

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
COUNTY CENTER 2ND FLOOR
JANUARY 15, 2009
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 – David Jellerson

III. CONSENT AGENDA

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Update on New Ozone Standard	45
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A. Report on Egmont Key	51
B. New EPC Website	

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

**FY 09 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

DEC TOTAL

A. Public Outreach/Education Assistance

1.	Phone calls	201	529
2.	Literature Distributed	-	-
3.	Presentations	-	2
4.	Media Contacts	3	15
5.	Internet	62	184
6.	Host/Sponsor Workshops, Meetings, Special Events	-	1

B. Industrial Air Pollution Permitting

1.	Permit Applications received (Counted by Number of Fees Received)		
	a. Operating	8	31
	b. Construction	9	33
	c. Amendments	-	-
	d. Transfers/Extensions	-	4
	e. General	-	-
	f. Title V	7	9
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	9	16
	b. Construction ^1	10	40
	c. Amendments ^1	-	-
	d. Transfers/Extensions ^1	1	5
	e. Title V Operating ^2	-	-
	f. Permit Determinations ^2	1	2
	g. General	-	14
3.	Intent to Deny Permit Issued	-	-

C. Administrative Enforcement

1.	New cases received	-	2
2.	On-going administrative cases		
	a. Pending	7	7
	b. Active	13	13
	c. Legal	5	5
	d. Tracking compliance (Administrative)	12	12
	e. Inactive/Referred cases	-	-
	TOTAL	37	37
3.	NOIs issued	2	4
4.	Citations issued	-	-
5.	Consent Orders Signed	1	1
6.	Contributions to the Pollution Recovery Fund	\$ 876	\$ 2,628
7.	Cases Closed	3	4

**FY 09 - MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION**

DEC TOTAL

D. Inspections

1. Industrial Facilities	5	37
2. Air Toxics Facilities		
a. Asbestos Emitters	-	-
b. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	-	1
c. Major Sources	2	6
3. Asbestos Demolition/Renovation Projects	10	43

E. Open Burning Permits Issued

-	2
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F. Number of Division of Forestry Permits Monitored

236	706
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G. Total Citizen Complaints Received

54	163
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H. Total Citizen Complaints Closed

49	163
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I. Noise Sources Monitored

4	12
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J. Air Program's Input to Development Regional Impacts

1	6
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K. Test Reports Reviewed

46	109
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L. Compliance

1. Warning Notices Issued	6	15
2. Warning Notices Resolved	2	11
3. Advisory Letters Issued	4	21

M. AOR's Reviewed

1	42
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N. Permits Reviewed for NESHAP Applicability

-	3
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O. Planning Documents coordinated for Agency Review

1	4
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**FY 09 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

**FY TO
DEC DATE**

A. ENFORCEMENT

1.	New cases received	-	
2.	On-going administrative cases	109	109
	Pending	1	1
	Active	34	34
	Legal	11	11
	Tracking Compliance (Administrative)	49	49
	Inactive/Referred Cases	14	14
3.	NOI's issued	-	2
4.	Citations issued	-	5
5.	Consent Orders and Settlement Letter Signed	2	4
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$4,042	\$ 10,202
7.	Enforcement Costs Collected (\$)	\$2,978	\$ 5,148
8.	Cases Closed	1	4

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	-	4
2.	FDEP Permits Reviewed	2	4
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	1	2
4.	Other Permits and Reports		
	County Permits Received	-	3
	County Permits Reviewed	-	3
	Reports Received	36	108
	Reports Reviewed	34	101
5.	Inspections (Total)	1,170	1,792
	Complaints	11	44
	Compliance/Reinspections	7	55
	Facility Compliance	27	82
	Small Quantity Generator	1,123	1,606
	P2 Audits	2	5
6.	Enforcement		
	Complaints Received	11	45
	Complaints Closed	9	39
	Warning Notices Issued	2	4
	Warning Notices Closed	2	10
	Compliance Letters	14	158
	Letters of Agreement	1	3
	Agency Referrals	-	-
7.	Pamphlets, Rules and Material Distributed	14	431

**FY 09 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

**FY TO
DEC DATE**

C. STORAGE TANK COMPLIANCE

1.	Inspections		
	Compliance	87	201
	Installation	21	44
	Closure	16	36
	Compliance Re-Inspections	10	34
2.	Installation Plans Received	5	28
3.	Installation Plans Reviewed	13	29
4.	Closure Plans & Reports		
	Closure Plans Received	5	19
	Closure Plans Reviewed	8	20
	Closure Reports Received	9	20
	Closure Reports Reviewed	8	27
5.	Enforcement		
	Non-Compliance Letters Issued	52	147
	Warning Notices Issued	6	11
	Warning Notices Closed	2	7
	Cases Referred to Enforcement	1	2
	Complaints Received	1	6
	Complaints Investigated	-	4
	Complaints Referred	-	1
6.	Discharge Reporting Forms Received	5	12
7.	Incident Notification Forms Received	15	45
8.	Cleanup Notification Letters Issued	5	12
9.	Public Assistance	-	-

D. STORAGE TANK CLEANUP

1.	Inspections	44	122
2.	Reports Received	163	418
3.	Reports Reviewed	95	317
	Site Assessment Received	16	46
	Site Assessment Reviewed	10	31
	Source Removal Received	6	14
	Source Removal Reviewed	2	9
	Remedial Action Plans (RAP'S) Received	18	39
	Remedial Action Plans (RAP'S) Reviewed	14	27
	Site Rehabilitation Completion Order/No Further Action Rec'd	6	20
	Site Rehabilitation Completion Order/No Further Action Revw'd	9	21
	Active Remediation/Monitoring Received	77	171
	Active Remediation/Monitoring Reviewed	34	118
	Others Received	40	128
	Others Reviewed	26	112

E. RECORD REVIEWS

	19	64
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F. LEGAL PIR'S

	1	19
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G. PUBLIC INFORMATION PROJECTS

	2	5
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**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

**FY TO
DEC DATE**

A. ENFORCEMENT

1.	New Enforcement Cases Received	2	7
2.	Enforcement Cases Closed	2	5
3.	Enforcement Cases Outstanding	54	54
4.	Enforcement Documents Issued	2	5
5.	Recovered Costs to the General Fund	\$ 301	\$ 481
6.	Contributions to the Pollution Recovery Fund	\$ 514	\$ 1,014

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1.	Permit Applications Received	14	62
	a. Facility Permit	2	5
	(i) Types I and II	-	-
	(ii) Type III	2	5
	b. Collection Systems - General	5	26
	c. Collection systems-Dry Line/Wet Line	7	31
	d. Residuals Disposal	-	-
2.	Permit Applications Approved	18	65
	a. Facility Permit	1	6
	b. Collection Systems - General	6	30
	c. Collection systems-Dry Line/Wet Line	11	29
	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	34	107
	a. Facility Permit	10	27
	b. Collection Systems - General	8	29
	c. Collection systems-Dry Line/Wet Line	16	51
	d. Residuals Disposal	-	-
7.	Permit Determination	3	5

**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	DEC	FY TO DATE
8. Special Project Reviews	-	-
a. Reuse	-	-
b. Residuals/AUPs	-	-
c. Others	-	-

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	11	38
a. Inspection (CEI)	8	20
b. Sampling Inspection (CSI)	3	18
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance	53	136
a. Inspection (RI)	6	20
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	45	114
d. Enforcement Inspection (ERI)	2	2
3. Engineering Inspections	31	96
a. Reconnaissance Inspection (RI)	1	1
b. Sample Reconnaissance Inspection (SRI)	-	-
c. Residual Site Inspection (RSI)	-	1
d. Preconstruction Inspection (PCI)	9	21
e. Post Construction Inspection (XCI)	21	73
f. On-site Engineering Evaluation	-	-
g. Enforcement Reconnaissance Inspection (ERI)	-	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

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

**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

	DEC	FY TO DATE
3. Special Project Reviews		-
a. Facility Permit	2	8
b. General Permit	-	-
4. Permitting Determination	-	-
5. Special Project Reviews	31	123
a. Phosphate	3	12
b. Industrial Wastewater	16	49
c. Others	12	62

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation	8	25
a. Inspection (CEI)	8	25
b. Sampling Inspection (CSI)	-	-
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance	9	35
a. Inspection (RI)	7	19
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	2	16
d. Enforcement Inspection (ERI)	-	-
3. Engineering Inspections	3	15
a. Compliance Evaluation (CEI)	3	15
b. Sampling Inspection (CSI)	-	-
c. Performance Audit Inspection (PAI)	-	-
d. Complaint Inspection (CRI)	-	-
e. Enforcement Reconnaissance Inspections (ERI)	-	-

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints	43	125
a. Domestic	39	99
(i) Received	24	53
(ii) Closed	15	46
b. Industrial	4	26
(i) Received	1	9
(ii) Closed	3	17

