

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
COUNTY CENTER 2ND FLOOR
JUNE 10, 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 (unless the Commission directs differently)

II. CITIZENS' ENVIRONMENTAL ADVISORY COMMITTEE

Report from the CEAC Chairman – Danny Alberdi

III. CONSENT AGENDA

A. Approval of Minutes: May 20, 2010	3
B. Monthly Activity Reports	7
C. Pollution Recovery Fund Report	19
D. Gardinier Settlement Trust Fund Report	20
E. Legal Case Summary, June 2010.....	21

IV. PUBLIC HEARING

Conduct a Public Hearing before the Commission to consider and approve adoption of a Fertilizer Use and Landscape Management Rule, Chapter 1-15, Rules of the EPC	27
---	----

Any person who might wish to appeal any decision made by the Environmental Protection Commission regarding any matter considered at the forthcoming public hearing or meeting is hereby advised that they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based.

Visit our website at www.epchc.org

This Page Intentionally Left Blank

MAY 20, 2010 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, May 20, 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 9:15 a.m.), Mark Sharpe, and Kevin White.

The following members were absent: Commissioners Ken Hagan (schedule conflict) and Jim Norman (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, noted the changes, citing additional information related to Consent Agenda Item F, amendment to the cooperative agreement between the EPC and Hillsborough County for Cockroach Bay aquatic preserve saltern habitat restoration. Chairman Higginbotham called for a motion to accept the changes. **Commissioner Beckner so moved, seconded by Commissioner Sharpe, and carried four to zero.** (Commissioner Ferlita had not arrived; Commissioners Hagan and Norman were absent.)

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, Daniel Alberdi Jr. - Mr. Alberdi outlined the CEAC meeting of May 3, 2010; stated the CEAC voted for the EPC to draft a model fertilizer ordinance based on the stricter Tampa Bay Estuary Program ordinance for consideration at the June 2010 CEAC meeting; highlighted support for EPC cost recovery recommendations; and responded to Chairman Higginbotham regarding CEAC votes on the draft ordinance.

CONSENT AGENDA

- A. Approval of minutes: April 15, 2010, EPC regular meeting.
- B. Monthly activity reports.
- C. Pollution Recovery Fund report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary - May 2010.
- F. Amendment to the cooperative agreement between the EPC and Hillsborough County for Cockroach Bay aquatic preserve saltern habitat preservation.

THURSDAY, MAY 20, 2010 - DRAFT MINUTES

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

EXECUTIVE DIRECTOR

Dr. Garrity highlighted citizen comments expressing appreciation for EPC staff assistance and recognized Ms. Kelley Boatwright, EPC, as the Florida Sterling Council Incorporated examination committee rookie of the year.

EPC Workshop to Discuss Cost Recovery Recommendations and Request to Hold a Public Hearing at a Later Date to Consider Amendments to Chapter 1-6, Services, Fee Schedule - Dr. Garrity highlighted a presentation on cost recovery recommendations, as provided in background material. Commissioner Sharpe expressed displeasure with furlough days; opined employees should be paid for services provided; discussed prioritization of wetlands protection and the core mission; was reluctant to increase fees, citing imposition of additional financial hardships on individual citizens; and would support consideration of consolidated efforts. Discussion ensued regarding unfilled positions, collaboration with local universities, and data management consolidation. EPC General Counsel Richard Tschantz advised of additional staff cuts and consolidation efforts. Regarding the Sterling management system initiative, Dr. Garrity reported the program was well received by staff.

Commissioner Beckner spoke on economic conditions and balancing costs and services. Commissioner Ferlita agreed with EPC member comments and wanted the public to have an opportunity to weigh in. Responding to Commissioner Sharpe, Dr. Garrity touched on lack of duplicative efforts related to air quality monitoring and Mr. Jerry Campbell, Director, EPC Air Management Division, noted collaborative efforts, grants, and funding and discussed air quality contributions to soil and water contamination, Environmental Protection Agency standards and attainment issues, effects of rules/fee administration, and small business exemptions. Commissioner Sharpe expressed concerns regarding potential financial hardships imposed on small businesses and asked staff to address the issue. Dr. Garrity would provide additional information regarding financial impacts to small businesses. Commissioner Ferlita agreed with EPC member comments, remarked on hardship mechanisms, and wanted to ensure only qualified businesses received exemptions. Comments followed regarding efficiency with reduced staff, protecting the workforce, the core mission, value for service perceptions, and staff professionalism/extraordinary

THURSDAY, MAY 20, 2010 - DRAFT MINUTES

endeavors to provide quality service. In response to Chairman Higginbotham regarding wastewater compliance inspections, Dr. Garrity would research funding options through the Southwest Florida Water Management District and report back. Chairman Higginbotham sought a motion to set a public hearing for June 16, 2010, at 2:00 p.m. **Commissioner Ferlita so moved, seconded by Commissioner Sharpe, and carried five to zero.** (Commissioners Hagan and Norman were absent.)

