

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
COMMISSIONER'S BOARD ROOM  
COUNTY CENTER 2<sup>ND</sup> FLOOR  
APRIL 16, 2009  
9:00 AM**

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

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MARCH 19, 2009 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, March 19, 2009, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Al Higginbotham and Commissioners Kevin Beckner, Rose Ferlita, Jim Norman, and Mark Sharpe (arrived at 9:04 a.m.).

The following members were absent: Commissioners Ken Hagan (schedule conflict) and Kevin White (schedule conflict).

Chairman Higginbotham called the meeting to order at 9:03 a.m., led in the pledge of allegiance to the flag, and gave the invocation.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, said staff had no changes. Chairman Higginbotham asked if there were any additions to the agenda. Dr. Garrity noted discussion on the Southwest Florida Water Management District (SWFWMD) emergency order.

PUBLIC COMMENT

Ms. Janet Dougherty, 8214 Revels Road, distributed information; discussed yard trash, workshops, staff reports, and government accountability; requested looking at the way EPC conducted business related to enforcing accountability, transparency, leadership, and policy/procedures.

Ms. Vivian Bacca, 413 El Greco Drive, recited the EPC mission and suggested authorizing the EPC Chairman to speak at the March 31, 2009, SWFWMD meeting in support of the Tampa Bay Water (TBW) request for a Phase IV critical water shortage declaration.

CONSENT AGENDA

- A. Approval of minutes: February 19, 2009.
- B. Monthly activity reports.
- C. Pollution Recovery Fund (PRF) report.
- D. Gardinier Settlement Trust Fund report.
- E. Tampa Bay Estuary Program (TBEP) \$40,000 purchase order for 2008 Bay-wide benthic monitoring.

THURSDAY, MARCH 19, 2009 - DRAFT MINUTES

- F. TBEP \$40,000 purchase order to support sediment quality action plan for McKay Bay.
- G. Legal case summaries.
- H. Request authority to take appropriate legal action against Spencer Farms Incorporated; 2601 Hillsborough LLC, owner, and Charlie Mavros, owner/operator of Sparkling Waters Car Wash; and A-Team Demo Incorporated.

Chairman Higginbotham called for a motion to approve the Consent Agenda. **Commissioner Sharpe moved to approve, seconded by Commissioner Beckner, and carried five to zero.** (Commissioners Hagan and White were absent.) (Revisited later in the meeting.)

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson reported the March 2, 2009, meeting included a review of legislative activity related to environmental issues and an update on seagrass protection in the Cockroach Bay preserve, stated the CEAC would host the next meeting, and advised the 2009 PRF grant applications were being accepted until May 1, 2009, and information was available on the EPC website for review.

EXECUTIVE DIRECTOR

SWEFMD Emergency Order - Mr. Anthony D'Aquila, Director, EPC Environmental Resources Management (ERM) Division, expressed interest from the Water Resource Services Department (WRS) and EPC concerning an emergency order for TBW to exceed levels for groundwater withdrawal and reviewed the following points perceived to be important: to have a definitive expiration date on any specific emergency order, define intensive special monitoring of impacts to wetlands/lakes within Hillsborough County with conditions developed by staff, upon immediate availability of surface waters in the Alafia and Hillsborough Rivers from stream flow that could adequately be withdrawn and all desalinated water that was available and TBW be required to immediately use any available alternative waters to begin to drop back on the excessive use of groundwater, and staff conduct a reevaluation/validation of the good neighbor policy for well mitigation to ensure residential wells impacted by the withdrawals would fall within the protection of TBW well mitigation policy. Dr. Garrity requested authority to draft a letter for the EPC Chairman signature. **Commissioner Sharpe moved approval, seconded by Commissioner Beckner, and carried five to zero.** (Commissioners Hagan and White were absent.)

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EPC Wetlands Tour - Dr. Garrity said the Citizens Advisory Committee would provide a wetlands tour to the Board of County Commissioners (BOCC) on April 24, 2009, and Mr. Bob Stetler, Director, EPC Wetlands Management Division, would review the habitat restoration project at Cockroach Bay.

Presentation - Chairman Higginbotham presented an award to Ms. Leslie Campbell, EPC, for 30 years of service. Ms. Campbell offered appreciative remarks.

FINANCE AND ADMINISTRATION

EPC Fiscal Year (FY) 2010 and FY 2011 Budget Request Presentation - Dr. Garrity stated the EPC budget was submitted to the County Administrator, asked for ratification, and highlighted budget impacts, position loss, staff assessment, activity levels, complaints/response time received, and the hiring freeze. Ms. Joan Ohman, Director, EPC Finance and Administrator, reviewed the budget, as provided in background material. Staff recommended approval, following the budget process, and requested the opportunity to present a revised submission to the EPC Board, based on current information and impacts resulting from the County Administrator modifications to the budget. Commissioner Norman commented on preparing budget percentages. Chairman Higginbotham noted that was included in the recommendation. **Commissioner Norman moved to submit to the County Administrator. Commissioner Sharpe seconded the motion;** asked to support EPC efforts to enhance one-stop wetland permitting processes, noting concern with duplication of services; supported local governments having control of the wetlands; and expressed concern with how EPC dealt with complaints, the process, and standardization. **The motion carried five to zero.** (Commissioners Hagan and White were absent.)