**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

		DEC	FY TO DATE
2.	Warning Notices	9	51
	a. Domestic	5	42
	(i) Received	3	22
	(ii) Closed	2	20
	b. Industrial	4	9
	(i) Received	3	6
	(ii) Closed	1	3
3.	Non-Compliance Advisory Letters	7	30
4.	Environmental Compliance Reviews	198	532
	a. Industrial	76	173
	b. Domestic	122	359
5.	Special Project Reviews	3	3

G. RECORD REVIEWS

1.	Permitting Determination	3	18
2.	Enforcement	-	-

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

1.	Air division	61	105
2.	Waste Division	-	-
3.	Water Division	9	23
4.	Wetlands Division	-	-
5.	ERM Division	123	251
6.	Biomonitoring Reports	6	12
7.	Outside Agency	19	44

I. SPECIAL PROJECT REVIEWS

1.	DRIs	4	8
2.	ARs	1	4
3.	Technical Support	5	11
4.	Other	-	4

**FY 09 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

**DEC FY TO
DATE DATE**

A. General

1.	Telephone conferences	522	1,714
2.	Unscheduled Citizen Assistance	45	150
3.	Scheduled Meetings	191	548
4.	Correspondence	272	950

B. Assessment Reviews

1.	Wetland Delineations	15	59
2.	Surveys	14	64
3.	Miscellaneous Activities in Wetland	18	76
4.	Mangrove	5	24
5.	Notice of Exemption	1	11
6.	Impact/Mitigation Proposal	3	28
7.	Tampa Port Authority Permit Applications	22	101
8.	Wastewater Treatment Plants (FDEP)	-	-
9.	DRI Annual report	3	6
10.	On-Site Visits	91	313
11.	Phosphate Mining	1	6
12.	CPA	-	4

Planning and Growth Management Review

13.	Land Alteration/Landscaping	3	6
14.	Land Excavation	-	3
15.	Rezoning Reviews	17	60
16.	Site Development	28	103
17.	Subdivision	11	53
18.	Wetland Setback Encroachment	3	14
19.	Easement/Access-Vacating	-	4
20.	Pre-Applications	34	107

C. Investigation and Compliance

1.	Complaints Received	25	67
2.	Warning Notices Issued	7	17
3.	Warning Notices Closed	-	4
4.	Complaint Inspections	44	135
5.	Return Compliance Inspections	25	70
6.	Mitigation Monitoring Reports	26	79
7.	Mitigation compliance Inspections	30	59
8.	Erosion Control Inspections	20	80
9.	MAIW Compliance Site Inspections	15	36
10.	TPA Compliance Site Inspections	3	5

**FY 09 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

**FY TO
DEC DATE**

D. Enforcement

1.	Active Cases	24	77
2.	Legal Cases	1	3
3.	Number of "Notice of Intent to Initiate Enforcement"	1	3
4.	Number of Citations Issued	-	-
5.	Number of Consent Orders Signed	5	12
6.	Administrative - Civil cases Closed	4	11
7.	Cases Referred to Legal Department	1	3
8.	Contributions to Pollution Recovery	\$ 1,375	\$ 64,023
9.	Enforcement Costs Collected	\$ 1,880	\$ 4,159

E. Ombudsman

1.	Agriculture	1	6
2.	Permitting Process	-	-
3.	Rule Assistance	-	-
4.	Staff Assistance	1	4
5.	Miscellaneous/Other	-	-

**FY 09 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

**DEC FY TO
 DATE**

ASSESSMENT REPORT

Agriculture Exemption Report

# Agricultural Exemptions Reviews	1	1
# Isolated Wetlands Impacted	3	3
# Acres of Isolated Wetlands Impacted	0.34	0.34
# Isolated Wetlands qualify for Mitigation Exemption	3	3
# Acres of Wetlands qualify for Mitigation Exemption	0.34	0.34

PGMD Reviews Performance Report

# of Reviews	118	379
Timeframes Met	100%	99%
Year to Date	99%	99%

Formal Wetland Delineation Surveys

Projects	16	39
Total Acres	553	778
Total Wetland Acres	.76	1.38
# Isolated Wetlands < 1/2 Acre	5	10
Isolated Wetland Acreage	1.09	2.14

Construction Plans Approved

Projects	23	64
Total Wetland Acres	15	140
# Isolated Wetlands < 1/2 Acre	8	34
Isolated Wetland Acreage	0.86	6.16
Impacts Approved Acreage	0.13	0.73
Impacts Exempt Acreage	0.13	2.22

Mitigation Sites in Compliance

Ratio	197/207	196/206
Percentage	95%	95%

ENFORCEMENT REPORT

Measures taken to ensure the restoration or mitigation of wetland areas/surface waters damaged due to violations of environmental laws and regulations.

Enforcement Actions

Acreage of Unauthorized Wetland Impacts	-	1.00
Acres Restored	-	1.00
Acres Mitigated	-	0.5

Mitigation Sites in Compliance

Ratio	-	15/18
Percentage	-	83%

**FY 09 - MONTHLY ACTIVITIES REPORT
WETLANDS MANAGEMENT DIVISION**

**FY TO
DEC DATE**

Compliance Actions

Acreage of Unauthorized Wetland Impacts	-	1.60
Acreage of Wtaer Quality Impacts	-	0.00
Acreage Restored	-	0.20

General

Telephone Conferences	-	1,192
Scheduled Meetings	-	357
Unscheduled Citizen Assistance	-	105

REVIEW TIMES

# of Reviews	299	963
% On Time	97%	99%
% Late	3%	1%

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 12/31/08

	<u>As of</u> <u>12/31/08</u>
Beginning Fund Balance, 10/01/08	\$ 908,910
Interest Accrued	27,131
Deposits	81,882
Disbursements	(59,367)
Intrafund Budget Transfers to Project Fund	(443,301)
Pollution Recovery Fund Balance	<u>\$ 515,255</u>
Encumbrances:	
Pollution Prevention/Waste Reduction (101)	\$ 3,842
Artificial Reef Program	135,738
PRF Project Outreach	69,722
PRF Project Monitoring	28,179
Total Encumbrances	<u>\$ 237,481</u>
Minimum Balance (Reserves)	\$ 120,000
Balance Available 12/31/08	<u>\$ 157,774</u>

PROJECT FUND

	Project Amount	Project Balance
Open Projects		
FY 06 Projects		
COT Parks Dept/Cypress Point (97)	\$ 100,000	\$ 100,000
Bahia Beach Restoration (contract 04-03)	150,000	64,073
Field Measurement for Wave Energy	125,000	27,884
Port of Tampa Stormwater Improvement	45,000	45,000
	<u>\$ 450,000</u>	<u>\$ 236,957</u>
FY 07 Projects		
Tank Removal	\$ 25,000	\$ 2,870
Agriculture Best Management Practice Impl	150,000	150,000
Lake Thonotosassa Assessment	75,000	75,000
Natures Classroom Cap, PH III	188,000	188,000
Pollution Monitoring Appl Pilot Project	45,150	45,150
Seagrass & Longshore Bar Recovery	75,000	4,581
Seawall Removal Cotanchobee Ft Brooke Park	100,000	100,000
Knights Preserve	35,235	11,614
Oyster Reef Shore/Stab & Enhance	30,000	10,040
Nitrogen Emission/Deposition Ratios, Air Pollution	40,906	5,867
Erosion Control/Oyster Bar Habitat Creation	75,000	75,000
Remediation of Illegally Dumped Asbestos	4,486	4,486
	<u>\$ 843,777</u>	<u>\$ 672,608</u>
FY 08 Projects		
Australian Pine Removal E.G. Simmons Park	\$ 80,000	\$ 80,000
Restoration of MOSI	125,000	91,111
Invasive Plant Removal Egmont Key	133,000	12,415
Lake Magdalene Special Disposition District	66,954	37,541
Testing Reduction of TMDL in Surface Water Flow	19,694	13,665
Assessing Bacteria Lake Carroll	101,962	101,962
	<u>\$ 526,610</u>	<u>\$ 336,694</u>
FY 09 Projects		
Agriculture Pesticide Collection & Education Day	\$ 24,000	\$ 24,000
Agriscience, Food & Natural Resources Department	2,275	2,275
Great American Cleanup 2009	12,830	12,830
MacDill Phase 2 Seagrass Transplanting	79,196	79,196
McKay Bay Sediment Quality	55,000	55,000
Mini FARMS BMP Implementation	50,000	50,000
Petrol Mart, Inc Tank Removal	75,000	75,000
Site Assessment & Removal of Contaminated Soils	25,000	25,000
Wetland Restoration on County Owned Lands	120,000	120,000
	<u>\$ 443,301</u>	<u>\$ 443,301</u>

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
AS OF 12/31/08**

Fund Balance as of 10/1/08	\$ 241,177
Interest Accrued	2,882
Disbursements FY 09	-
Fund Balance	\$ 244,059
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	244,059
Total Encumbrances	\$ 244,059
Fund Balance Available 12/31/08	\$ -