Deep Horizon Oil Spill Update/EPC Responsibilities - Mr. Alain Watson, EPC, gave a presentation and discussed emergency response coordination efforts, perceived timeline for local impacts, contingency plans, EPC role, evaluations/monitoring, EPC service and resource availability, sampling plans, and information/volunteer websites. Responding to Chairman Higginbotham, Mr. Watson reported on the number of inquiries received regarding the spill. Dr. Garrity said the EPC would be reimbursed for services provided at the request of the Florida Department of Environmental Protection.

Fertilizer Rulemaking Update - Dr. Garrity stated the technical support document required for seeking more stringent fertilizer rules than the State model was completed and sent with a copy of the draft rule to all agencies/interested parties, noted there were no legislative changes to fertilizer issues, and advised of the EPC public hearing on June 10, 2010.

AIR MANAGEMENT DIVISION

Clean Air Month Update - Mr. Jeff Sims, EPC, highlighted a presentation on public outreach activities/events, the 2010 Clean Air Fair, feedback, event contributors, and costs and displayed photographs submitted by local high school students who participated in the annual EPC photography contest.

LEGAL DEPARTMENT

Summary of Select Environmental Bills in the 2010 Legislative Session - Attorney Tschantz expounded on current legislative items, as furnished in background material.

THURSDAY, MAY 20, 2010 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 10:12 a.m.

READ AND APPROVED: _____
CHAIRMAN OR VICE CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

yc

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

MAY

A. Public Outreach/Education Assistance

1.	Phone calls	121
2.	Literature Distributed	100
3.	Presentations	3
4.	Media Contacts	3
5.	Internet	2
6.	Host/Sponsor Workshops, Meetings, Special Events	2

B. Industrial Air Pollution Permitting

1.	Permit Applications received (Counted by Number of Fees Received)	
	a. Operating	4
	b. Construction	10
	c. Amendments	-
	d. Transfers / Extensions	-
	e. General	3
	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	7
	b. Construction ^1	8
	c. Amendments ^1	-
	d. Transfers / Extensions ^1	-
	e. Title V Operating ^2	2
	f. Permit Determinations	-
	g. General	2
3.	Intent to Deny Permit Issued	-

C. Administrative Enforcement

1.	New cases received	3
2.	On-going administrative cases	
	a. Pending	9
	b. Active	11
	c. Legal	2
	d. Tracking compliance (Administrative)	10
	e. Inactive/Referred cases	-
	TOTAL	32
3.	NOIs issued	1
4.	Citations issued	-
5.	Consent Orders Signed	2
6.	Contributions to the Pollution Recovery Fund	\$ 50,100
7.	Cases Closed	1

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

MAY

D. Inspections

1. Industrial Facilities	15
2. Air Toxics Facilities	
a. Asbestos Emitters	-
b. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	2
c. Major Sources	4
3. Asbestos Demolition/Renovation Projects	17

E. Open Burning Permits Issued

1

F. Number of Division of Forestry Permits Monitored

288

G. Total Citizen Complaints Received

33

H. Total Citizen Complaints Closed

49

I. Noise Sources Monitored

5

J. Air Program's Input to Development Regional Impacts

1

K. Test Reports Reviewed

11

L. Compliance

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

M. AOR's Reviewed

2

N. Permits Reviewed for NESHAP Applicability

4

O. Planning Documents coordinated for Agency Review

5

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

MAY

A. ENFORCEMENT

1.	New cases received	-
2.	On-going administrative cases	103
	Pending	2
	Active	46
	Legal	9
	Tracking Compliance (Administrative)	45
	Inactive/Referred Cases	1
3.	NOI's issued	-
4.	Citations issued	-
5.	Consent Orders and Settlement Letter Signed	6
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$9,450
7.	Enforcement Costs Collected (\$)	\$2,093
8.	Cases Closed	3