WETLANDS MANAGEMENT DIVISION

Cities of Tampa, Temple Terrace, and Plant City Stormwater and Ditch Maintenance Memorandum of Understanding (MOU) Report - Mr. Stetler provided an informational report on MOU development with the Public Works Department, proper disposal of dredging materials, and MOU status.

WASTE MANAGEMENT DIVISION

Ditch Cleaning Material Report - Mr. Hooshang Boostani, Director, EPC Waste Management Division, detailed a report including, maintenance division functions, stormwater system maintenance, service locations, alleged violations, issues observed, responses to Florida Department of Environmental Protection allegations, and current findings/results and responded to

THURSDAY, MARCH 19, 2009 - DRAFT MINUTES

questions from Commissioner Norman regarding retention ponds and sediment buildup. Mr. John Newton, Director, Transportation Maintenance Division, Public Works Department, responded to queries from Commissioner Norman regarding truck usage/materials, sediment, and dirt.

Mulch Workshop Report - Dr. Garrity commented on workshop facilitators and looked forward to a report on yard waste issues. Mr. Boostani discussed objectives, governmental agency representation, current policies, issues/concerns, proposed regulations, new policies, next steps, complaint investigation, the permitting process, and coming back with a recommendation. Commissioner Sharpe touched on establishing standards. Responding to Commissioner Sharpe, Mr. Ken Gentile, Deputy Performance Auditor, explained the role was to facilitate the workshop and address standards and the complaint process. Dr. Garrity opined the process would create a recommendation to clarify standards, said EPC was the only agency that responded to the complaint, and commended staff efforts. Following comments on regulating the process and clear and consistent standards, **Commissioner Sharpe moved to come back within 30 days with a plan by the next EPC meeting.**

Perceiving farm expertise was needed, Commissioner Norman asked Dr. Garrity to reach out/visit the Hillsborough County Farm Bureau (Farm Bureau) to see how EPC could help. Dr. Garrity noted representation at the workshop. Referencing action at the March 18, 2009, BOCC meeting, Commissioner Norman recommended the EPC reach out and participate. Dr. Garrity agreed. Mr. Gentile remarked about mulch and interagency meetings, stating the intent was to involve all parties. Commissioner Sharpe agreed with including individuals using the product and reiterated the need to implement clear standards, define a process for tracking complaints, and provide information quickly. **Commissioner Norman seconded the motion** and suggested reaching out before regulations were put in place and communicate with the Farm Bureau to bring back recommendations. Commissioner Ferlita clarified the motion. Responding to Dr. Garrity, Commissioner Norman suggested reporting back in 30 days. **The motion carried five to zero.** (Commissioners Hagan and White were absent.)

CONSENT AGENDA - REVISITED

Chairman Higginbotham called for a motion to approve the Consent Agenda. **Commissioner Ferlita so moved, seconded by Commissioner Norman, and carried five to zero.** (Commissioners Hagan and White were absent.)

THURSDAY, MARCH 19, 2009 - DRAFT MINUTES

ERM DIVISION

Landscape Management Workshops Progress Report - Mr. D'Aquila detailed meetings held with the County Administrator, staff, the technical support coordination (TSC) group, and County departments and noted discussion/meetings with local jurisdictions. The next TSC meeting was scheduled for Tuesday, March 24, 2009, with the intent to expand group representation, workshops, and provide input from stakeholders.

LEGAL DEPARTMENT

Proposed Environmental Legislation Update - EPC General Counsel Richard Tschantz stated EPC was helping the Public Affairs Office and the Florida Association of Counties comment on bills and analyze concepts coming from the Florida House of Representatives Agriculture and Natural Resources Policy Committee, was following EPC legislative policy by updating Chairman Higginbotham on activities, said House Bill 1133 and Senate Bill 1974 amended the Agricultural Lands and Practices Act, and discussed bona fide farm activities, existing law and regulations, wetland exemptions, drainage regulations, stormwater assessment fees, nuisance waiver adoption, and farm fencing. The bills would be heard by other committees, which staff would monitor and report back.

Attorney Tschantz addressed bills related to streamlining environmental permitting, adopting/enforcing standards, enacting/enforcing wetland regulatory programs, uniform permitting process, wild animals/freshwater fish regulations, and water use permits. Responding to Commissioner Sharpe, Attorney Tschantz concluded the purpose was to stimulate economic development. Discussion included one-stop permitting, consistency, controlled development, streamlining, and delegation. Attorney Tschantz explained EPC was involved in helping smooth the delegation process to local governments. Discussion ensued regarding bypassing rules, learning from the issue, and reviewing the process. Responding to Commissioner Ferlita, Attorney Tschantz was not seeking action.

Regarding air pollution, Attorney Tschantz stated the Governor recommended funding be allocated to local governments for air pollution control programs to allow permitting inspections of larger facilities and report air monitoring quality to citizens.

Concerning a TBW issue, **Commissioner Norman moved to direct EPC to send a letter to TBW, which itemized some of the safeguards that Hillsborough County would expect to see in any emergency order issued by SWFWMD that would allow TBW to temporarily exceed the 90 million gallons per day and ask what**

THURSDAY, MARCH 19, 2009 - DRAFT MINUTES

**protections would be put in place to protect citizen wells in Hillsborough and Pasco Counties, seconded by Commissioner Beckner.** Responding to Commissioner Norman, Mr. D'Aquila replied well protection would be included in the letter. Commissioner Sharpe thanked Commissioner Norman for bringing forth the issue. **The motion carried five to zero.** (Commissioners Hagan and White were absent.)  
There being no further business, the meeting was adjourned at 10:39 a.m.