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

OCTOBER - DECEMBER 2008 QUARTERLY SURVEY CARD RESULTS

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

Division		Prompt Service	Profess'al Courteous	Concerns Addressed	Easy to find Person	EPC Rules Easy	EPC Website Friendly	Overall Satisf
Air	1 SURVEY CARDS - TOTAL POINTS	5.0	5.0	5.0	5.0	5.0	NA	5.0
	AVERAGE	5.0	5.0	5.0	5.0	5.0		5.0
	Comments: - Louise Scott and Alain Watson are courteous professionals.							
Waste	5 SURVEY CARDS - TOTAL POINTS	24.0	24.0	25.0	24.0	22.0	15.0	23.0
	AVERAGE	4.8	4.8	5.0	4.8	4.4	5.0	4.6
	Comments: - Great service.							
Water	1 SURVEY CARDS - TOTAL POINTS	5.0	5.0	5.0	5.0	NA	NA	5.0
	AVERAGE	5.0	5.0	5.0	5.0			5.0
Wetlands	1 SURVEY CARDS - TOTAL POINTS	5.0	5.0	5.0	5.0	5.0	NA	5.0
	AVERAGE	5.0	5.0	5.0	5.0	5.0		5.0
	Comments: - Kimberly Tapley. Thank you!! Very much.							
	8 CARDS TOTAL EPC AVERAGE	4.9	4.9	5.0	4.9	4.6	5.0	4.8



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 15, 2009

Subject: Legal Case Summary for January 2009

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: January 2009 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT

January 2009

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [4]

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. (RT/RM).

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

Conrad Yelvington Distributors, Inc. v. EPC [LEPC08-004]: On February 7, 2008, Conrad Yelvington Distributors, Inc. filed a formal petition challenging a draft Air Operating Permit Renewal (No. 7770473-008-AO). The parties have met to discuss the matter and the case was put in an informal abeyance in an effort to resolve matters. (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)

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES [1]

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. The EPC is preparing to file a lawsuit in this matter. (RM)

EXISTING CIVIL CASES [16]

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. The EPC is preparing to file a lawsuit in this matter. (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. The EPC is preparing to file a lawsuit in this matter. (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)

Letty Cueva and Patricia Vaca (Causeway Station) [LEPC08-005]: Authority to take appropriate legal action against Letty Cueva and Patricia Vaca for failure to comply with the terms of the Consent Order entered on December 21, 2004 was granted on March 20, 2008. The Consent Order required the Defendants to submit and complete a Post Active Remediation Monitoring Plan (PARMP) or to submit and complete a Remedial Action Plan (RAP) and submit a \$500.00 penalty to the EPC. The EPC is attempting to re-negotiate a settlement to resolve the matter. (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)

Julsar, Inc. [LEPC04-014]: Authority to take appropriate action against Julsar, Inc. for illegally removing over 11,400 square feet of regulated asbestos-containing ceiling material was granted on May 20, 2004. A Notice of Violation has issued and was received in early 2007. A Final Order was issued on June 1, 2007, and it was not appealed. The EPC filed a lawsuit to compel compliance on October 9th and subsequently filed an amended complaint on February 12, 2008. The Defendant did not timely respond to the amended complaint and the Legal Dept. filed a Motion for Default which was entered by the Court on March 17, 2008. (RM)

U-Haul Company of Florida [LEPC04-016]: Authority to take appropriate action against U-Haul Company of Florida for failure to conduct a landfill gas investigation and remediation plan was granted September 18, 2003. The EPC Legal Department filed a lawsuit on September 3, 2004 and the case is progressing through discovery. The parties attended a court ordered mediation on May 15, 2007. The parties are in settlement discussions concerning the preparation and implementation of a Remedial Action Plan to address the landfill gas danger at the facility. (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)

Bayside Home Builders, Inc [LEPC07-008]: Authority to take appropriate action against the parties was granted by the Commission on February 15, 2007, for failure to comply with a Consent Order payment schedule for asbestos violations. The EPC filed a lawsuit to compel compliance on October 9th and subsequently filed an amended complaint on February 12, 2008. The Defendant has not timely responded to the amended complaint, thus the Legal Dept. filed a Motion for Default which was entered by the Court on March 17, 2008. (RM)

Kenneth Fisher v. EPC and Ahmed Lakhani [LEPC07-014]: Kenneth Fisher filed a civil lawsuit seeking to foreclose on a property that the EPC has a judgment lien. The Legal Department filed its answer on June 8, 2007 responding to the lawsuit by stating its lien is superior to the Plaintiffs. (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. (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)

Chase Home Finance, LLC [LEPC08-001]: Chase Home Finance LLC filed a civil lawsuit seeking to foreclose on a property that the EPC has a judgment lien. The Legal Department filed its answer on January 24, 2008 responding to the lawsuit. (AZ)

Tranzparts, Inc. and Scott Yaslow [LEPC06-012]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Tranzparts, Inc., Scott Yaslow, and Ernesto and Judith Baizan to enforce the agency requirement that various corrective actions and a Preliminary Contamination Assessment Plan be conducted on the property for discharges of oil/transmission fluid to the environment. The EPC entered a judicial settlement (consent final judgment [CFJ]) with Tranzparts and Yaslow only on February 16, 2007. The Defendants have only partially complied with the CFJ, thus the case has been re-opened in the Circuit Court in order to enforce the CFJ and hold the Defendants in contempt. A hearing was held on April 28, 2008, wherein the judge awarded the EPC additional penalties. The Legal Dept. filed a proposed Supplemental Judgment with the Court. The Court entered the Order on May 15, 2008, and the Defendants have yet to pay any supplemental costs or penalties. (RM)

D.J.P. Investments, Inc. [LEPC08-011]: On May 15, 2008 the EPC Board granted authority to take appropriate legal action against Defendant D.J.P. Investments, Inc. for failure to initiate and complete site rehabilitation activities in accordance with EPC and State regulations for petroleum contamination at the facility owned and operated by the Defendant. The EPC is attempting to obtain appropriate corrective actions. (AZ)

Rusty's Pallet Services, Inc. [LEPC07-019]: On June 21, 2007 authority was granted to take appropriate action against Rusty's Pallet Services, Inc. to compel compliance with the Rules of the EPC regarding an ongoing dust nuisance caused by the business activities and to seek appropriate penalties and administrative costs. The facility shut-down, but penalties were still due under the Consent Order. In March of 2008 an amendment to the Consent Order was executed and the legal matter was presumed resolved, but the facility has not complied with the new payment plan in the Consent Order; thus the legal case is re-activated as of September 10, 2008, and the EPC will prepare a complaint. (RM)

RECENTLY RESOLVED CIVIL CASES [2]

Cee Jay Holdings, LLC d/b/a/ Coquina Blue Bar & Grill [LEPC08-008]: Authority to take appropriate legal action against Cee Jay Holdings, LLC for violations of the EPC Noise Rule, Chapter 1-10 was granted on March 20, 2008. On January 28, 2008 the EPC issued the Defendant a Citation to Cease and Order to Correct Violation. The Defendant failed to respond to the Citation and therefore it has become a Final Order of the EPC enforceable in Circuit Court. The restaurant/bar facility has been shut down and the owners vacated the business in April 2008; as no activity has restarted, the Air Division and Legal have decided to close the case. (RM)

Adam Chowdhury [LEPC08-023]: Authority to take appropriate legal action against Adam Chowdhury for failure to comply with the terms of a Settlement Letter which the Respondent entered into to resolve a violation of EPC Waste Management Rule Chapter 1-7 was granted on September 18, 2008. The Respondent failed to make the agreed upon payment of \$1,550.00 in penalties and \$1,019.76 in costs to the EPC. The parties attended court order mediation on January 5, 2009 and have settled the case. A payment plan has been established and the EPC Legal Department will file a dismissal upon final payment being made. The case will be closed. (AZ)

C. OTHER OPEN CASES [11]

The following is a list of cases assigned to EPC Legal that are not in litigation, but the party or parties have asked for an extension of time to file for administrative litigation in the hope of negotiating a settlement or the parties have requested a waiver or variance.

