1	1
	a. Facility Permit	1	1
	b. Collection Systems - General	-	-
	c. Collection systems-Dry Line/Wet Line	-	-
	d. Residuals Disposal	-	-
6.	Permit Applications Outstanding	49	163
	a. Facility Permit	20	76
	b. Collection Systems - General	11	25
	c. Collection systems-Dry Line/Wet Line	17	61
	d. Residuals Disposal	1	-
7.	Permit Determination	3	9
8.	Special Project Reviews	5	6

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

	FEB	FY TO DATE
a. Reuse	-	-
b. Residuals/AUPs	5	6
c. Others	-	-

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	10	40
a. Inspection (CEI)	-	5
b. Sampling Inspection (CSI)	10	35
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance	58	250
a. Inspection (RI)	8	55
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	50	193
d. Enforcement Inspection (ERI)	-	2
3. Engineering Inspections	13	104
a. Reconnaissance Inspection (RI)	2	7
b. Sample Reconnaissance Inspection (SRI)	-	-
c. Residual Site Inspection (RSI)	-	-
d. Preconstruction Inspection (PCI)	3	12
e. Post Construction Inspection (XCI)	8	85
f. On-site Engineering Evaluation	-	-
g. Enforcement Reconnaissance Inspection (ERI)	-	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	6	19
a. Facility Permit	4	11
(i) Types I and II	-	4
(ii) Type III with Groundwater Monitoring	1	3
(iii) Type III w/o Groundwater Monitoring	3	4
b. General Permit	-	1
c. Preliminary Design Report	2	7
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	3
(iii) Type III w/o Groundwater Monitoring	2	4
2. Permits Recommended to DEP for Approval	-	-
3. Special Project Reviews	2	10
a. Facility Permit	2	9
b. General Permit	-	1
4. Permitting Determination	-	1
5. Special Project Reviews	34	164

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

	FEB	FY TO DATE
a. Phosphate	8	34
b. Industrial Wastewater	13	60
c. Others	13	70

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	11	50
a. Inspection (CEI)	11	50
b. Sampling Inspection (CSI)	-	-
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance (Total)	14	56
a. Inspection (RI)	7	27
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	7	29
d. Enforcement Inspection (ERI)	-	-
3. Engineering Inspections (Total)	9	30
a. Compliance Evaluation (CEI)	9	30
b. Sampling Inspection (CSI)	-	-
c. Performance Audit Inspection (PAI)	-	-
d. Complaint Inspection (CRI)	-	-
e. Enforcement Reconnaissance Inspections (ERI)	-	-

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints	44	200
a. Domestic	37	162
(i) Received	23	94
(ii) Closed	14	68
b. Industrial	7	38
(i) Received	5	19
(ii) Closed	2	19
2. Warning Notices	17	68
a. Domestic	9	50
(i) Received	5	25
(ii) Closed	4	25
b. Industrial	8	18
(i) Received	4	9
(ii) Closed	4	9
3. Non-Compliance Advisory Letters	21	65
4. Environmental Compliance Reviews	180	777
a. Industrial	56	296
b. Domestic	124	481

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

	<u>FEB</u>	<u>FY TO DATE</u>
5. Special Project Reviews	12	17

G. RECORD REVIEWS

1. Permitting Determination	-	19
2. Enforcement	-	2

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

1. Air division	45	249
2. Waste Division	-	-
3. Water Division	16	86
4. Wetlands Division	-	-
5. ERM Division	227	853
6. Biomonitoring Reports	9	34
7. Outside Agency	35	111

I. SPECIAL PROJECT REVIEWS

1. DRIs	-	7
2. ARs	-	-
3. Technical Support	2	18
4. Other	2	2

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

**FY TO
FEB 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	62	287
Timeframes Met	93%	93%
Year to Date	99%	99%

Formal Wetland Delineation Surveys

Projects	7	32
Total Acres	127	1,314
Total Wetland Acres	9	284
# Isolated Wetlands < 1/2 Acre	1	7
Isolated Wetland Acreage	0.04	1.1