READ AND APPROVED: \_\_\_\_\_  
CHAIRMAN OR VICE CHAIRMAN

ATTEST:  
PAT FRANK, CLERK

By: \_\_\_\_\_  
Deputy Clerk

ssg



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

**MAR    TOTAL**

**A. Public Outreach/Education Assistance**

1.	Phone calls	226	1,056
2.	Literature Distributed	-	50
3.	Presentations	1	6
4.	Media Contacts	-	15
5.	Internet	62	365
6.	Host/Sponsor Workshops, Meetings, Special Events	1	3

**B. Industrial Air Pollution Permitting**

1.	Permit Applications received (Counted by Number of Fees Received)		
	a. Operating	5	51
	b. Construction	3	41
	c. Amendments	-	-
	d. Transfers/Extensions	1	10
	e. General	-	-
	f. Title V	2	11
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	8	35
	b. Construction ^1	11	59
	c. Amendments ^1	-	-
	d. Transfers/Extensions ^1	-	5
	e. Title V Operating ^2	33	46
	f. Permit Determinations ^2	3	8
	g. General	-	14
3.	Intent to Deny Permit Issued	-	-

**C. Administrative Enforcement**

1.	New cases received	2	7
2.	On-going administrative cases		
	a. Pending	5	5
	b. Active	11	11
	c. Legal	3	3
	d. Tracking compliance (Administrative)	13	13
	e. Inactive/Referred cases	-	-
	<b>TOTAL</b>	<b>32</b>	<b>32</b>
3.	NOIs issued	1	9
4.	Citations issued	-	1
5.	Consent Orders Signed	2	6
6.	Contributions to the Pollution Recovery Fund	\$ 8,625	\$ 15,303
7.	Cases Closed	4	11

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

	<u>MAR</u>	<u>TOTAL</u>
<b>D. Inspections</b>		
1. Industrial Facilities	15	77
2. Air Toxics Facilities		
a. Asbestos Emitters	-	-
b. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	4	8
c. Major Sources	5	13
3. Asbestos Demolition/Renovation Projects	20	92
<b>E. Open Burning Permits Issued</b>	1	8
<b>F. Number of Division of Forestry Permits Monitored</b>	52	949
<b>G. Total Citizen Complaints Received</b>	62	331
<b>H. Total Citizen Complaints Closed</b>	58	323
<b>I. Noise Sources Monitored</b>	3	22
<b>J. Air Program's Input to Development Regional Impacts</b>	1	11
<b>K. Test Reports Reviewed</b>	126	438
<b>L. Compliance</b>		
1. Warning Notices Issued	14	55
2. Warning Notices Resolved	10	35
3. Advisory Letters Issued	9	41
<b>M. AOR's Reviewed</b>	-	42
<b>N. Permits Reviewed for NESHAP Applicability</b>	-	4
<b>O. Planning Documents coordinated for Agency Review</b>	1	7

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

**FY TO  
MAR     DATE**

**A. ENFORCEMENT**

1. New cases received	2	2
2. On-going administrative cases	120	120
Pending	8	8
Active	32	32
Legal	13	13
Tracking Compliance (Administrative)	51	51
Inactive/Referred Cases	14	14
3. NOI's issued	2	4
4. Citations issued	-	5
5. Consent Orders and Settlement Letter Signed	1	8
6. Civil Contributions to the Pollution Recover Fund (\$)	\$ -	\$ 21,948
7. Enforcement Costs Collected (\$)	\$ 113	\$ 9,399
8. Cases Closed	-	5

**B. SOLID AND HAZARDOUS WASTE**

1. FDEP Permits Received	1	6
2. FDEP Permits Reviewed	-	5
3. EPC Authorization for Facilities NOT Requiring DEP Permit	-	2
4. Other Permits and Reports	-	
County Permits Received	-	3
County Permits Reviewed	-	3
Reports Received	46	205
Reports Reviewed	39	207
5. Inspections (Total)	264	2,764
Complaints	29	107
Compliance/Reinspections	18	105
Facility Compliance	37	155
Small Quantity Generator	179	2,391
P2 Audits	1	6
6. Enforcement		
Complaints Received	30	113
Complaints Closed	24	100
Warning Notices Issued	1	7
Warning Notices Closed	3	17
Compliance Letters	109	408
Letters of Agreement	1	4
Agency Referrals	2	4
7. Pamphlets, Rules and Material Distributed	178	928

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

**FY TO  
MAR     DATE**

**C. STORAGE TANK COMPLIANCE**

1. Inspections		
Compliance	107	501
Installation	7	73
Closure	15	72
Compliance Re-Inspections	30	97
2. Installation Plans Received	7	56
3. Installation Plans Reviewed	10	55
4. Closure Plans & Reports		
Closure Plans Received	6	42
Closure Plans Reviewed	8	40
Closure Reports Received	7	41
Closure Reports Reviewed	8	47
5. Enforcement		
Non-Compliance Letters Issued	92	410
Warning Notices Issued	2	17
Warning Notices Closed	-	8
Cases Referred to Enforcement	-	5
Complaints Received	2	11
Complaints Investigated	2	9
Complaints Referred	-	1
6. Discharge Reporting Forms Received	2	17
7. Incident Notification Forms Received	15	90
8. Cleanup Notification Letters Issued	2	17
9. Public Assistance	-	-