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	1
2.	FDEP Permits Reviewed	-
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	1
4.	Other Permits and Reports	
	County Permits Received	12
	County Permits Reviewed	17
	Reports Received	25
	Reports Reviewed	15
5.	Inspections (Total)	265
	Complaints	35
	Compliance/Reinspections	20
	Facility Compliance	18
	Small Quantity Generator	192
	P2 Audits	-
6.	Enforcement	
	Complaints Received	36
	Complaints Closed	26
	Warning Notices Issued	3
	Warning Notices Closed	3
	Compliance Letters	91
	Letters of Agreement	-
	Agency Referrals	4
7.	Pamphlets, Rules and Material Distributed	137

C. STORAGE TANK COMPLIANCE

1.	Inspections	
	Compliance	88
	Installation	13
	Closure	8
	Compliance Re-Inspections	4

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

MAY

2.	Installation Plans Received	6
3.	Installation Plans Reviewed	2
4.	Closure Plans & Reports	
	Closure Plans Received	10
	Closure Plans Reviewed	5
	Closure Reports Received	2
	Closure Reports Reviewed	1
5.	Enforcement	
	Non-Compliance Letters Issued	60
	Warning Notices Issued	6
	Warning Notices Closed	-
	Cases Referred to Enforcement	-
	Complaints Received	4
	Complaints Investigated	4
	Complaints Referred	-
6.	Discharge Reporting Forms Received	1
7.	Incident Notification Forms Received	7
8.	Cleanup Notification Letters Issued	1
9.	Public Assistance	-

D. STORAGE TANK CLEANUP

1.	Inspections	25
2.	Reports Received	80
3.	Reports Reviewed	74
	Site Assessment Received	8
	Site Assessment Reviewed	5
	Source Removal Received	-
	Source Removal Reviewed	-
	Remedial Action Plans (RAP'S) Received	8
	Remedial Action Plans (RAP'S) Reviewed	6
	Site Rehabilitation Completion Order/No Further Action Rec'd	4
	Site Rehabilitation Completion Order/No Further Action Revw'd	3
	Active Remediation/Monitoring Received	37
	Active Remediation/Monitoring Reviewed	40
	Others Received	23
	Others Reviewed	20

E. RECORD REVIEWS

15

F. LEGAL PIR'S

-

G. PUBLIC INFORMATION PROJECTS

-

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

MAY

A. ENFORCEMENT

1.	New Enforcement Cases Received	1
2.	Enforcement Cases Closed	1
3.	Enforcement Cases Outstanding	58
4.	Enforcement Documents Issued	2
5.	Recovered Costs to the General Fund	\$ 395
6.	Contributions to the Pollution Recovery Fund	\$ 31,580

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1.	Permit Applications Received	7
	a. Facility Permit	1
	(i) Types I and II	1
	(ii) Type III	-
	b. Collection Systems - General	3
	c. Collection systems-Dry Line/Wet Line	3
	d. Residuals Disposal	-
2.	Permit Applications Approved	9
	a. Facility Permit	-
	b. Collection Systems - General	6
	c. Collection systems-Dry Line/Wet Line	3
	d. Residuals Disposal	-
3.	Permit Applications Recommended for Disapproval	-
	a. Facility Permit	-
	b. Collection Systems - General	-
	c. Collection systems-Dry Line/Wet Line	-
	d. Residuals Disposal	-
4.	Permit Applications (Non-Delegated)	-
	a. Recommended for Approval	-
5.	Permits Withdrawn	-
	a. Facility Permit	-
	b. Collection Systems - General	-
	c. Collection systems-Dry Line/Wet Line	-
	d. Residuals Disposal	-
6.	Permit Applications Outstanding	52
	a. Facility Permit	20
	b. Collection Systems - General	13
	c. Collection systems-Dry Line/Wet Line	19
	d. Residuals Disposal	-
7.	Permit Determination	6
8.	Special Project Reviews	-