Construction Plans Approved

Projects	15	68
Total Wetland Acres	23	50
# Isolated Wetlands < 1/2 Acre	3	6
Isolated Wetland Acreage	0.47	0.73
Impacts Approved Acreage	3.08	4.32
Impacts Exempt Acreage	0.01	0.71

Mitigation Sites in Compliance

Ratio	197/208	197/208
Percentage	95%	95%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	0.70	3.90
Acreage of Water Quality Impacts	0.00	0.10
Acreage Restored	0.60	32.44

General

Telephone Conferences	683	3,172
Scheduled Meetings	330	1,356
Unscheduled Citizen Assistance	396	1,600

REVIEW TIMES

# of Reviews	237	1,121
% On Time	97%	97%
% Late	3%	3%

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

FY TO
FEB DATE

A. General

1.	Telephone conferences	683	3,172
2.	Unscheduled Citizen Assistance	396	1,600
3.	Scheduled Meetings	330	1,356
4.	Correspondence	1,532	6,201
1/ 5.	Intergency Coordination	105	356
1/ 6.	Trainings	11	88
1/ 7.	Public Outreach/Education	3	11
1/ 8.	Quality Control	71	394

B. Assessment Reviews

1.	Wetland Delineations	26	68
2.	Surveys	12	56
3.	Miscellaneous Activities in Wetland	33	160
4.	Mangrove	7	16
5.	Notice of Exemption	2	11
6.	Impact/Mitigation Proposal	16	92
7.	Tampa Port Authority Permit Applications	53	258
8.	Wastewater Treatment Plants (FDEP)	-	1
9.	Development Regn'l Impact (DRI) Annual Report	-	6
10.	On-Site Visits	95	434
11.	Phosphate Mining	-	14
12.	Comp Plan Amendment (CPA)	5	27
1/ 13.	AG SWM	-	1
	Sub-Total	249	1,144

Planning and Growth Management Review

14.	Land Alteration/Landscaping	-	1
15.	Land Excavation	6	17
16.	Rezoning Reviews	6	55
17.	Site Development	20	103
18.	Subdivision	14	47
19.	Wetland Setback Encroachment	1	22
20.	Easement/Access-Vacating	-	3
21.	Pre-Applications	18	65
1/ 22.	Agriculture Exemption	2	3
	Sub-Total	67	316
	Total Assessment Review Activities	316	1,460

C. Investigation and Compliance

1.	Warning Notices Issued	5	31
2.	Warning Notices Closed	3	32
1/ 3.	Complaints Closed	34	147
4.	Complaint Inspections	41	160

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

	FEB	FY TO DATE
5. Return Compliance Inspections for Open Cases	44	201
6. Mitigation Monitoring Reports	27	116
7. Mitigation Compliance Inspections	20	132
8. Erosion Control Inspections	5	90
9. MAIW Compliance Site Inspections	18	57
10. TPA Compliance Site Inspections	4	43
2/ 11. Mangrove Compliance Site Inspections	1	5
1/ 12. Conservation Easement Inspection	5	9

D. Enforcement

1. Active Cases	21	75
2. Legal Cases	-	-
3. Number of "Notice of Intent to Initiate Enforcement"	2	6
4. Number of Citations Issued	1	1
5. Number of Consent Orders Signed	1	8
6. Administrative - Civil Cases Closed	4	22
7. Cases Referred to Legal Department	-	-
8. Contributions to Pollution Recovery	\$ 700	\$ 14,875
9. Enforcement Costs Collected	\$ 185	\$ 2,739

E. Ombudsman

1. Agriculture	4	17
2. Permitting Process & Rule Assistance	5	9
3. Staff Assistance	7	15
4. Citizen Assistance	2	11

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 02/28/10**

		As of 2/28/10
Beginning Fund Balance, 10/01/08	\$	555,831
Interest Accrued		10,231
Deposits		75,213
Disbursements		(88,555)
Intrafund Budget Transfers to Project Fund		(371,041)
Intrafund Budget Transfers from Project Fund		18,717
Pollution Recovery Fund Balance	\$	200,396
Encumbrances:		
Pollution Prevention/Waste Reduction (101)	\$	1,429
Artificial Reef Program		94,412
PRF Project Outreach		(4,983)
PRF Project Monitoring		99,660
Total Encumbrances	\$	190,518
Minimum Balance (Reserves)	\$	120,000
Balance Available 01/31/10	\$	(110,122)