**D. STORAGE TANK CLEANUP**

1. Inspections	38	237
2. Reports Received	112	743
3. Reports Reviewed	119	734
Site Assessment Received	4	68
Site Assessment Reviewed	8	66
Source Removal Received	3	18
Source Removal Reviewed	3	17
Remedial Action Plans (RAP'S) Received	13	66
Remedial Action Plans (RAP'S) Reviewed	15	66
Site Rehabilitation Completion Order/No Further Action Rec'd	3	30
Site Rehabilitation Completion Order/No Further Action Revw'd	3	33
Active Remediation/Monitoring Received	58	308
Active Remediation/Monitoring Reviewed	57	298
Others Received	31	253
Others Reviewed	33	255

**E. RECORD REVIEWS**

	9	96
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**F. LEGAL PIR'S**

	4	32
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**G. PUBLIC INFORMATION PROJECTS**

	1	8
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**FY 09 - MONTHLY ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION**

**FY TO  
MAR     DATE**

**A. ENFORCEMENT**

1.	New Enforcement Cases Received	3	28
2.	Enforcement Cases Closed	6	23
3.	Enforcement Cases Outstanding	52	324
4.	Enforcement Documents Issued	7	36
5.	Recovered Costs to the General Fund	\$ 634	\$ 3,606
6.	Contributions to the Pollution Recovery Fund	\$ 7,715	\$ 26,574

**B. PERMITTING/PROJECT REVIEW - DOMESTIC**

1.	Permit Applications Received	10	103
a.	Facility Permit	1	16
	(i) Types I and II	1	1
	(ii) Type III	-	15
b.	Collection Systems - General	3	39
c.	Collection systems-Dry Line/Wet Line	6	48
d.	Residuals Disposal	-	-
2.	Permit Applications Approved	10	106
a.	Facility Permit	1	10
b.	Collection Systems - General	4	45
c.	Collection systems-Dry Line/Wet Line	5	51
d.	Residuals Disposal	-	-
3.	Permit Applications Recommended for Disapproval	1	1
a.	Facility Permit	-	-
b.	Collection Systems - General	1	1
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	33	33
a.	Facility Permit	17	17
b.	Collection Systems - General	5	5
c.	Collection systems-Dry Line/Wet Line	11	11
d.	Residuals Disposal	-	-
7.	Permit Determination	4	12

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

	<b>MAR</b>	<b>FY TO DATE</b>
8. Special Project Reviews	-	1
a. Reuse	-	-
b. Residuals/AUPs	-	1
c. Others	-	-

**C. INSPECTIONS - DOMESTIC**

1. Compliance Evaluation	15	92
a. Inspection (CEI)	9	38
b. Sampling Inspection (CSI)	6	54
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance	65	300
a. Inspection (RI)	12	51
b. Sample Inspection (SRI)	1	3
c. Complaint Inspection (CRI)	51	242
d. Enforcement Inspection (ERI)	1	4
3. Engineering Inspections	31	197
a. Reconnaissance Inspection (RI)	-	7
b. Sample Reconnaissance Inspection (SRI)	-	-
c. Residual Site Inspection (RSI)	1	2
d. Preconstruction Inspection (PCI)	1	25
e. Post Construction Inspection (XCI)	29	163
f. On-site Engineering Evaluation	-	-
g. Enforcement Reconnaissance Inspection (ERI)	-	-

**D. PERMITTING/PROJECT REVIEW - INDUSTRIAL**

1. Permit Applications Received	1	11
a. Facility Permit	-	7
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	-
(iii) Type III w/o Groundwater Monitoring	-	7
b. General Permit	-	-
c. Preliminary Design Report	1	4
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	-
(iii) Type III w/o Groundwater Monitoring	1	4
2. Permits Recommended to DEP for Approval	-	-

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

	<b>MAR</b>	<b>FY TO DATE</b>
3. Special Project Reviews	-	1
a. Facility Permit	-	9
b. General Permit	-	-
4. Permitting Determination	-	-
5. Special Project Reviews	36	225
a. Phosphate	4	27
b. Industrial Wastewater	16	90
c. Others	16	108

**E. INSPECTIONS - INDUSTRIAL**

1. Compliance Evaluation (Total)	11	64
a. Inspection (CEI)	11	64
b. Sampling Inspection (CSI)	-	-
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance (Total)	16	77
a. Inspection (RI)	6	38
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	10	39
d. Enforcement Inspection (ERI)	-	-
3. Engineering Inspections (Total)	5	31
a. Compliance Evaluation (CEI)	5	29
b. Sampling Inspection (CSI)	-	-
c. Performance Audit Inspection (PAI)	-	-
d. Complaint Inspection (CRI)	-	2
e. Enforcement Reconnaissance Inspections (ERI)	-	-

**F. INVESTIGATION/COMPLIANCE**

1. Citizen Complaints	59	261
a. Domestic	43	206
(i) Received	27	117
(ii) Closed	16	89
b. Industrial	16	55
(i) Received	8	25
(ii) Closed	8	30

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

	<u>MAR</u>	<u>FY TO DATE</u>
2. Warning Notices	10	98
a. Domestic	7	84
(i) Received	2	48
(ii) Closed	5	36
b. Industrial	3	14
(i) Received	3	9
(ii) Closed	-	5
3. Non-Compliance Advisory Letters	18	96
4. Environmental Compliance Reviews	163	995
a. Industrial	34	292
b. Domestic	129	703
5. Special Project Reviews	-	6