Notice of Intent to Initiate Litigation Against EPC, Billy Williams, Claimant [LEPC05-013]: On April 29, 2005 McCurdy and McCurdy, LLP submitted to EPC a Notice of Intent to Initiate Litigation Against Governmental Entity Re: Hillsborough County Environmental Protection Commission on behalf of Mr. Billy Williams, Claimant, for damages sustained on or about December 15-18, 2003. The Notice alleges that Mr. Williams sustained serious bodily injuries and property damage as the result of EPC's actions and inactions with regard to alleged fugitive emissions released into the air by Coronet Industries. The suit could have been filed October 2005 but has not yet been filed. (RT)

Anthony Barretto and Mini Barreto [LEPC08-009]: On March 13, 2008 the Appellants 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 March 5, 2008 regarding a petroleum cleanup matter. The Legal Dept. granted the request and the Appellants have until July 25, 2008 to file a Notice of Appeal in this matter. (AZ)

Melnico Corporation [LEPC08-010]: On March 13, 2008 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 March 5, 2008 regarding a petroleum cleanup matter. The Legal Dept. granted the request and the Appellants have until July 25, 2008 to file a Notice of Appeal in this matter. (AZ)

Kelly L. Wishau [LEPC08-013]: On May 22, 2008 the Appellant filed a request for an extension of time to file a Notice of Appeal to challenge a Citation to Cease and Order to Correct Violation issued on April 25, 2008 regarding unauthorized wetland impacts. The extension was granted and the Appellant had until July 3, 2008 to file an Appeal. A second request for extension of time was filed and granted. The Appellant had until August 4, 2008 to file an appeal in this matter. On August 2, 2008, the Appellant filed a third request for extension of time which was granted. The Appellant has until November 3, 2008 to file a petition in this matter. On November 3, 2008 the Appellant submitted a fourth request for extension of time. The extension request was granted and the Appellant has until December 22, 2008 to file an Appeal. (AZ)

Tandum Holdings Corp. [LEPC08-020]: On July 29, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a Notice of Violation (NOV) issued on July 3, 2008 for unauthorized discharge of domestic and industrial wastewater to the ground and failure to comply with monitoring requirements. The Legal Dept. granted the request and the Petitioner has until September 29, 2008 to file a petition in this matter. The Petitioner failed to file a timely petition to challenge the NOV, thus the EPC issued a Final Order on December 5, 2008. The parties are still seeking settlement options. (RM)

Cory Packaging, Inc d/b/a Master Packaging [LEPC08-024]: On October 15, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Operation Permit issued to them by the EPC on October 6, 2008. The Legal Department granted the request for extension of time and the Petitioner has until December 22, 2008, to file a petition in this matter. On October 29, 2008, the Petition asked that the extension be extended until February 28, 2009, due to the need for testing of the facility. The Legal Department determined that good cause was demonstrated and granted the extension until February 28, 2008 (RM)

Lazzara Yachts of North America, Inc. [LEPC08-025]: On November 3, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Construction Permit issued to them on October 22, 2008. The Legal Department granted the request for extension of time and the Petitioner were granted until December 22, 2008 to file a petition in this matter. This deadline was extended until January 30, 2009. (RM)

Lazzara Yachts of North America, Inc. [LEPC08-026]: On November 3, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Operating Permit issued to them on October 22, 2008. The Legal Department granted the request for extension of time and the Petitioner were granted until December 22, 2008 to file a petition in this matter. This deadline was extended until January 30, 2009. (RM)

General Chemical LLC [LEPC08-030]: On December 4, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Operating Permit renewal issued on December 1, 2008. The Legal Department granted the request and the Petitioner has until February 11, 2009 to file a petition in this matter. (RM)

Building Materials Corporation of America [LEPC08-031]: On December 12, 2008 the Petitioner (d/b/a GAF Materials) filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Operating Permit. The Legal Department granted the request and the Petitioner has until February 17, 2009 to file a petition in this matter. (RM)

CSX Transportation, Inc. [LEPC08-033]: On December 23, 2008 the Petitioner filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a Notice of Permit Issuance for a renewed Federally Enforceable State Operating Permit. The Legal Department granted the request and the Petitioner has until March 6, 2009 to file a petition in this matter. (RM)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 15, 2009

Subject: Florida Consumer Fertilizer Program and Tampa Bay Estuary Program (TBEP)
"Model Ordinance"

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

Division: Environmental Resources Management

Recommendation: Approve actions in support of TBEP "Model Ordinance", to wit:

- a. Refer to County Administrator for BOCC Consideration
- b. Joint EPC and County Staff to Initiate Workshops on Model Ordinance to Develop Input from Stakeholders
- c. EPC Staff to Support TBEP Regional Coordination Process
- d. EPC Staff to Develop Quarterly Progress Report for EPC Board Information/Action

Brief Summary: This is a continuation of discussion heard at the December 18, 2008 EPC Board meeting. At that meeting, EPC and TBEP staff provided a brief update on recent developments concerning urban fertilizer use and recent activity by the TBEP addressing adoption of local ordinances. At Board direction, staff coordinated for additional speakers for further discussion of this issue.

Financial Impact: No Financial Impact at present.

Background:

FDACS Rulemaking: New rules were developed in cooperation with manufacturers and the Institute of Food and Agricultural Science (IFAS). The Urban Turf Fertilizer Rule was promulgated by FDACS on August 30, 2007, with an effective date of December 31, 2007. The purpose of the new fertilizer rules, mainly through mandatory reformulation of fertilizers and improved instructions and guidelines in labeling, was to lessen the threat from fertilizers as a potential source for water pollution on a state-wide scale

Fertilizer Task Force. The Florida Consumer Fertilizer Task Force was created by the Florida Legislature on July 1, 2007. After a series of six open workshops around the state, the Task Force presented a final report to the Legislature on January 15, 2008 (see Attachment 1). The final report recommended creation of a state model ordinance for local governments to use regarding fertilizer application, but that local governments maintain their authority to adopt local ordinances that are stricter than the state model ordinance, if justified by local water quality conditions.

Tampa Bay Estuary Program. The TBEP proposed to take a lead role in developing regional guidelines for all the Tampa Bay local governments to consider. At the March 20, 2008, EPC Board meeting, the Board endorsed a letter of support to the TBEP on behalf of that effort (Attachment 2) At the request of its Policy Board, the TBEP staff coordinated four workshops on residential fertilizer use guidelines from April 8 – June 10, 2008. From those workshops, a Model Ordinance for the Tampa Bay area was developed. See the TBEP Letter of Transmittal (Attachment 3) and the Model Ordinance (Attachment 4) for details. In summary, the Model Ordinance proposes:

- a. Training and Regional Certification of Commercial and Institutional Fertilizer Applicators;
- b. Restricted Season for Fertilizer Application;
- c. Fertilizer-Free Zones;
- d. Low Maintenance Zones;
- e. Best Management Practices;

Among other recommendations and details.

Presentation Outline for January 15, 2009:

Dr. George Hochmuth, Associate Dean for Research, Florida Agricultural Experiment Station, Institute of Food and Agricultural Sciences; and Dr. Terril A. Nell, Chairman, Environmental Horticulture Department, and Director, Center for Landscape Conservation and Ecology, University of Florida, will present technical background on turfgrass fertilization guidelines, and perspectives on components of a “model” ordinance. *(Note: Dr. Laurie E. Trenholm, Associate Professor, Environmental Horticulture Department, University of Florida, was unable to commit to attending the Board meeting at the time of agenda preparation.)*

Dr. Scott Emery, EHI, Inc., will present technical background on water quality impacts from fertilizer application to the waters of Hillsborough County and perspectives on cost and benefit implications to local government for stormwater and wastewater treatment infrastructures from pending state and federal regulation.

Mr. Jack Merriam, Environmental Manager, Sarasota County, will present technical background on his recent experiences with the implementation of a local ordinance in Sarasota County.

List of Attachments:

1. Summary of Florida Consumer Task Force Recommendations
2. Letter of support to the Tampa Bay Estuary Program
3. TBEP Letter of Transmittal
4. TBEP “Model Ordinance”

Key recommendations adopted by the Legislature's Task Force include:

1. Support for the current DACS labeling requirements for urban turf fertilizers, Rule 5E-1.003(2), and that the Rule serve as the statewide guideline for formulations, with the understanding that the rule will be reviewed and revised based on updated science by December 31, 2012.
2. Expansion of the Limited Commercial Landscape Maintenance (LCLM) certification established in Chapter 482, F.S. and additional authority to require all commercial applicators to have an appropriate certification based on modifying existing LCLM to include fertilizer best management practices (BMP's) and by adding BMP's and updates to continuing education requirements. In addition, the Task Force recommended that the Legislature modify Chapter 482 to authorize DACS to require limited certification for those who only apply fertilizer commercially (a new "Limited Commercial Fertilizer Applicator Certification" LCFAC). The Task Force recognized that the existing Green Industry BMP training network, including DEP, IFAS, industry and private training providers could conduct the training necessary for obtaining this new certification.
3. A model ordinance concerning the use of nonagricultural fertilizer for use by local governments who choose to adopt an ordinance as directed by the Legislature. The Task Force recommended that Local Governments can adopt additional or more stringent provisions to the model ordinance provided the local government can demonstrate they meet at least one of the following criteria:
 - They have verified impaired waters and are facing existing or possible Total Maximum Daily Loads (TMDL) requirements (under state and federal laws); or
 - They have verified harm to human health or harm to the environment that warrants additional consumer fertilizer requirements; or
 - That they will improve water quality or prevent future impacts of consumer fertilizers on the environment.
4. Support of public education regarding fertilizer use based on six best practices for lawn care elements developed by the Institute of Food and Agricultural Sciences (IFAS), as well as a set of supplemental landscape management tips. The six best practices are:
 - Choose a fertilizer designed for lawns.
 - Apply fertilizer when grass is actively growing.
 - Apply fertilizer to the lawn and keep off other surfaces and away from water.
 - Mow lawn at highest lawnmower setting.
 - Use water wisely through proper irrigation.
 - Spot treatments for pests and weed problems.
5. Continued support of ongoing research projects on consumer fertilizer management, and support for future research on "real-world" assessment of fertilizer nutrient leaching and runoff from existing urban residential lawns, assessment of nutrient leaching and runoff from ground cover, native landscapes, and other alternative landscapes, and a mass balance or "box model" study to assess the ultimate sinks, fate and chemical transformations of N and P in turf, soil, and shallow groundwater systems. The Task Force recommended that the Legislature direct the DACS Best Management Practices Research Extension Coordinating Committee (BRECC) to address the research recommendations from the Task Force.
6. A dedicated source of funding be provided for education and training initiatives that address the appropriate application of consumer fertilizers, and that the Florida Legislature authorize DACS to increase the tonnage fee on the sale of nitrogen and phosphorus up to \$1.00 per ton, with the recommendation that DACS will determine the exact amount of the increase, not to exceed \$1.00/ton, by conducting a rule making initiative with affected interests. The Task Force recommends that an amount of money equal to or greater than the percent of sales of consumer fertilizers be used for funding consumer fertilizer training and education initiatives. Following a unanimous adoption of the draft recommendations at the January 11, 2008 meeting, the Task Force authorized DACS to transmit this Final Report and adjourned. Information on the meetings, deliberations, public comments submitted, and support documents can be found at <http://consensus.fsu.edu/Fertilizer-Task-Force/index.html>.

Commissioners
 Brian Blair
 Rick A. Foddy
 Ken Higin
 Al Higginbotham
 Jim Nunez
 Mark Stange
 Kevin White



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 AS: 627-2660 Lab: 627-2727

April 3, 2008

Executive Director
 Richard D. Garity, Ph.D.

Ms. Deborah Getzoff, Chair
 Tampa Bay Estuary Program Policy Board
 100 8th Avenue Southeast
 St. Petersburg, Florida 33701

Dear Ms. Getzoff:

Subject: Participation of the EPC in the TBEP's Workshops on Developing Guidelines for Fertilizer Use in the Region

As a member of the Technical Advisory Committee and Management Board for the Tampa Bay Estuary Program (TBEP), the Environmental Protection Commission of Hillsborough County (EPC) fully supports the Policy Board's recent decision for the TBEP to institute a series of workshops to develop technically-based guidelines for residential fertilizer use throughout the Tampa Bay region.

A growing body of information on impaired waters throughout the state, including many in watersheds flowing into Tampa Bay, confirms that nutrient pollution is a major concern to maintaining state water quality standards. At the EPC we recognize that the constituents in residential fertilizer can be carried to natural watersheds in runoff from residential yards. Fertilizer use in residential areas is therefore an important consideration when looking at ways to possibly lessen the sources for nutrient pollution in natural water bodies.

Developing a consistent set of guidelines and educational materials for local governments, citizens, and lawn care professionals in use for protection of our natural waterbodies can be of great value to the various local governments in the Tampa Bay region, and to the bay and its watersheds.

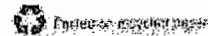
The EPC looks forward to contributing to the effort, particularly in the area of education and outreach, which we believe will be critical components to the long-range success of maintaining clear water in the Tampa Bay area.

Sincerely,


 Commissioner Al Higginbotham
 EPC Chairman

cc: Richard Garity, Ph.D., Executive Director, EPC
 Holly Greening, Executive Director, TBEP
 EPC Board Members

www.epcinc.org
 E-Mail: epcinfo@epcinc.org
 AFFIRMATIVE ACTION - EQUAL OPPORTUNITY EMPLOYER





TO: Tampa Bay Estuary Program Policy Board Members
FROM: Holly Greening, TBEP Executive Director
RE: Letter of Transmittal
DATE: November 25, 2008
CC: TBEP Management Board members

Attached is the finalized Model Ordinance Regulating Non-Agricultural Fertilizer Use in the Tampa Bay Region, incorporating the revisions you recommended and approved at the November 14, 2008 meeting. Chief among the changes resulting from that meeting are:

- The addition of Point-of-Sale restrictions prohibiting retail sale of Nitrogen and Phosphorous fertilizers for lawns and landscape plants from June 1-Sept. 30 of each year;
- Deletion of the exemption allowing use of deflector shields on broadcast spreaders to apply fertilizer as close as 3 feet from a water body;
- The addition of Institutional and Government Applicators among those required to obtain certification and training in Best Management Practices, and;
- Deletion of criminal penalties for violating the ordinance.

Additional wording changes and modification of definitions, per your recommendations, also have been incorporated in the final Model Ordinance.

Implementation of this ordinance could reduce nitrogen loadings to Tampa Bay by as much as 84 tons per year, assuming a moderate level (50%) of compliance. This could be a significant factor in our collective efforts to meet new federal and state regulatory limits on nitrogen loadings to the bay.

Additionally, since the cost of removing nitrogen from the bay through stormwater treatment projects ranges from \$40,000-\$200,000 per ton (according to the treatment method used), preventing the introduction of nitrogen through fertilizer restrictions could result in a substantial cost savings to local governments.

The following table summarizes both the expected nitrogen reductions for the portion of your community within the Tampa Bay watershed, as well as the potential cost savings.

TAMPA BAY ESTUARY PROGRAM
MAIL ROOM - 10000 BOCA RATON BLVD. SUITE 1000 - BOCA RATON, FL 33433-2733 - FAX (561) 867-7707 - SUNSHINE 36-0407
WWW.TBEP.FL.GOV

**Estimated Nitrogen Reductions to Tampa Bay and
Cost Savings with Moderate (50%) Compliance
with the Model Fertilizer Ordinance**

COMMUNITY	NITROGEN REDUCTION	COST SAVINGS
Hillsborough County (unincorporated areas only)	30 tons	\$1.2-\$6.0 Million
Manatee County (unincorporated areas only)	8 tons	\$320,000-\$1.6 Million
Pinellas County (unincorporated areas only)	6 tons	\$240,000-\$1.2 Million
Clearwater (area within Tampa Bay watershed only)	1.5 tons	\$60,000-\$300,000
St. Petersburg	7 tons	\$280,000-\$1.4 Million
Tampa	8 tons	\$320,000-\$1.6 Million

Information from your staff related to existing costs for nitrogen removal associated with stormwater treatment projects reinforce the potential cost-benefits of preventing nitrogen from entering Tampa Bay and other surface waters. For example:

- The City of St. Petersburg is currently spending \$100,000 per year for an alum treatment system to remove 4 tons of nitrogen annually from Lake Maggiore. This project's total capital cost is \$20 million.
- Pinellas County is investing nearly \$10 million in capital funds to remove 7.6 tons of nitrogen from Lakes Tarpon and Seminole – a per ton cost of nearly \$50,000 per ton. The annual Operation and Maintenance cost of these stormwater treatment systems is estimated at almost \$600,000. In the case of Lake Tarpon, studies have shown that lawn fertilizers contribute nearly 80 percent of the excess nitrogen.
- Hillsborough County expects to spend \$2.7 million to design a stormwater treatment system to remove about 1.5 tons of nitrogen annually from runoff flowing to the Alafia River.

Thank you for entrusting the Tampa Bay Estuary Program with the important task of facilitating development of this Model Ordinance for consideration by your governments. I would be happy to give a presentation on the ordinance, and the supporting technical information, to your boards. This strong ordinance promotes regional consistency in licensing of lawn care professionals and education and compliance of homeowners, and represents a potentially significant contribution toward our mutual goal of a healthy Tampa Bay.

Model Ordinance

ORDINANCE NO. _____
CLEAN WATER COUNTY FERTILIZER USE AND APPLICATION CODE

AN ORDINANCE REGULATING THE USE OF FERTILIZERS CONTAINING NITROGEN AND/OR PHOSPHORUS WITHIN CLEAN WATER COUNTY; PROVIDING FOR ENFORCEMENT AND PENALTY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, INCLUDING AN IMPLEMENTATION PERIOD.