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	
Seawall Removal Cotanchobee Ft Brooke Park	100,000		100,000	
Erosion Control/Oyster Bar Habitat Creation	75,000		62,500	
Remediation of Illegally Dumped Asbestos	4,486		4,486	
	\$	429,486	\$	344,413
FY 08 Projects				
Australian Pine Removal E.G. Simmons Park	\$ 80,000	\$	29,375	close
Restoration of MOSI	125,000		49,626	
Invasive Plant Removal Egmont Key	133,000		12,415	
Lake Magdalene Special Disposition District	66,954		18,880	
Testing Reduction of TMDL in Surface Water Flow	19,694		7,479	
Assessing Bacteria Lake Carroll	101,962		1,649	reopen
	\$	526,610	\$	119,424
FY 09 Projects				
MacDill Phase 2 Seagrass Transplanting	79,196		41,620	
McKay Bay Sediment Quality	55,000		55,000	
Mini FARMS BMP Implementation	50,000		28,819	
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	
	\$	404,196	\$	345,439
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 02/28/10**

Fund Balance as of 10/1/09	\$ 247,322
Interest Accrued	1,685
Disbursements FY 10	-
	<hr/>
Fund Balance	\$ 249,007
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	249,007
	<hr/>
Total Encumbrances	\$ 249,007
	<hr/>
Fund Balance Available 02/28/10	<u><u>\$ -</u></u>



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 18, 2010

Subject: Legal Case Summary for March 2010

Consent Agenda **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: March 2010 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
March 2010

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [5]

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 the Hearing Officer issued his recommendation on February 19, 2010. A final hearing before the Commission is anticipated to be scheduled during the regular April Commission meeting. (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. The parties are discussing the possibility of settlement. (AZ)

RECENTLY RESOLVED ADMINISTRATIVE CASES [1]

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).

B. CIVIL CASES

NEW CIVIL CASES [0]

EXISTING CIVIL CASES [15]

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. On 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. On February 11, 2010, the Court dismissed the Bankruptcy case and the EPC Civil lawsuit will proceed accordingly.. (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 a hearing was held on April 28, 2008, wherein the judge awarded the EPC additional penalties. A second hearing was held on January 25, 2010, for a second contempt proceeding and additional penalties. The Judge found the Defendants in contempt and levied stipulated penalties/costs, and a draft order has been sent to the judge for execution. (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, but 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. The EPC is preparing to seek relief from the bankruptcy stay to get an award of stipulated penalties from the state court. The site remains out of compliance with applicable EPC solid waste regulations. (AZ)

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 [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)

RECENTLY RESOLVED CIVIL CASES [3]

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. On February 11, 2010 the Court entered an Order Dismissing the Case and this EPC case has been closed. (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. On February 12, 2010 the Court entered an Order Dismissing the Case and this EPC case has been closed. (AZ)

C. OTHER OPEN CASES [10]

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)

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. Subsequently, the Petitioner filed for an additional extension of time. The request was granted and the Petitioner has until April 12, 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)

Circle K Stores, Inc. [LEPCo10-003]: On February 23, 2010 the Appellant filed a request for an extension of time to file a Notice of Appeal regarding the Citation of Violation and Order to Correct that was issued on February 12, 2010. The request was granted and the Appellant has until June 7, 2010 to file an appeal in this matter. (AZ)

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 18, 2010

Subject: Request for authority to take appropriate legal action against Ms. Kelly Wishau

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

Division: Wetlands Management Division

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

Brief Summary: Ms. Wishau owns real property located at 3604 Cork Road, Plant City, Florida. Within the property are jurisdictional wetlands. Ms. Wishau has unauthorized wetland impacts on her property, including dredging, filling, and clearing in wetlands. On June 18, 2009 the parties entered into a settlement for her to perform corrective actions and to pay stipulated penalties in the event the corrective actions were not timely completed. The corrective actions have not been completed and the property remains out of compliance with agreement, the EPC Act and the EPC Wetland Rule Chapter 1-11.