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

MAY

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

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	8
a. Inspection (CEI)	4
b. Sampling Inspection (CSI)	4
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance	39
a. Inspection (RI)	10
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	29
d. Enforcement Inspection (ERI)	-
3. Engineering Inspections	12
a. Reconnaissance Inspection (RI)	2
b. Sample Reconnaissance Inspection (SRI)	-
c. Residual Site Inspection (RSI)	-
d. Preconstruction Inspection (PCI)	1
e. Post Construction Inspection (XCI)	9
f. On-site Engineering Evaluation	-
g. Enforcement Reconnaissance Inspection (ERI)	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	2
a. Facility Permit	-
(i) Types I and II	-
(ii) Type III with Groundwater Monitoring	-
(iii) Type III w/o Groundwater Monitoring	-
b. General Permit	2
c. Preliminary Design Report	-
(i) Types I and II	-
(ii) Type III with Groundwater Monitoring	-
(iii) Type III w/o Groundwater Monitoring	-
2. Permits Recommended to DEP for Approval	-
3. Special Project Reviews	3
a. Facility Permit	3
b. General Permit	-
4. Permitting Determination	-
5. Special Project Reviews	48

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

MAY

a. Phosphate	12
b. Industrial Wastewater	14
c. Others	22

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	10
a. Inspection (CEI)	10
b. Sampling Inspection (CSI)	-
c. Toxics Sampling Inspection (XSI)	-
d. Performance Audit Inspection (PAI)	-
2. Reconnaissance (Total)	16
a. Inspection (RI)	3
b. Sample Inspection (SRI)	-
c. Complaint Inspection (CRI)	13
d. Enforcement Inspection (ERI)	-
3. Engineering Inspections (Total)	3
a. Compliance Evaluation (CEI)	3
b. Sampling Inspection (CSI)	-
c. Performance Audit Inspection (PAI)	-
d. Complaint Inspection (CRI)	-
e. Enforcement Reconnaissance Inspections (ERI)	-

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints	54
a. Domestic	40
(i) Received	18
(ii) Closed	22
b. Industrial	14
(i) Received	6
(ii) Closed	8
2. Warning Notices	9
a. Domestic	8
(i) Received	4
(ii) Closed	4
b. Industrial	1
(i) Received	-
(ii) Closed	1
3. Non-Compliance Advisory Letters	12
4. Environmental Compliance Reviews	146
a. Industrial	28
b. Domestic	118

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

MAY

5. Special Project Reviews	1
----------------------------	---

G. RECORD REVIEWS

1. Permitting Determination	6
2. Enforcement	1

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

1. Air division	58
2. Waste Division	-
3. Water Division	10
4. Wetlands Division	-
5. ERM Division	99
6. Biomonitoring Reports	6
7. Outside Agency	19

I. SPECIAL PROJECT REVIEWS

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

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

MAY

A. General

1.	Telephone conferences	723
2.	Unscheduled Citizen Assistance	359
3.	Scheduled Meetings	297
4.	Correspondence	1,465
1/ 5.	Intergency Coordination	83
1/ 6.	Trainings	21
1/ 7.	Public Outreach/Education	-
1/ 8.	Quality Control	78

B. Assessment Reviews

1.	Wetland Delineations	23
2.	Surveys	8
3.	Miscellaneous Activities in Wetland	31
4.	Mangrove	5
5.	Notice of Exemption	5
6.	Impact/Mitigation Proposal	11
7.	Tampa Port Authority Permit Applications	59
8.	Wastewater Treatment Plants (FDEP)	-
9.	Development Regn'l Impact (DRI) Annual Report	2
10.	On-Site Visits	88
11.	Phosphate Mining	9
12.	Comp Plan Amendment (CPA)	-
1/ 13.	AG SWM	1
	Sub-Total	242

Planning and Growth Management Review

14.	Land Alteration/Landscaping	1
15.	Land Excavation	1
16.	Rezoning Reviews	2
17.	Site Development	23
18.	Subdivision	8
19.	Wetland Setback Encroachment	1
20.	Easement/Access-Vacating	2
21.	Pre-Applications	13
1/ 22.	Agriculture Exemption	-
	Sub-Total	51
	Total Assessment Review Activities	293

C. Investigation and Compliance

1.	Warning Notices Issued	9
2.	Warning Notices Closed	1
1/ 3.	Complaints Closed	29
4.	Complaint Inspections	69

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

MAY

5.	Return Compliance Inspections for Open Cases	31
6.	Mitigation Monitoring Reports	29
7.	Mitigation Compliance Inspections	19
8.	Erosion Control Inspections	2
9.	MAIW Compliance Site Inspections	21
10.	TPA Compliance Site Inspections	8
2/ 11.	Mangrove Compliance Site Inspections	6
1/ 12.	Conservation Easement Inspection	-

D. Enforcement

1.	Active Cases	18
2.	Legal Cases	1
3.	Number of "Notice of Intent to Initiate Enforcement"	3
4.	Number of Citations Issued	-
5.	Number of Consent Orders Signed	2
6.	Administrative - Civil Cases Closed	5
7.	Cases Referred to Legal Department	1
8.	Contributions to Pollution Recovery	\$2,499
9.	Enforcement Costs Collected	\$ 670

E. Ombudsman

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

- 1/ Reported activity beginning with April 2009.
2/ Reported activity beginning with May 2009.