**G. RECORD REVIEWS**

1. Permitting Determination	6	28
2. Enforcement	1	4

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

1. Air division	57	343
2. Waste Division	-	-
3. Water Division	19	115
4. Wetlands Division	-	-
5. ERM Division	188	909
6. Biomonitoring Reports	4	32
7. Outside Agency	22	186

**I. SPECIAL PROJECT REVIEWS**

1. DRIs	2	12
2. ARs	2	7
3. Technical Support	2	20
4. Other	1	5



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

**FY TO  
MAR DATE**

**ASSESSMENT REPORT**

**Agriculture Exemption Report**

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

**PGMD Reviews Performance Report**

# of Reviews	85	620
Timeframes Met	100%	100%
Year to Date	99%	99%

**Formal Wetland Delineation Surveys**

Projects	8	68
Total Acres	54	1,003
Total Wetland Acres	14	184
# Isolated Wetlands < 1/2 Acre	4	22
Isolated Wetland Acreage	0.37	3.97

**Construction Plans Approved**

Projects	18	111
Total Wetland Acres	49	264
#Isolated Wetlands < 1/2 Acre	7	50
Isolated Wetland Acreage	3.27	11.16
Impacts Approved Acreage	1.5	4
Impacts Exempt Acreage	1.33	4.76

**Mitigation Sites in Compliance**

Ratio	195/207	195/207
Percentage	94%	94%

**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	1.90	2.90
Acres Restored	-	1.00
Acres Mitigated	0.70	1.2

**Mitigation Sites in Compliance**

Ratio	195/207	195/207
Percentage	94%	94%

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

**FY TO  
MAR    DATE**

**Compliance Actions**

Acreage of Unauthorized Wetland Impacts	1.90	6.30
Acreage of Wtaer Quality Impacts	0.00	0.00
Acreage Restored	0.70	6.30

**General**

Telephone Conferences	704	3,055
Scheduled Meetings	210	994
Unscheduled Citizen Assistance	49	240

**REVIEW TIMES**

# of Reviews	237	1,604
% On Time	98%	99%
% Late	2%	1%

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

		<u>MAR</u>	<u>FY TO DATE</u>
<b>A. General</b>			
1.	Telephone conferences	612	3,485
2.	Unscheduled Citizen Assistance	49	285
3.	Scheduled Meetings	210	1,185
4.	Correspondence	300	1,758
<b>B. Assessment Reviews</b>			
1.	Wetland Delineations	19	113
2.	Surveys	14	105
3.	Miscellaneous Activities in Wetland	26	148
4.	Mangrove	3	37
5.	Notice of Exemption	1	15
6.	Impact/Mitigation Proposal	27	93
7.	Tampa Port Authority Permit Applications	51	235
8.	Wastewater Treatment Plants (FDEP)	-	1
9.	Development Reg'n'l Impact (DRI) Annual Report	1	9
10.	Phosphate Mining	2	14
11.	Comp Plan Amendment (CPA)	2	6
12.	Mitigation Agreements	10	12
	Sub-Total	156	788
<b>Planning and Growth Management Review</b>			
13.	Land Alteration/Landscaping	3	13
14.	Land Excavation	-	3
15.	Rezoning Reviews	22	102
16.	Site Development	30	175
17.	Subdivision	9	97
18.	Wetland Setback Encroachment	6	23
	Sub-Total	70	413
	<b>Total Assessment Review Activities</b>	<b>226</b>	<b>1,201</b>
<b>Other Assessment Activities</b>			
19.	On-Site Visits	80	596
20.	Easement/Access-Vacating	-	4
21.	Pre-Applications	7	133

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

**MAR      FY TO  
                 DATE**

**C. Investigation and Compliance**

1.	Complaints Received	27	142
2.	Warning Notices Issued	8	42
3.	Warning Notices Closed	3	15
4.	Complaint Inspections	53	265
5.	Return Compliance Inspections	39	165
6.	Mitigation Monitoring Reports	20	199
7.	Mitigation Compliance Inspections	27	125
8.	Erosion Control Inspections	7	135
9.	MAIW Compliance Site Inspections	20	93
10.	TPA Compliance Site Inspections	-	17

**D. Enforcement**

1.	Active Cases	19	19
2.	Legal Cases	-	-
3.	Number of "Notice of Intent to Initiate Enforcement"	-	10
4.	Number of Citations Issued	-	-
5.	Number of Consent Orders Signed	4	21
6.	Administrative - Civil Cases Closed	7	26
7.	Cases Referred to Legal Department	-	3
8.	Contributions to Pollution Recovery	\$ 14,299	\$ 81,771
9.	Enforcement Costs Collected	\$ 2,716	\$ 8,222

**E. Ombudsman**

1.	Agriculture	4	16
2.	Permitting Process	-	1
3.	Rule Assistance	-	-
4.	Staff Assistance	47	74
5.	Miscellaneous/Other	2	3

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
POLLUTION RECOVERY TRUST FUND  
AS OF 03/31/09**