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

Background: On January 24, 2007, EPC staff issued Warning Notice #2007-2828E for unauthorized fill placement in wetlands. On May 3 and November 14, 2007 additional unauthorized wetland impacts were observed including pond excavation, fill placement, and tree clearing with associated debris placed in wetlands. On February 21 and 28, 2008, EPC staff observed additional tree clearing within the wetlands. On April 28, 2008, a Citation of Violation and Order to Correct (Citation) was issued to Ms. Wishau for the referenced wetland violations. On April 28, 2009, EPC staff observed additional unauthorized dredging and soil deposition in wetlands on the property. On June 18, 2009 the parties entered into a settlement for her to perform corrective actions and to pay stipulated penalties in the event the corrective actions were not timely completed. Although a significant extension of time was granted to her, over 5 months, Ms. Wishau has not completed the corrective actions. The violations remain on the property and there has been no payment of stipulated penalties.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 18, 2010

Subject: Request for authority to take appropriate legal action against Gregory Hart

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

Division: Wetlands Management Division

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

Brief Summary: Mr. Hart owns real property located at 3428 Ehrlich Road, Tampa, Florida. Within the property are jurisdictional wetlands. Mr. Hart has unauthorized wetland impacts on his property, including filling and clearing in wetlands. The unauthorized activities violate the EPC Wetland Rule Chapter 1-11. The corrective actions have not been completed and the property remains out of compliance with the EPC Enabling Act and the EPC Wetland Rule Chapter 1-11.

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

Background: Mr. Hart owns real property located at 3428 Ehrlich Road, Tampa, Florida. Within the property are jurisdictional wetlands as identified under the EPC and state laws. On October 31, 2006, Mr. Hart entered into a Consent Order with the Executive Director of the EPC in resolution of unauthorized clearing and filling activities for construction of a driveway in wetlands. Although that Consent Order has been resolved, on December 18, 2009, EPC staff issued Warning Notice #2009-3486E for additional unauthorized fill placement in wetlands. On February 26, 2010, EPC staff was notified by Hillsborough County Public Works additional unauthorized wetland impacts were observed including fill placement and construction of an earthen dam in wetlands. The EPC staff reviewed photographic evidence that confirms the existence of these additional wetland violations. The violations remain on the property.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 18, 2010

Subject: Request for authority to take appropriate legal action against Rainbow Food Mart of Tampa, Inc. and Abdel Karim A. Nabi

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

Division: Waste Management Division

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

Brief Summary: Abdel Karim A. Nabi owns real property located at 1417 S. Howard Avenue (folio #117463.0000), Tampa, Florida. Rainbow Food Mart of Tampa, Inc. operates a facility on the property which includes underground storage tank systems. On August 25, 2008, a petroleum discharge was discovered on the Property during a spill bucket closure. Cleanup of the discharge has not been completed and the property is not in compliance with the EPC Act and Rules of the EPC, Chapter 1-7 and Chapter 62-770, Florida Administrative Code.

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

Background: On August 25, 2008, a petroleum discharge was discovered on the Property at 1417 S. Howard Avenue (folio #117463.0000), Tampa, Florida during a spill bucket closure. The closure report for the spill bucket, received on October 16, 2008, indicated petroleum contamination concentrations exceeding soil cleanup target levels (SCTL's) pursuant to Chapter 62-777, F.A.C. The discovery of petroleum contamination concentrations above cleanup target levels requires a Site Assessment (SA) be initiated within 30 days and a Site Assessment Report (SAR) be submitted within 270 days. A SAR was not timely submitted and on November 6, 2009, a Citation of Violation and Order to Correct (Citation) was issued to the owner and operator. The Citation directed the parties to initiate a SA within 20 days and submit a SAR within 180 days of receipt of the Citation. The Citation has not been appealed and is now a final order by operation of law. The violations have not been corrected.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 18, 2010

Subject: Public hearing to approve amendments to the Delegation Rule Chapter 1-13, Rules of the EPC.