FY 10 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION

MAY

ASSESSMENT REPORT

Agriculture Exemption Report

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

PGMD Reviews Performance Report

# of Reviews	39
Timeframes Met	87%
Year to Date	99%

Formal Wetland Delineation Surveys

Projects	7
Total Acres	27
Total Wetland Acres	13
# Isolated Wetlands < 1/2 Acre	1
Isolated Wetland Acreage	0.1

Construction Plans Approved

Projects	7
Total Wetland Acres	13
# Isolated Wetlands < 1/2 Acre	2
Isolated Wetland Acreage	0.51
Impacts Approved Acreage	0.56
Impacts Exempt Acreage	0.52

Mitigation Sites in Compliance

Ratio	195/205
Percentage	95%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	0.90
Acreage of Water Quality Impacts	0.00
Acreage Restored	0.30

General

Telephone Conferences	723
Scheduled Meetings	297
Unscheduled Citizen Assistance	359

REVIEW TIMES

# of Reviews	258
% On Time	98%
% Late	2%

This Page Intentionally Left Blank

**OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 05/31/10**

		As of 5/31/10
Beginning Fund Balance, 10/01/09	\$	555,831
Interest Accrued		13,774
Deposits		203,907
Disbursements		(157,046)
Intrafund Budget Transfers to Project Fund		(371,041)
Intrafund Budget Transfers from Project Fund		119,300
Pollution Recovery Fund Balance	\$	364,725
 Encumbrances:		
Pollution Prevention/Waste Reduction (101)	\$	1,429
Artificial Reef Program		53,537
PRF Project Outreach		(5,258)
PRF Project Monitoring		74,588
Total Encumbrances	\$	124,296
Minimum Balance (Reserves)	\$	120,000
Balance Available 05/31/10	\$	120,429

PROJECT FUND

	Project Amount	Project Balance
Open Projects		
FY 06 Projects		
Bahia Beach Restoration (contract 04-03)	150,000	26,113
	\$ 150,000	\$ 26,113
FY 07 Projects		
Tank Removal	\$ 25,000	\$ 1,570
Agriculture Best Management Practice Impl	150,000	18,072
Seawall Removal Cotanchobee Ft Brooke Park	100,000	20,251
Erosion Control/Oyster Bar Habitat Creation	75,000	62,500
Remediation of Illegally Dumped Asbestos	4,486	4,486
	\$ 354,486	\$ 106,879
FY 08 Projects		
Australian Pine Removal E.G. Simmons Park	\$ 80,000	\$ 27,125
Restoration of MOSI	125,000	1,636
Invasive Plant Removal Egmont Key	133,000	12,415
Testing Reduction of TMDL in Surface Water Flow	19,694	7,479
Assessing Bacteria Lake Carroll	101,962	107
	\$ 459,656	\$ 48,762
FY 09 Projects		
MacDill Phase 2 Seagrass Transplanting	79,196	17,745
McKay Bay Sediment Quality	55,000	42,825
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	\$ 309,389
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 05/31/10**

Fund Balance as of 10/1/09	\$ 247,322
Interest Accrued	2,498
Disbursements FY 10	-
	<hr/>
Fund Balance	\$ 249,820
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	\$ 249,820
	<hr/>
Total Encumbrances	\$ 249,820
Fund Balance Available 05/31/10	<hr/> <hr/> \$ -



EPC Agenda Item Cover Sheet

Date of EPC Meeting: June 10, 2010

Subject: Legal Case Summary for June 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: June 2010 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
June 2010

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES: [1]

Bob Toto (a.k.a Robert A. Toto) [LEPC10-006]: On March 24, 2010 the Appellant filed a request for an extension of time to file a Notice of Appeal regarding a Citation to Cease and Order to Correct Violation that was issued on February 22, 2010. The request was granted and the Appellant has until May 13, 2010 to file a Notice of Appeal in this matter. On April 20, 2010 the EPC Legal Department received a Notice of Appeal in this matter. The Appeal will be transferred to a Hearing Officer. (AZ)