WHEREAS, surface water runoff leaves residential neighborhoods, commercial centers, industrial areas, and other lands of Clean Water County with low permeability soils; and

WHEREAS, base flow runoff flows from residential neighborhoods, commercial centers, industrial areas, and other lands of Clean Water County with high permeability soils; and

WHEREAS, surface water and baseflow runoff enter into natural and artificial stormwater and drainage conveyances and natural water bodies in Clean Water County; and

WHEREAS, Clean Water County's natural and artificial stormwater and drainage conveyances regulate the flow of stormwater to prevent flooding; and

WHEREAS, this ordinance is part of a multi-pronged effort by Clean Water County to reduce nutrient leaching into runoff through such policies as, but not limited to, stormwater management, water conservation, conversion from septic systems to central sewage treatment, public education, and development standards as set forth in the Clean Water County Land Development Regulations; and

WHEREAS, the detrimental effects of nutrient-laden runoff are magnified in a coastal community such as Clean Water County, due to the proximity of stormwater and drainage conveyances to coastal and estuarine waters; and

WHEREAS, nutrients are commonly found in various forms as a Fertilizer for turf and landscape application and if applied improperly, may contribute to pollution in natural water bodies; and

WHEREAS, nutrient-laden runoff containing nitrogen and phosphorous fosters undesirable plant and algae growth in natural water bodies resulting in poor water quality; and

WHEREAS, the quality of our streams, lakes, rivers, Tampa Bay and the Gulf of Mexico is critical to environmental, economic, and recreational prosperity and to the health, safety, and welfare of the citizens of Clean Water County; and

WHEREAS, the amount of Fertilizer applied should be the minimum necessary for the turf and landscape to meet initial establishment and subsequent growth needs; and

WHEREAS, it is generally recognized that many Florida soils are naturally high in phosphorus; and Model Regional Fertilizer Ordinance

Approved by Tampa Bay Estuary Program Policy Board
November 14, 2008

WHEREAS, state and federal limits on the amount of nutrients permitted in designated impaired waters, including significant portions of the Tampa Bay ecosystem, may require local governments to make significant investments in water quality improvement projects;

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CLEAN WATER COUNTY, FLORIDA:

ARTICLE ____ . FERTILIZER USE AND APPLICATION

SECTION 1. This Ordinance establishes and enacts Ordinance No. ____ as codified in Sections ____ through ____ of the Clean Water County Code

Findings of Fact

As a result of adverse impacts to Clean Water County waters caused by excessive nutrients resulting from the incorrect or unnecessary application of fertilizers containing phosphorus and/or nitrogen, the Clean Water County (Board of County Commissioners or City Council) has determined that the lands and waters of Clean Water County are at particularly high risk for adverse effects to surface and ground water from such fertilizer containing phosphorus/nitrogen not applied in accordance with best management practices established by the Florida Department of Environmental Protection and the University of Florida Institute of Agricultural Sciences.

SECTION 3. Section No. ____ of the Clean Water County Code is hereby restated as follows:

SECTION ____ . Short Title.

This Article is referred to as the "Clean Water County Fertilizer Use and Application Code."

SECTION 4. Section No. ____ of the Clean Water County Code is hereby restated as follows:

SECTION ____ . Purpose and Intent.

This Ordinance regulates the proper use of Fertilizers by any Applicator and requires proper training of Commercial and Institutional Fertilizer Applicators by establishing a Restricted Season for fertilizer application, fertilizer-free zones, low maintenance zones, exemptions, training and licensing requirements. The Ordinance requires the use of Best Management Practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of Fertilizers. These secondary and cumulative effects have been observed in and on Clean Water County's natural and artificial stormwater and drainage conveyances, rivers, lakes, canals, estuaries, interior freshwater wetlands, and Tampa Bay. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of Clean Water County residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and artificial stormwater and drainage conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in Fertilizer, will help improve and maintain water and habitat quality.

SECTION 5. Section No. ____ of the Clean Water County Code reads:

SECTION _____. Definitions.

For this Article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

"Administrator" means the Clean Water County Administrator, or an administrative official of Clean Water County government designated by the County Administrator to administer and enforce the provisions of this Article.

"Application" or "Apply" means the actual physical deposit of Fertilizer to Turf or Landscape Plants.

"Applicator" means any Person who applies Fertilizer on Turf and/or Landscape Plants in Clean Water County.

"Article" means Chapter ___, Article ____ of the Clean Water County Code of Ordinances, as amended, unless otherwise specified.

"Board" means the Board of County Commissioners of Clean Water County, Florida.

"Best Management Practices" means turf and landscape practices which minimize the negative environmental impacts of installation and maintenance of landscapes.

"Code Enforcement Officer, Official, or Inspector" means any designated employee or agent of Clean Water County whose duty it is to enforce codes and ordinances enacted by Clean Water County.

"Commercial Fertilizer Applicator" means any Person who applies Fertilizer on Turf and/or Landscape Plants in Clean Water County in exchange for money; goods, services or other valuable consideration.

"Fertilize," "Fertilizing," or "Fertilization" means the act of applying Fertilizer to Turf, specialized Turf, or Landscape Plants.

"Fertilizer" means any substance or mixture of substances, including pesticide/fertilizer mixtures such as "weed and feed" products, that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

"Institutional Applicator" means any Person, other than a non-commercial or commercial Applicator (unless such definitions also apply under the circumstances), that applies Fertilizer for the purpose of maintaining turf and/or landscape Plants. Institutional Applicators shall include, but shall not be limited to, owners and managers of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

"Landscape Plant" means any native or exotic tree, shrub, or groundcover (excluding turf).

"Low Maintenance Zone" means an area a minimum of six (6) feet wide adjacent to water courses which is planted with non-turf grass vegetation and managed in order to minimize the need for fertilization, watering, mowing, etc.

"Pasture" means land used for livestock grazing that is managed to provide feed value.

"Person" means any natural Person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

"Restricted Season" means June 1st through September 30th.

"Clean Water County Approved Best Management Practices Training Program" means a training program approved by the Clean Water County Administrator that includes at a minimum, the most current version of the *"Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002,"* as revised and the more stringent requirements set forth in this Article.

"Specialized Turf Manager" means a Person responsible for Fertilizing or directing the Fertilization of a golf course or publicly owned athletic field.

"Surface Water" means fresh, brackish, saline or tidal waters, including but not limited to bays, rivers, lakes, streams, wetlands, springs, impoundments, canals and other artificial water bodies.

"Turf," "Sod," or "Lawn" means a piece of grass-covered soil held together by the roots of the grass.

SECTION 6. Section No. _____ of the Clean Water County Code is hereby amended to read as follows:

SECTION _____. Applicability.

This Ordinance shall be applicable to and shall regulate any and all applicators of Fertilizer and areas of application of Fertilizer within the jurisdiction of Clean Water County, unless such applicator is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Ordinance. This Ordinance shall be prospective only, and shall not impair any existing contracts.

SECTION 7. Section No. _____ of the Clean Water County Code reads as follows:

SECTION _____. Timing of Application.

No applicator shall Apply Fertilizers containing nitrogen and phosphorous to Turf and/or Landscape Plants during the Restricted Season.

SECTION 8. Section No. _____ of the Clean Water County Code reads as follows:

SECTION _____. Fertilizer Content and Application Rate.

(a) It is recommended that no fertilizer containing phosphorus be applied to Turf and/or Landscape Plants within Clean Water County at any time unless a soil test conducted by a licensed professional demonstrates a phosphorus deficiency and the type of landscape material that is intended to be planted require phosphorus.

(b) No nitrogen fertilizer shall be applied on newly established turf for the first 30 days.

(c) Fertilizers should be applied to turf and/or landscape plants at the lowest rate necessary, following the recommendations contained in the *Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002*.

SECTION 9. Section No. _____ of the Clean Water County Code hereby reads as follows:

SECTION _____. Impervious Surface

Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. Any Fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to Turf or any other legal site, or returned to the original or other appropriate container. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or surface waters.

SECTION 10. Section No. _____ of the Clean Water County Code is hereby amended to read as follows:

SECTION _____. Fertilizer-Free Zones.

Fertilizer shall not be applied within ten (10) feet of any surface water, or from the top of a seawall. If more stringent Clean Water County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations.

SECTION 11. Section No. _____ of the Clean Water County Code is hereby amended to read as follows:

SECTION _____. Low Maintenance Zone.

A voluntary six (6) foot low-maintenance, "no-mow" zone is strongly encouraged, but not mandated, from any above-described surface water or from the top of a seawall to reduce the potential for fertilizer residue entering such water bodies and wetlands. If more stringent Clean Water County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. No vegetative material shall be deposited or left remaining in this zone or water. Care should be taken to prevent the overspray of aquatic weed products in this zone.

SECTION 12. Section No. _____ of the Clean Water County Code reads as follows:

SECTION _____. Management of Grass Clippings and Vegetative Material

In no case shall grass clippings, vegetative material, and/or vegetative debris either intentionally or accidentally, be washed, swept, or blown off into stormwater drains, ditches, conveyances, surface waters, or roadways.

SECTION 13. Section No. _____ of the Clean Water County Code reads as follows:

SECTION _____. Exemptions.

The provisions set forth above in Section Nos. 54-1025 through 54-1031 of this Ordinance shall not apply to:

(a) Golf courses. For all golf courses, the provisions of the Florida Department of Environmental Protection (FDEP) document, *"BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2007,"* as updated, shall be followed when applying fertilizer to golf courses. All other Specialized Turf Managers shall apply the concepts and principles embodied in the *"Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002"* while maintaining the health and function of their turf and landscape plants; and

(b) bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes.