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

Division: Wetlands and Watershed Management Division and Legal Department

Recommendation: Conduct a public hearing and approve amendments to the Delegation Rule Ch. 1-13.

Brief Summary: Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve, repeal or amend a rule. At the August 16, 2007 regular EPC meeting the EPC Board approved the Hybrid Model presented by staff. In accordance with the Hybrid Model, the staff proposes amendments to the EPC Delegation Rule Chapter 1-13 that incorporate relevant state rules to allow for delegation to the EPC of portions of the State environmental resource permitting program.

Financial Impact: No Financial Impact.

Background: On August 16, 2007, the EPC Board approved the Hybrid Model, a plan to streamline the EPC's wetlands regulatory program. As part of the Hybrid Model, the EPC will consider amendments to the EPC Delegation rule Chapter 1-13 for obtaining delegation of portions of the State 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. The staff has proposed amendments to the existing Delegation Rule Chapter 1-13 that incorporate these necessary rule adoptions. Although some amendments were adopted in July 2008, additional amendments to the existing Delegation Rule Chapter 1-13 are necessary for delegation.

The staff has prepared a draft rule proposed for adoption at the March 18, 2010 regular meeting. The proposed amendments were developed in accordance with the requirements under state law for obtaining delegation of the ERP program. 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 the attached rule amendments at a public hearing at the regularly scheduled meeting on March 18, 2010.

List of Attachments: Proposed Delegation Rule Chapter 1-13, Rules of the EPC.

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-13
DELEGATION RULE**

PART I (General Provisions)

- 1-13.01 Intent**
- 1-13.02 Interpretation**
- 1-13.03 Conflicts**

**PART II (Wastewater Facility Program
Delegation)**

- 1-13.10 SOA**
- 1-13.11 Applicable Standards**

**PART III (Environmental Resource
Permitting – delegation)**

- 1-13.20 ERP Delegation Agreement**

PART I (General Provisions)

It is the Commission's intent that the Director make reasonable effort to coordinate EPC's regulatory activities with other appropriate agencies, either through delegation or other written agreement.

(1) To the extent possible, implementation of activities on behalf of another agency shall be incorporated and combined with activities of the EPC to minimize duplication. Precisely how activities will be combined shall be identified within the delegation, operating agreement, contract or memorandum of understanding between the affected agencies.

(2) To the extent appropriate, where EPC implements the authority of another agency pursuant to delegation, EPC shall apply the rules, standards, and criteria of the other agency as described in the written agreement.

(3) To the extent that EPC regulations require or provide more stringent standards for the protection of the public and the environment of Hillsborough County than the standards and criteria of another agency, provision will be made in the written agreement that recognizes this distinction, and as appropriate, sustains the more

stringent standards.

1-13.02 INTERPRETATION.

To the extent practicable and consistent with our enabling legislation, rules and regulations of another agency shall be interpreted and applied pursuant to delegation according to the meaning given by the other agency.

(1) Where another agency rule implemented by delegation requires submission of an application, notice or other information to the other agency, that rule will be interpreted as requiring submission to the Director.

(2) Where another agency rule implemented by delegation requires that the other agency receive submissions, make a decision, issue a document or take some action, it shall be interpreted as requiring these actions from the Director as provided in the written agreement.

(3) Where another agency rule requires submission of an application fee, provision for its allocation should be reflected in the written agreement with the Commission. Obligation to pay fees under EPC's chapter 1-6 shall be modified according to the written agreement. EPC will make every effort to avoid charging a local fee in addition to the other agency fee, insisting otherwise only to the extent that EPC's expenses in providing services are not fully covered.

1-13.03 CONFLICTS.

The provisions of this rule shall not affect the specific provisions contained in any written agreement, contract, delegation or memorandum of understanding, and shall not be used to create ambiguity where none exists in such written agreement.

**PART II (Wastewater Facility Program
Delegation)**

1-13.10 SOA.

(1) When Commission staff exercise authority delegated from the Florida Department of Environmental Protection pursuant to the Wastewater Facility Program Specific Operating Agreement entered into between the Secretary of

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

the Department and the Commission, in reviewing, issuing or denying a permit or exemption, inspecting for compliance or enforcing standards and conditions within a permit issued by or on behalf of the Department, they shall use the Department rules in force at the time of the application. Said rules, generally referenced in section 1-13.11 below, are hereby adopted for the limited purpose provided by this paragraph.