EXISTING ADMINISTRATIVE CASES: [4]

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. On April 27, 2010 the EPC issued a Notice of Change of Agency Action withdrawing the Citation and dismissing the Appeal. The case has been closed. (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 an informal abeyance in an effort to seek settlement and a settlement is being circulated for execution. (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 upholding the Executive Director's decision. A final hearing before the Commission was held during the April EPC regular meeting. On April 15, 2010 the Commission voted to remand the matter back to the Hearing Officer. (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. On April 15, 2010, the Petitioner withdrew its Petition of Administrative Hearing and the case has been closed. (RM)

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES: [0]

EXISTING CIVIL CASES: [17]

Greg Hart [LEPC10-004]: On March 18, 2010 the Commission granted authority to take legal action against the Defendants Mr. and Mrs. Greg Hart for violations of the EPC Act, Chapter 1-11, Rules of the EPC, and the terms of a conservation easement encumbering the Respondents' property. The case involves wetland violations and prohibited impacts in a conservation easement. On March 29, 2010, the EPC filed a civil lawsuit in Circuit Court. A Case

Management Conference was scheduled with the judge for May 24, 2010 and the parties were directed to complete mediation within sixty days. (AZ)

Rainbow Food Mart of Tampa, Inc. and Adbel Karim A. Nabi [LEPC10-005]: On March 18, 2010 the Commission granted authority to take legal action against the Defendants for violations of the EPC Act, Chapter 1-7, EPC Rules, and Chapter 62-770, F.A.C. for unresolved petroleum contamination on the Respondents' property. On April 19, 2010 the EPC filed a civil lawsuit in Circuit Court against the Defendants. (AZ)

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 facility shutdown do to other reasons, thus the EPC will close the case. (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. A non-jury trial has been scheduled for the week of June 14, 2010. (AZ)

Grace E. Poole and Michael Rissell [LEPC08-015]: Authority to take appropriate legal action against Grace E. Poole and Michael Rissell for failure to properly assess petroleum contamination in accordance with EPC and State regulations was granted on June 19, 2008. The property owner and/or other responsible party are required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. (AZ)

Ecoventure New Port I, LLC [LEPC08-006]: Authority to take appropriate legal action against Ecoventure New Port I, LLC for failure to assess petroleum contamination in accordance with EPC and State regulations was granted on March 20, 2008. The property owner is required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. On April 27, 2010, the EPC filed a civil lawsuit against the Defendant. The Defendant did not respond to the lawsuit and the EPC Legal Department filed a Motion for Default on June 1, 2010 (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)

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 contempt order was executed by the judge on March 15. (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. A settlement, via a Court executed Consent Final Judgment, was entered on March 25, 2010. A minor amendment to the CFJ was executed in May 2010. (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 was issued on July 24, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in court. On May 5, 2010 the EPC filed a civil lawsuit in Circuit Court against the Defendant. (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)

12414 Highway 41, LLC v. EPC and Hillsborough. [LEPC10-011]: Plaintiff is moving to quiet title on a property they recently acquired that the EPC is actively seeking penalties for wastewater violations (see Robilotta above). (RM)

RECENTLY RESOLVED CIVIL CASES: [1]

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. The case has been settled and the matter is 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 had until April 19, 2010 to file an appeal in this matter. A third request for an extension of time was granted and the Appellant has until July 19, 2010 to file an appeal in this matter. (AZ)

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

Cory Packaging (dba Master Packaging) [LEPC10-007]: On March 23, 2010 the Petitioner filed a request for an extension of time to challenge a draft air permit #0570293-021-AC. The request was granted and the Petitioner has until April 30, 2010 to file a petition in this matter. (RM)

Roshini Investments, LLC [LEPC10-008]: On April 9, 2010 the Appellant submitted a request for an extension of time to file a Notice of Appeal to challenge a Citation of Violation and Order to Correct Issued by the EPC on March 19, 2010. The request was granted and the Appellant had until May 12, 2010 to file an Appeal. On May 10, 2010 the Appellant filed a second request for an extension which was granted. The Appellant has until June 11, 2010 to file a Notice of Appeal in this matter.(AZ)