(c) The provisions set forth above in Section 54-1025 through 54-1031 of this Article shall not apply to other properties not subject to or covered under the Florida Right to Farm Act that have Pastures used for grazing livestock.

SECTION 14. Section _____ of the Clean Water County Code reads as follows:

SECTION _____. Certification and Training.

(a) All Site Supervisors and managers of professional lawn care companies, as well as government and institutional landscape supervisors, shall abide by and successfully complete a County approved Best Management Practices training program within one-hundred eighty (180) days of adoption of this ordinance. This training shall include the most current version of the *"Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002,"* as revised and shall include the more stringent requirements set forth in Sections _____ through _____ of this Article. Upon successful completion, a Certificate of Completion will be provided. A list of approved training programs shall be maintained by County on the County Fertilizer Management website.

(b) Employees of lawn and landscape maintenance companies who are not site supervisors or managers shall also be trained in the above-referenced BMPs by the company or a contractor of the company within ninety (90) days of being employed by the company; the training shall include but not be limited to, proper mowing, proper fertilization practices, mulching, and debris removal. Such training may be provided by a BMP-certified site supervisor or manager employed by the company. Training shall be required of all personnel of such companies within six (6) months of the adoption of new or revised BMPs or local ordinance requirements.

(c) A vehicle decal issued by Clean Water County indicating that the company is in compliance with the training and certification requirements herein shall be affixed and maintained on the exterior of all vehicles and/or trailers used by the company in connection with the application of Fertilizer within the area regulated by this Article. The vehicle and trailer decals shall be provided by Clean Water County upon submittal of demonstration of compliance of the company with the requirements herein.

(d) Certifications issued to employees of lawn and landscape maintenance companies by other Tampa Bay communities with equivalent fertilizer ordinances will be recognized in Clean Water County as meeting the certification and training requirements herein.

(e) The County strongly encourages the establishment of training programs using Spanish-speaking certified BMP trainers.

(d) Private homeowners are encouraged to be familiar with and to utilize the recommendations of the University of Florida IFAS *Florida Yards and Neighborhoods* program when applying fertilizer.

SECTION 15. Section _____ of the Clean Water County Code is hereby renumbered to _____ and amended to read as follows:

SECTION 15. Licensing of Commercial Applicators.

(a) In addition to any current or future training or education requirements mandated by the State of Florida and/or County, all Commercial Fertilizer Applicators shall obtain a Certificate of Completion from a County approved Best Management Practices training program prior to obtaining a Clean Water County Local Business Tax Certificate for any category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial Fertilizer Applicators shall provide proof of completion of an approved training program to the County Tax Collector's office within 180 days of the effective date of this ordinance.

(b) All Commercial Fertilizer Applicators applying for a new or holding an existing Local Business Tax Certificate shall ensure that all Applicators employed under the Tax Certificate receive the necessary training in accordance with Section _____ of this Article and abide by all provisions of this Article. All new employees serving as Applicators shall receive the necessary training in accordance with Section _____ of this Article within 90 days of employment and during this 90-day period shall work under the physical supervision of an applicator who has successfully completed a County approved Best Management Practices training program.

SECTION 16. Sale of Fertilizer Containing Nitrogen or Phosphorous

(a) Effective one-hundred eighty (180) days from adoption of this ordinance, no person, firm, corporation, franchise, or commercial establishment shall sell at retail any lawn or landscape fertilizer, liquid or granular, within Clean Water County that contains any amount of nitrogen or phosphorous during the Restricted Season.

(b) Displays of lawn and landscape fertilizers containing nitrogen or phosphorous shall not be permitted on the sales floor or the exterior of the store during the Restricted Season.

(c) It is recommended that retailers post a notice stating that the use of lawn and landscape fertilizers in Clean Water County is restricted in accordance with this ordinance.

SECTION 17. Reclaimed Water Use

It is strongly encouraged that application of fertilizer for properties using reclaimed water service be reduced in accordance with the nutrient level contained in the reclaimed water. This information is available through the Clean Water County Utilities Department.

SECTION 18. Enforcement and Penalty.

It is the intent hereof that the administrative and civil penalties imposed through execution of this Article be of such amount as to ensure immediate and continued compliance with this Article.

- (a) Clean Water County has the authority to enforce any provision of this Article per Chapter ____, Article ____ of the Clean Water County Code of Ordinances and per provisions of Chapter 162, Florida Statutes. Each day of any such violation shall constitute a separate and distinct offense.
- (b) The Code Enforcement Officer or designated inspectors shall be authorized and empowered to make inspections at reasonable hours of all land uses or activities regulated by this Article in order to insure compliance with the provisions of this Article. The Code Enforcement Officer or designated inspector shall make all observations during their inspections from areas accessible by the public, unless specific permission is granted by a property owner to come on their property, or a search warrant is obtained from a court of competent jurisdiction.
- (c) A Code Enforcement Officer is authorized to issue a Citation to a Person when, based upon personal investigation, the Officer has reasonable cause to believe that the Person has violated this Article. Prior to issuing a Citation, a Code Enforcement Officer may provide a Warning Notice to the Person. If the Person has been previously issued a Warning Notice or Citation for the same prohibited activity, the Code Enforcement Officer may immediately issue a Citation.
- (e) After issuing a Citation to an alleged violator, the Code Enforcement Officer shall deposit the original Citation and one copy of the Citation with the Clerk of the Court.
- (f) The Person issued the Citation may contest the Citation by contacting the Clerk of the Court within 30 calendar days of the Citation date and requesting a hearing. The Clerk shall then schedule a hearing in the County Court and shall provide written notice of the hearing to the Person and to the Code Enforcement Officer.
- (g) If the Person issued the Citation elects not to contest the Citation, the person shall pay the applicable civil penalty to the Clerk of the Court within 30 days after issuance of the Citation.
- (h) If the Person issued the Citation neither pays the civil penalty within the time allowed nor requests a hearing to contest the Citation, the Person shall be deemed to have waived their right to contest the Citation and judgment may be entered against the Person for an amount up to the maximum civil penalty.
- (j) The civil penalty for a civil infraction shall not exceed \$500.00 per violation.
- (k) By resolution the Board shall amend, as needed, the amount of any civil penalty for a civil infraction.
- (l) Notwithstanding any other provisions of this Article for enforcement or penalties, the Board may also enforce this Article by actions at law or in equity for damages and injunctive relief. In the event the Board prevails in any such action, the Board shall be entitled to an award of its costs.
- (m) The County may seek a lien on the property when the Person cited for a violation fails to pay the amount entered as a judgment.

SECTION 19. Section No. _____ of the Clean Water County Code is hereby renumbered to _____ as follows:

SECTION 20. Codification.

This ordinance shall be deemed an amendment to the Clean Water County Code of Ordinances.

SECTION 21. Section No. _____ of the Clean Water County Code is hereby renumbered to _____ as follows:

SECTION 22. Severability Clause.

If any section, subsection, sentence, clause, phrase or word of this Article is for any reason, held or declared to be unconstitutional, inoperative, or void, such holding of invalidity shall not affect the remaining portions of this Article; and it shall be construed to have been the intent to adopt this Article without such unconstitutional, invalid, or inoperative part therein; and the remainder of this Article, after the exclusion of such part or parts, shall be deemed to be held valid as if such part or parts had not been included herein.

SECTION 23. Section No. _____ of the Clean Water County Code is hereby renumbered to _____ and amended to read as follows:

SECTION 24 . Effective Date.

This Ordinance shall be effective immediately upon filing with the Office of the Secretary of State of Florida. However, a one-hundred eighty (180) day implementation period is hereby established in order to accomplish the following:

(a) The establishment of a Clean Water County approved list of Best Management Practices training programs.

(b) For Commercial Fertilizer Applicators, Institutional Applicators and other users and Applicators of Fertilizer as set forth in this Ordinance to become familiar with the provisions of this Ordinance, provide a reasonable period for compliance with the terms of this Ordinance. No Citations, Notices to Appear, Code Enforcement Notice of Violations or other enforcement procedures shall be instituted until a one-hundred eighty (180) day implementation period has passed; however, Warning Notices may be issued during the implementation period.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF CLEAN WATER COUNTY, FLORIDA, THIS _____ DAY OF , A.D.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 15, 2009

Subject: Surface water pump testing by SWFWMD at Morris Bridge Sink

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

Division: ERM

Recommendation: Support EPC staff participation in a SWFWMD public meeting on the Morris Bridge Sink pumping project

Brief Summary: Due to recent low flows in the Hillsborough River and Minimum Flow requirements, SWFWMD will soon initiate an experimental pumping project at Morris Bridge Sink. Water from the sink will be pumped directly to the Tampa Bypass Canal, where it can then be pumped to the Hillsborough River via the Harney Canal. Due to environmental concerns, and private property concerns voiced by local citizens, EPC staff, with much citizen support, has been successful in urging SWFWMD to hold a public meeting on the project in the coming weeks prior to its initiation.