(2) Notwithstanding EPC's authority to adopt more stringent standards for Hillsborough County, EPC has not elected to do so in this program as of this time. All of the standards applicable to the Wastewater Facility Program in Hillsborough County are equivalent to those of the Department.

1-13.11 APPLICABLE STANDARDS.

Department rules, standards and criteria applicable to the program addressed in this part include those pertaining to water quality; industrial and domestic wastewater facilities; resource recovery and management; damage assessment; underground injection; final agency action procedures; surface waters and water quality standards; ground water classes, standards and exemptions; wellhead protection; ground water permitting and monitoring; drinking water standards, monitoring, and reporting; permitting and construction of public water systems; wastewater treatment plant monitoring; detergents; collection systems and transmission facilities; reuse of reclaimed water and land application; wetlands application; wastewater facility permitting; wastewater residuals; animal feed lots; wastewater general permits; water quality based effluent limitations; treatment plant classification and staffing; and solid waste facilities.

PART III (Environmental Resource Permitting – delegation)

1-13.20 ERP Delegation Agreement

(1) The Florida Department of Environmental

Protection (Department) intends to delegate its authority under Chapters 373 and 403, Florida Statutes to regulate certain impacts to wetlands and other surface waters in Hillsborough County pursuant to Chapter 62-344, F.A.C., to the Commission, which requested such delegation and demonstrated to the Department that it has sufficient resources and procedures for the adequate administration and enforcement of a delegated environmental resource permitting (ERP) program. This program will be limited to the activities provided in the delegation agreement between the Department and the Commission dated , 2008.

a) The delegation agreement dated , 2008 provides the Executive Director the authority to review specific activities on behalf of the Department and allows the Executive Director to issue one agency action document for a determination under the applicable state ERP program rules and the local Commission rules: Chapter 1-11 and Chapter 1-14. The standards for processing those permit applications shall be those standards approved under this rule chapter, in addition to the standards in Chapter 1-11 and Chapter 1-14. All other Commission rules, however, shall remain in full force and effect as it pertains to the regulated activities.

b) The administrative rules for processing the consolidated determinations shall be those adopted in the Commission's Administrative Procedures Rule Chapter 1-2, unless otherwise specifically provided for in this rule chapter. In the event the Commission's local administrative rules are in conflict with the procedural rules set forth in Chapters 120 and 373, Florida Statutes, the state statutes shall govern that specific conflict. The Executive Director shall review the activities eligible under the delegation agreement in accordance with the Commission's applicable local rules and with the following provisions:

(i) For those impacts to wetlands or other surface waters that are reviewed under Chapter 1-11 and qualify for review under the delegation agreement dated , 2008, the Executive Director, when deciding to authorize impacts to

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

wetlands and other surface waters pursuant to the authority under the applicable rules, shall use the criteria in Sections 373.406, and 373.414(1), (5) and (8), Florida Statutes, as follows: (1) Whether the activity will adversely affect the public health, safety, or welfare or the property of others; (2) Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats; (3) Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling; (4) Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity; (5) Whether the activity will be of a temporary or permanent nature; (6) Whether the activity will adversely affect archaeological resources under the provisions of section 267.061, Florida Statutes; (7) The current condition and relative value of functions being performed by areas affected by the proposed activity; and (8) The cumulative impact of similar activities pursuant to section 373.414(8), Florida Statutes.

(ii) The Commission hereby adopts Chapter III of the Southwest Florida Water Management District "Basis of Review" for Environmental Resource Permits as adopted by the Department and Southwest Florida Water Management District. Chapter III of the The Water Management District "Basis of Review" dated August 2, 2006 is adopted by reference in this rule and shall be utilized by staff in their review under this Rule. ~~The Commission intends that all future amendments to the Water Management District "Basis of Review" shall be automatically adopted by this rule.~~

(iii) The Commission hereby adopts Sections 40D-4.301 and 40D-4.302, Florida Administrative Code for purposes of implementing the delegated state ERP program.