	<u>As of 3/31/09</u>
Beginning Fund Balance, 10/01/08	\$ 908,910
Interest Accrued	36,919
Deposits	146,192
Disbursements	(110,466)
Intrafund Budget Transfers to Project Fund	(443,301)
Intrafund Budget Transfers from Project Fund	34,233
Pollution Recovery Fund Balance	<u>\$ 572,487</u>
Encumbrances:	
Pollution Prevention/Waste Reduction (101)	\$ 3,842
Artificial Reef Program	103,577
PRF Project Outreach	58,168
PRF Project Monitoring	20,136
Total Encumbrances	<u>\$ 185,723</u>
Minimum Balance (Reserves)	\$ 120,000
Balance Available 03/31/09	<u><u>\$ 266,764</u></u>

**PROJECT FUND**

	Project Amount	Project Balance
<b>Open Projects</b>		
<b>FY 06 Projects</b>		
COT Parks Dept/Cypress Point (97)	\$ 100,000	\$ 100,000
Bahia Beach Restoration (contract 04-03)	150,000	61,679
Field Measurement for Wave Energy	125,000	27,884
Port of Tampa Stormwater Improvement	45,000	45,000
	<u>\$ 450,000</u>	<u>\$ 234,563</u>
<b>FY 07 Projects</b>		
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	-
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>\$ 660,994</u>
<b>FY 08 Projects</b>		
Australian Pine Removal E.G. Simmons Park	\$ 80,000	\$ 80,000
Restoration of MOSI	125,000	78,226
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	13,149
Assessing Bacteria Lake Carroll	101,962	101,962
	<u>\$ 526,610</u>	<u>\$ 323,293</u>
<b>FY 09 Projects</b>		
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 03/31/09**

Fund Balance as of 10/1/08	\$ 241,187
Interest Accrued	3,935
Disbursements FY 09	-
	<hr/>
Fund Balance	\$ 245,122
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	245,122
	<hr/>
Total Encumbrances	\$ 245,122
	<hr/>
Fund Balance Available 03/31/09	<u><u>\$ -</u></u>

**ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY**

**JANUARY - MARCH 2009 QUARTERLY SURVEY CARD RESULTS**

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

Division		Prompt Service	Profess'al Courteous	Concerns Addressed	Easy to find Person	EPC Rules Easy	EPC Website Friendly	Overall Satisf
<b>No ID</b>	1 SURVEY CARDS - TOTAL POINTS	4.0	5.0	NA	5.0	4.0	NA	5.0
	<b>AVERAGE</b>	<b>4.0</b>	<b>5.0</b>		<b>5.0</b>	<b>4.0</b>		<b>5.0</b>
Comments: - File a claim; <i>Awesome people.</i>								
<b>ERM</b>	1 SURVEY CARDS - TOTAL POINTS	2.0	NA	1.0	NA	NA	2.0	2.0
	<b>AVERAGE</b>	<b>2.0</b>		<b>1.0</b>			<b>2.0</b>	<b>2.0</b>
Comments: - <i>Can't find anything about GIS data, and can't find a way to search the website.</i> This survey was completed online. User requested a search button for the website. Search button implemented 1/12/09.								
<b>Waste</b>	7 SURVEY CARDS - TOTAL POINTS	31.0	35.0	31.0	34.0	25.0	10.0	32.0
	<b>AVERAGE</b>	<b>4.4</b>	<b>5.0</b>	<b>4.4</b>	<b>4.9</b>	<b>5.0</b>	<b>5.0</b>	<b>4.6</b>
Comments: - <i>Great!; Mary Jo is awesome, she is very helpful.; Primary file not present-in field with inspector.; Professional, courteous.</i>								
<b>Water</b>	5 SURVEY CARDS - TOTAL POINTS	25.0	25.0	24.0	24.0	20.0	16.0	22.0
	<b>AVERAGE</b>	<b>5.0</b>	<b>5.0</b>	<b>4.8</b>	<b>4.8</b>	<b>4.0</b>	<b>4.0</b>	<b>4.4</b>
Comments: <i>Lora Woodard handled the review and final inspection for one of my projects in Odessa. I have been in the construction industry in Florida for the past 26 years (Lord only knows why) and often find that many government employees do not work with contractors with a spirit of cooperation!. Lora Woodard was one of the most professional, helpful and cooperative people in the government sector that I have had the pleasure of working with. Please keep it up and influence others to do the same. Life and work are stressful enough, it is more pleasurable when dealing with nice people. Thank You Lora.</i>								
<b>Wetlands</b>	2 SURVEY CARDS - TOTAL POINTS	5.0	5.0	5.0	5.0	5.0	5.0	5.0
	<b>AVERAGE</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>	<b>5.0</b>
Comments: - <i>Excellent. Very friendly.</i>								
<b>8 CARDS</b>	<b>TOTAL EPC AVERAGE</b>	<b>4.5</b>	<b>5.0</b>	<b>4.4</b>	<b>4.9</b>	<b>4.5</b>	<b>4.1</b>	<b>4.4</b>

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** Legal Case Summary for April 16, 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:** April 2009 EPC Legal Case Summary

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**April 2009**

**A. ADMINISTRATIVE CASES**

**NEW ADMINISTRATIVE CASES [ 0 ]**

**EXISTING ADMINISTRATIVE CASES [ 3 ]**

**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. In the next few months a draft Environmental Impact Statement will be issued by FERC that all interested parties should review and comment on. (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)

**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 [ 1 ]**

**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. A draft permit has been negotiated and the EPC awaits the permittee's withdrawal of its petition before the permit will issue. On February 11, 2009 the Petitioner filed a Withdrawal of Petition and the case has been closed. (RM)