Financial Impact: No Financial Impact. Project requirements will be met via the temporary reallocation of existing EPC staffing and resources.

Background: Morris Bridge Sink is a natural sinkhole feature located near the Hillsborough River in east-central Hillsborough County (figure 1). The sink has been evaluated for its water supply potential since the 1970s. Morris Bridge Sink was last pumped by Tampa Bay Water as an emergency water supply source to augment the Hillsborough River near Nature's Classroom during the regional drought in 2000 and 2001. During that period, pumping from the sink averaged from 7 to 9 million gallons per day (mgd).

Due to recent low flows in the Hillsborough River, which is the primary source of drinking water for the City of Tampa, the Southwest Florida Water Management District (SWFWMD) is currently planning a pumping project at Morris Bridge Sink. An experimental pumping project by SWFWMD is set to begin by February 2009 which may have the dual purpose for water supply and environmental minimum flow compliance on the Lower Hillsborough River. The purpose of the experimental pumping project is to determine an optimum pumping rate from the sink, with emphasis on avoiding environment impacts, while also not causing impacts to local private properties. SWFWMD is estimating that experimental pumping rates will range from 4 to 6 mgd. In recent weeks, EPC staff has been in close contact with local citizens, and staff is in the process of evaluating environmental conditions in and around Morris Bridge Sink.

Thus far, along with the environmental issues that will be managed by EPC staff and SWFWMD, the public is mostly concerned that their private drinking water wells are not affected by pumping at nearby Morris Bridge Sink.

EPC staff will continue to coordinate with SWFWMD, and the local community, on holding a public meeting in the weeks to come to discuss the particulars of the project.

List of Attachments: Figure 1: map of project area

82°19'12"W



28°4'48"N

28°4'48"N

82°19'12"W



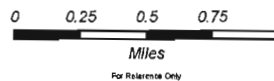
Environmental Protection Commission
 Hillsborough County
 3629 Queen Palm Drive
 Tampa, FL 33619
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Environmental Protection Commission
 of Hillsborough County GIS

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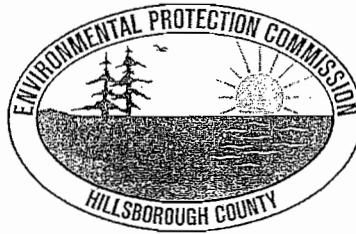
Morris Bridge Sink

Hillsborough County
 Florida



For Reference Only





EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 15, 2009

Subject: Ozone Update

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

Division: Air Management Division

Recommendation: Informational Report

Brief Summary: The U.S. Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standard for the air pollutant ozone on March 12, 2008. The primary ozone standard, which is established to protect public health, was lowered from 0.08 parts per million (ppm) to 0.075 ppm. At the same time, EPA also lowered the secondary standard, which is established to protect public welfare, to 0.075 ppm. This staff report to the EPC Board is to update the Commissioners on Hillsborough County's nonattainment status, on the ozone nonattainment designation process, and the timeline for designation. No Board action is required.

Financial Impact: No direct impact to the general fund.

Background: The U.S. Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standard (NAAQS) for the air pollutant ozone on March 12, 2008. The primary ozone standard, which is established to protect public health, was lowered from 0.08 parts per million (ppm) to 0.075 ppm. At the same time, EPA also lowered the secondary standard, which is established to protect public welfare, to 0.075 ppm. The State of Florida is required to make recommendations regarding designation of ozone nonattainment areas in the State to the EPA Administrator no later than March 12, 2009. These recommendations are based on air quality monitoring data and EPA guidance on nonattainment area designations. Based on the most recent three consecutive years of quality-assured ozone data, Hillsborough County will be designated as an ozone nonattainment area. EPA will promulgate final ozone designations no later than March 12, 2010. After final ozone nonattainment designations are made, EPC staff will provide input to Florida Department of Environmental Protection (DEP) staff regarding a plan of action (State Implementation Plan or SIP) to reduce ozone levels to comply with the new standard, and transportation plans in the County will be required to show that ozone precursor emissions from planned projects conform to the SIP.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 15, 2009

Subject: EPC Fleet Utilization

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

Division: Finance and Administration Division

Recommendation: None, Informational Report

Brief Summary: EPC staff will present a brief report on an internal review of fleet utilization.

Financial Impact: No Financial Impact, note report indicates a \$60,000 cost savings

Background: In March and April of 2007, EPC staff initiated an internal review of fleet utilization. EPC staff will present findings, results, and actions taken to improve fleet efficiency.

This is an informational report only.

List of Attachments: Summary of EPC fleet utilization study.

Environmental Protection Commission
Summary of Fleet Utilization Study
1/15/09

In March and April of 2007, EPC initiated a review of the size and use of its fleet to determine if efficiency could be improved. The review included a physical audit and internal analysis of mileage and usage of all EPC vehicles. The review also took into account restricted use of approximately 20% of the fleet due to vehicles being purchased with grant funding. The review noted that the use of a mileage threshold may not be the best single measure of utilization as some vehicles are used for hours but only travel to a single site while other vehicles travel to multiple sites in one day.

From this review, it was determined that EPC generally underutilized vehicles and could improve utilization of the EPC fleet. The review also revealed that EPC's grant funded vehicles were aging and that EPC would need to replace grant vehicles as funding became available. EPC initiated a plan to reduce the size of its fleet from 71 to 58 between March 2007 and April 2008 (see attached report and analysis), despite having only two vehicles identified as underutilized in FY 07. Since April 2008, EPC has reduced its fleet by another 2 vehicles, leaving 56 vehicles currently in the EPC fleet. (It should be noted that the consultant's report shows 49 vehicles in EPC's fleet. We will work with Fleet to resolve this discrepancy.) After the initial reduction in fleet size, EPC met with Fleet management to discuss progress made and determine the best way to proceed to improve efficiency. Following the discussion with Fleet, EPC continued to take actions to improve efficiency by rotating vehicles for "smooth" utilization, initiated in May 2008; creating an agency wide vehicle pool in August 2008 and we are currently working on establishing a fleet utilization policy. EPC is now realizing the benefits of our study resulting in a fleet cost reduction from FY 07 to FY 08 actual of \$60,000.

We spoke with Mercury Associates consultants as part of their study and generally agreed with their recommendations. EPC has already implemented the consultant's recommendation of pooling 6 vehicles and has opened the use of the pool to other County departments located in Sabal Park. EPC will use the guidelines in the consultant's report to continue to evaluate EPC's fleet size and utilization and to formulate an internal EPC fleet policy. As an independent agency, EPC is committed to improving efficiency and will continue to monitor vehicle usage and search for ways to improve the efficiency of its fleet.

Environmental Protection Commission
 Summary of Fleet Utilization Study
 Current EPC Fleet
 1/15/09

Age ¹	TOTAL AGENCY VEHICLES		GRANT/ CONTRACT VEHICLES		
	%	Number of Vehicles	%	Number of Vehicles	% of Total
> 8	1.8%	1	9.1%	1	100%
> 7	5.4%	3	27.3%	3	100%
Sub-Total	7.1%	4	36.4%	4	100%
> 6	12.5%	7	9.1%	1	14%
> 5	14.3%	8	9.1%	1	13%
Sub-Total	26.8%	15	18.2%	2	13%
> 4	10.7%	6	0.0%	0	0%
> 3	19.6%	11	18.2%	2	18%
> 2	14.3%	8	18.2%	2	25%
> 1	19.6%	11	0.0%	0	0%
< 1	1.8%	1	9.1%	1	100%
Sub-Total	66.1%	37	45.5%	5	14%
Total		56		11	20%

1. Based on age as of 12/31/08



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 15, 2009

Subject: Egmont Key

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

Division: Executive Director's Report / ERM

Recommendation: N/A. Follow up information from Board discussion at December 18, 2008, meeting. Information only, no action required.

Brief Summary: Per Board direction, staff prepared letter of concern for Egmont Key to the Office of the Governor, which was signed and forwarded on January 5, 2009. Additionally, staff met with Real Estate Department and Parks Department to discuss contingencies concerning management of Egmont Key. Staff consensus was that ELAPP was not an appropriate resource for this consideration, as funds are limited to capital procurements of property, no operational costs.

Financial Impact: No Financial Impact at This Time

Background:

On January 6 and 14, 2009, EPC staff met with Real Estate Department and Parks Department to discuss contingencies concerning management of Egmont Key, should actions by the state result in the termination of state funding of park personnel. Options discussed included:

- Key retains federal ownership, maintaining state rangers on site and funded by federal grant;
- Key retains federal ownership, maintaining state rangers on site and funded by multi-county inter-agency agreements;
- Key retains federal ownership, maintaining state rangers on site and funded by Hillsborough County;
- Hillsborough County attains ownership and all operational responsibility.

Staff recommends no action pending resolution from state of continued funding of the FDEP management of Egmont Key.

List of Attachments: None