~~(iv) The Commission hereby adopts any applicable ERP exemptions or variances for purposes of implementing the delegation agreement. The ERP exemptions and variances shall not affect or apply to the Commission's local rule standards.~~

(2) The Executive Director, when processing applications under this delegation section, shall comply with any applicable noticing or other procedural requirements that apply to activities regulated under Part IV, chapter 373, Florida Statutes that are subject to the delegation agreement.

(3) The Executive Director, when processing applications under this delegation section, shall comply with the procedural requirements set forth in Section 120.60, Florida Statutes.

~~(4) In the event an applicant, in writing, chooses to deem an application complete under this rule chapter, the Executive Director shall issue a decision solely based on this rule chapter. In the event an application under this rule chapter is requested to be deemed complete, the review process will be bifurcated and the Executive Director's decision will in no way affect the review under Chapter 1-11 or Chapter 1-14. The Executive Director shall maintain a list of final agency orders under this delegation in accordance with Section 120.53 and 120.533, F.S.~~

(5) As provided in Section 373.114, Florida Statutes, and if an appeal is sufficient and timely filed, a decision pursuant to delegation may be reviewed by the Florida Land and Water Adjudicatory Commission as appropriate.

Section History - Adopted July 17, 2008; Amended _____, 2010

Effective date: _____, 2010

Adopted 10/26/94

Amended 08/19/99

Amended 07/17/08

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



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 18, 2010

Subject: Cost recovery recommendations and a request to set a Public Hearing for April 15, 2010 at 9:00 a.m. to consider amendments to Chapter 1-6 (Services – Fee Schedule) to include an overall fee adjustment to comply with county policy and several other fee schedule updates.

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

Division: Executive Director

Recommendation: Request Commission set a Public Hearing to consider amendments to Chapter 1-6 (Services – Fee Schedule), and authorize appropriate public notice.

Brief Summary: Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the EPC Board approve holding a public hearing at its regularly scheduled meeting on April 15, 2010 to amend the Services – Fee Schedule Rule Chapter 1-6 to adopt a Consumer Price Index inflation adjustment and other reasonable fee schedule updates.

Financial Impact: It is estimated that approximately \$350,000. will be collected from the overall fee adjustment and another \$250,000. from the other proposed updates for a total of \$600,000. We propose that these additional revenues be used to partially offset proposed FY 2011 budget reductions.

Background:

Pursuant to the Hillsborough County Environmental Protection Act (EPC Act) Section 5.2, the EPC Board must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the EPC Board approve holding a public hearing at its next regularly scheduled meeting on April 15, 2010 to amend the Services – Fee Schedule Rule Chapter 1-6 to ensure appropriate cost recovery for certain EPC programs.

Last March during the FY 2010 budget process, staff planned to propose updates to EPC's user fees. Due to economic considerations, staff delayed the user fee cost recovery plan until March 2010. At the July 16, 2009, EPC monthly meeting the Executive Director advised the EPC Board that we would evaluate our fee schedule and bring back viable cost recovery recommendations including fee adjustments, fee corrections and new fees to be adopted in time to be considered during the FY 2011 budget cycle.

During the last year staff has evaluated our fee schedule with the idea of proposing fair and reasonable fee adjustments. Staff is recommending an overall 20% inflation adjustment to comply with County Policy

03.02.02.09 as well as other updates where fees are not currently collected. This would include compliance fees and other review activities. EPC's last major fee schedule adjustment was in 2003.

A public workshop to consider these proposed amendments to Chapter 1-6 (Services – Fee Schedule) is scheduled to be held at the EPC Main Building, Classroom A, on March 30, 2010 from 6:00 – 8:00 p.m.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 18, 2010

Subject: Air Monitoring Network Update

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

Division: Air Management Division

Recommendation: Informational Report

Brief Summary: Staff will provide a brief informational update on the Agency's air quality monitoring network. The network is funded in full by State and Federal EPA grants. The ability to automate some of the work, and some funding cuts, have lead to a reduction in sites and use of manpower. The monitoring sites are equipped so that calibrations and some routine maintenance can now be done remotely, and does not require a site visit by a technician.