Highway 92 Corporation [LEPC10-009]: On April 20, 2010, the Appellant filed a request for an extension of time to file a Notice of Appeal to challenge a Citation of Violation and Order to Correct issued on April 6, 2010. The request was granted and the Appellant has until June 28, 2010 to file a Notice of Appeal in this matter. (AZ)

Trademark Metals Recycling, LLC [LEPC10-010]: On May 3, 2010 the Petitioner filed a request for an extension of time to challenge an Air Operating Permit issued on April 19, 2010. The request was granted and the Petitioner has until June 17, 2010 to file a petition in this matter. (RM)

This Page Intentionally Left Blank



EPC Agenda Item Cover Sheet

Date of EPC Meeting: June 10, 2010

Subject: Public Hearing before the Commission to consider and approve adoption of a Fertilizer Use and Landscape Management Rule.

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

Division: Water Management Division

Recommendation: Hold a public hearing and approve a new Fertilizer Use and Landscape Management Rule, Chapter 1-15, Rules of the EPC.

Brief Summary: Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve, repeal, or amend a rule. The Legislature has mandated that all local jurisdictions that have nutrient impaired waters must adopt a local fertilizer regulation to address nutrient impairments. The EPC is proposing a fertilizer regulation that is more stringent than the State's model fertilizer code, to better protect the water quality of Hillsborough County.

Financial Impact: No Financial Impact.

Background: Section 403.9337, of the Florida Statutes (created by 2009 Senate Bill 494), in part, requires cities and counties that have nutrient-impaired waters to adopt at a minimum the Florida Department of Environmental Protection's (DEP) Model Ordinance, published in "Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions," a publication of the DEP and University of Florida Institute for Food and Agricultural Services (UF-IFAS), dated January 2009. Nutrient impaired waters lead to algae blooms and other conditions that reduce water quality, water clarity, and can lead to the loss of seagrasses and other essential habitat for aquatic species.

While the EPC is not required to adopt the Model Ordinance, all three cities and the County would be required to adopt ordinances based on nutrient-impaired waters identified by the DEP in all four local government jurisdictions. This could lead to four different and possibly confusing fertilizer regulations in Hillsborough County. In an effort to have a consistent rule throughout the County and to reduce nitrogen pollution in our local waters, the EPC has been drafting a fertilizer rule that is more stringent than the DEP's model and that would apply within all four jurisdictions. After three March workshops, many stakeholder meetings, Commissioner meetings, and considering comments provided by the DEP, UF-IFAS, and the Florida Department of Agriculture and Consumer Services (FDACS), the EPC staff is requesting the EPC Commissioners adopt a final version of the proposed Fertilizer Use and Landscape Management Rule, Chapter 1-15, Rules of the EPC.

Among other requirements, section 403.9337(2), Florida Statutes requires that the EPC consider input from DEP, UF-IFAS, and FDACS, when drafting a more stringent rule. The EPC has complied with the law. Moreover, the EPC has gone above and beyond those basic requirements by preparing a technical memorandum justifying the draft rule and staff has made multiple changes to the draft rule based on comments from DEP, UF-IFAS, and FDACS.

The Commissioners directed EPC staff to workshop two major concepts for a fertilizer rule: 1) the Tampa Bay Estuary Program (TBEP) model ordinance and 2) the Orange County ordinance. The TBEP model, which was generally adopted by Pinellas County and the City of St. Petersburg, is a more stringent approach that prohibits the application and sale of nitrogen-based fertilizers during the rainy season, between June 1 and September 30. The Orange County ordinance also has a prohibition on the application of nitrogen-based fertilizers during the summer rainy season, but it has no sales ban and it also allows trained/certified commercial and non-commercial applicators to apply during the summer rainy season. Regarding the Orange County approach, the EPC draft rule offers an option for consideration to exempt only certified commercial applicators from the rainy season restriction. The draft does not offer an option for non-commercial applicators to receive certification for a rainy season exemption. The draft rule gives the Commissioners the flexibility to choose one of the approaches noted above or they can chose a combination of those approaches.

Recommendation: The EPC staff recommends that the Commission approve a rule that provides for a rainy season application restriction, a rainy season sales restriction, a landscape plant exemption, and also encourages the use of slow and controlled release nitrogen fertilizer products. Additionally, EPC staff will establish a strong educational program, especially during the 12-month enforcement grace period.

A final proposed rule will be provided to the Commissioners in a supplemental agenda item.

List of Attachments: None.