**B. CIVIL CASES**

**NEW CIVIL CASES [ 3 ]**

**Spencer Farms, Inc.** [LEPC09-004]: On March 19, 2009 the EPC Board granted authority to take legal action against the Respondent for violations of the EPC Act, Chapter 1-7 EPC Rules and Chapter 62-770, F.A.C. A Citation of Violation was issued on June 27, 2009, the Respondent failed to appeal the citation and it became a final order of the Agency enforceable in Court. The violations have not been corrected. (AZ)

**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. (RM)

**A-Team Demo, Inc.** [LEPC09-007]: On March 19, 2009 the EPC Board granted authority to take legal action against the Respondent for violations of Chapter 1-3, EPC Rules and Chapter 62-204, F.A.C. On September 16, 2008 the Respondent entered into a Consent Order with EPC. Respondent has failed to timely comply with the penalty and cost requirements of the Consent Order. The parties negotiated and executed an amendment to the Consent Order on April 2, 2009. This matter will be closed. (RM)

## EXISTING CIVIL CASES [ 13 ]

**Phillips & Munzel Oil Co., Inc. Robert G. Phillips, Individually, and Clyde W. Munzel Individually** [LEPC09-003]: On February 19, 2009 the EPC Board granted authority to take legal action against the Respondents for violations of the EPC Act, Chapter 1-7, EPC Rules and Chapter 62-770, FAC. Citations of Violation were issued on June 25, 2008, the Respondents failed to appeal the citations and they became final orders of the Agency enforceable in Court. The violations have not been corrected. (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. On February 18, 2009 the EPC filed a Complaint in Circuit Court for civil penalties and injunctive relief. (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. (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)

**Miley's Radiator Shop** [LEPC06-011]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Miley's Radiator Shop, Calvin Miley, Jr., Calvin Miley, Sr., and Brenda Joyce Miley Tyner for waste management violations for improper storage and handling of car repair related wastes on the subject property. In addition, a citation was entered against the respondents on October 28, 2005 requiring specific corrective actions. The Respondents have not complied with the citation. The EPC is preparing to file a lawsuit for the referenced violations. (AZ)

**Petrol Mart, Inc.** [LEPC07-018]: Authority to take appropriate action against Petrol Mart, Inc. to seek corrective action, appropriate penalties and recover administrative costs for improperly abandoned underground storage tanks and failure to address petroleum contamination was granted on June 21, 2007. The owner of the property is insolvent and the corporation inactive; however, the Waste Management Division intends on obtaining a judgment and lien on the property for the appropriate corrective actions. The Legal Department filed a civil lawsuit on September 26, 2007. The defendant was served with the lawsuit on October 12, 2007. The Court entered a default on November 9, 2007 for the Defendant's failure to respond. The EPC Legal Department set this matter for trial on March 26, 2008. The Court ruled in favor of EPC and entered a Default Judgment against the Defendant awarding all corrective actions, penalties of \$116,000 and costs of \$1,780. In the event the corrective actions are not completed the court also authorized the EPC to contract to have the site cleaned and to add those costs to the lien on the property. PRF monies were allocated in November 2008 to assist in remediating the site. (AZ)

**Medallion Convenience Stores, Inc. and MDC6, LLC** [LEPC07-034]: The Commission granted authority to take appropriate action against Medallion Convenience Stores, Inc. and MDC6, LLC on December 13, 2007 for failure to comply with a consent order. The consent order required the facility to submit a Discharge Report Form for petroleum discharge and submit proof of an N.P.D.E.S. permit for de-watering activities at the site. The EPC is attempting to negotiate a settlement in this matter. (AZ)

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

**Pedro Olivera** [LEPC08-021]: Authority to take appropriate legal action against Pedro Olivera for unauthorized wetland and mangrove impacts was granted on July 17, 2008 at the EPC Board meeting. Subsequently, the parties entered into a consent order which provided for corrective actions as well as payment of appropriate penalties and recovery of staff costs. The Defendant failed to comply with several of the provisions outlined in the Order and on January 16, 2009 the EPC Legal Dept. filed a Complaint against the Defendant in Circuit Court. Although the parties are in negotiations to settle the case, the EPC has not been contacted by Mr. Olivera recently and the EPC Legal Department filed a Motion for Default on April 7, 2009 for failure to timely respond to the civil lawsuit. (AZ)

### **RECENTLY RESOLVED CIVIL CASES** [3]

**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 settled the case on April 3, 2009 through entry of a settlement agreement that incorporates a Remedial Action Plan that addresses the landfill gasses at the facility. U-Haul also agreed to a settlement amount to reimburse the EPC for its administrative costs in the case. The case has been closed. (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. The EPC has been removed from the court's filing list but its lien will survive the pending foreclosure action. The case has been closed and will be re-opened only if the lien is in danger of being extinguished. (AZ)

**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. The EPC has been removed from the court's filing list but its lien will survive the pending foreclosure action. The case has been closed and will be re-opened only if the lien is in danger of being extinguished. (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.