Despite the changes, the network is fully adequate to determine compliance with all air quality standards and Federal monitoring requirements.

Financial Impact: No financial impact.

Background: The EPC operates a comprehensive air monitoring network for air toxics and the six pollutants in which there are health based standards. The monitoring stations are spread across the County and run twenty-four hours a day seven days a week. This air quality information is in turn passed on to the public on a real time basis through our website and the media, and is also transferred to the State and the US EPA for air quality planning purposes.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 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 continues to 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 commenced 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. Additionally, 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). Early in this session the EPC staff has already encountered many bills of interest, some of which attempt to weaken local government powers.

1. **FERTILIZER BILL – HB 1445 and SB 2546.** Prior to the Legislative session, a few draft bills amending the year-old fertilizer law were being debated. Currently, there are at least two sponsored bills since the session has started (HB 1445 and SB 2546). These proposed glitch bills tighten up how local governments can pass more stringent local fertilizer rules. Last year SB 494, now Sec. 403.9337, Florida Statutes, was passed and it required all local governments with nutrient impaired waters to pass at minimum the DEP's fertilizer model code within the local government's jurisdiction. The current law also provides for how a local government can pass a more stringent local rule. These bills would add additional conditions to the existing law mainly to make it more difficult to pass a more stringent.

fertilizer rule than the DEP model. Among other things, HB 1445, sponsored by Rep. Nelson, requires that if a local government wants to adopt a more stringent fertilizer ordinance/rule, they must do the following:

- 1) Implement a comprehensive program to address nonpoint source nutrient pollution. If the government can show that the comprehensive program is not enough to address the nutrient problems, then it may pursue a stricter rule. The bill goes on to describe potential comprehensive steps a government can take, such as actions adopted in a basin management action plan, adoption of Florida-Friendly landscaping ordinance, or implementing low-impact development practices.
- 2) The local government must convene a workgroup of diverse parties detailed in the bill (e.g. local government representative, agricultural representative, retail representative, DEP representative, etc.) that must conduct "a review and [provide] a report that addresses the economical and technical feasibility of enforcing the proposed additional or more stringent standards."
- 3) The local government must include in the public record, the scientifically documented vulnerability of the waters to nutrient enrichment due to geology, hydrology, climate, etc.
- 4) Finally, if two or more entities (IFAS, DACS, or DEP) question the scientific basis of the proposed standards, the local government must address those concerns "to the maximum extent practicable."

Thus, the hurdle would be much higher for local governments to create a more stringent fertilizer rule. Senate Bill 2546, sponsored by Senator Baker, has most of the concepts of items number one and three above regarding having a comprehensive plan in place to address nonpoint sources and documenting the vulnerability of the waters, prior to creating a stricter rule. Finally, SB 2546 mandates that all local governments adopt, at minimum, the DEP model by January 1, 2011, or within 6 months of an impaired water being listed. The current law has no deadline to adopt the model. In general SB 2546 is not as onerous as HB 1445. EPC staff is currently drafting a rule that would be stricter than the DEP model. Depending on the effective date, a law that may pass from the current session could necessitate the EPC to take additional steps to create a more protective rule.

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. The bill has been tabled in the Senate Ways and Means committee. The delegation language of concern could be moved to other bills.

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 proposal appears to grandfather any regulations passed prior to 2003. The EPC did pass some wetland regulations in 2007, though favorable to agriculture, could be nullified under this bill.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 18, 2010

Subject: Environmental Resource Permitting (ERP) delegation update

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

Division: Legal and Administrative Services

Recommendation: Informational Report

Brief Summary: At the February 18, 2010 meeting, staff reported to the Board concerning proposed legislation that would require EPC to apply for delegation of the Environmental Resource Permitting (ERP) program by June 1, 2011 or lose the ability to permit similar activities. Staff was instructed to monitor the bill and begin discussions with the Southwest Florida Water Management District regarding delegation. Staff will report to the Commission on the results of the meeting with SWFWMD staff.

Financial Impact: No Financial Impact

List of Attachments: None

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