**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)

**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)

**Corv 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, 2009, but no timely challenge was filed. All outstanding issues were resolved and a revised permit was issued. The case has been closed. (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 was granted until December 22, 2008 to file a petition in this matter. This deadline was extended until January 30, 2009. The Petitioner requested a third extension of time which was granted and the deadline extended to March 16, 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 was granted until December 22, 2008 to file a petition in this matter. This deadline was extended until January 30, 2009. The Petitioner requested a third extension of time which was granted and the deadline extended to March 16, 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. All outstanding issues were resolved and a final permit was issued. The case has been closed. (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 had until March 6, 2009 to file a petition in this matter. The Petitioner filed a second request for extension of time which was granted and the deadline for filing was extended until April 6, 2009. The Petitioner filed a third request for extension of time, but the parties have agreed to permit language and a final permit issued on April 7. This case will be closed. (RM)

**TRANSFLO Terminal Services, Inc.** [LEPC09-001]: On January 22, 2009 the Petitioner 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 had until March 30, 2009 to file a petition in this matter. On March 30<sup>th</sup> the Petitioner filed a request for a second extension of time. The Legal Department granted the request and the Petitioner has until May 29, 2009 to file a petition in this matter. (RM)

**GI Entertainment & Restaurant Group LLC** [LEPC09-002]: On February 13, 2009 the Appellant (Green Iguana) 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 February 9, 2009, regarding noise violations. The request was denied and the party has until March 26, 2009, to file an appeal. An appeal was filed on March 13, 2009. (RM)

**Evelyn Romano** [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. (AZ)

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** Request for authority to take appropriate legal action against Hindu Religious Center, Inc.

**Consent Agenda**  **Regular Agenda** \_\_\_\_\_ **Public Hearing** \_\_\_\_\_

**Division:** Air Management Division

**Recommendation:** Grant EPC staff authority to take appropriate legal action, including but not limited to a civil law suit, and authorization to settle a civil suit.

**Brief Summary:** The Hindu Religious Center, Inc. is the owner and operator of the India Cultural Center (ICC) which is located at 5511 Lynn Road in Tampa, Florida. The location is a block northeast of the intersection of Anderson Road and Linebaugh Avenue. The ICC operates as a rental hall for, among other things, non-religious events and parties. Since 2006 EPC staff has received numerous citizens' complaints from adjacent residents about noise generated at the ICC, and subsequently documented violations of the EPC noise standards. In September 2008 EPC staff entered into a Consent Order with the Hindu Religious Center, Inc.; the Order required that they hire an acoustical consultant to recommend corrective measures, and that the Hindu Religious Center, Inc. timely implements those measures to come into compliance with the EPC Noise Rule. EPC staff has determined that the Hindu Religious Center, Inc. failed to comply with the noise mitigation requirements as evidenced by the continuing noise complaints received from adjacent neighbors and documented violations of the EPC noise standards.

### **Background:**

The Hindu Religious Center, Inc. is the owner and operator of the India Cultural Center (ICC) which is located at 5511 Lynn Road in Tampa, Florida. The ICC operates as a rental hall for, among other things, non-religious events and parties. Since 2006 EPC staff has received numerous citizens' complaints from adjacent residents about noise generated at the ICC, and subsequently documented violations of the EPC noise standards. While most religious events are exempt from EPC noise regulations, these commercial activities at the ICC are not.

On May 4, 2007, in response to complaints from nearby residents, EPC staff monitored sound levels from ICC after 10:00 p.m. at receiving residential property. The maximum sound levels recorded on the A-scale were 58 dB in exceedance of the 55 dB limit for receiving residential property; 75 dB on the individual octave band whose center is 63 hertz in exceedance of the 65 dB limit; and 68 dB on the individual octave band whose center is 125 hertz in exceedance of the 65 dB limit. All of the noise readings taken were in excess of and in violation of standards set forth in the previous version of Section 1-10.03, Rules of the EPC. An analysis of the readings revealed that 68% were above the permissible limit.

On April 12, 2008, sound levels from ICC were again monitored by EPC staff after 10:00 p.m. The maximum readings were 63 dB on the A-scale in exceedance of the 55 dB limit for receiving residential property; 80 dB on the individual octave band whose center is 63 hertz in exceedance of the 65 dB limit; and 72 dB on the individual octave band whose center is 125 hertz in exceedance of the 65 dB limit. All of the noise readings taken were in excess of and in violation of standards set forth in Section 1-10.03, Rules of the EPC. An analysis of the readings revealed that 85% were above the permissible limits.

On September 9, 2008 EPC staff entered into a Consent Order with the Hindu Religious Center, Inc. Within thirty days, the Order required them to hire an acoustical consultant to conduct a noise study and to implement recommended noise abatement corrective measures under an enforceable schedule in order to come into compliance with the EPC Rule. The Consent Order also required the reimbursement of EPC staff costs and a \$2000 civil penalty for the violations. Pursuant to the Consent Order, one thousand dollars of the \$2000 penalty would be deferred pending timely compliance with the Order. As the EPC has found new violations, we have recently requested payment of the deferred one thousand dollar penalty.

On February 21, 2009 sound levels from ICC were again monitored by EPC staff after 10:00 p.m. The maximum readings were 74 dB on the individual octave band whose center is 63 hertz in exceedance of the 65 dB limit; and 62 dB on the individual octave band whose center is 125 hertz in exceedance of the 59 dB limit. All of the noise readings taken were in excess of and in violation of the recently revised standards set forth in Section 1-10.03, Rules of the EPC. EPC staff has received more than of 42 noise complaints regarding the ICC.

EPC staff has determined that the Hindu Religious Center, Inc. failed to comply with noise mitigation requirements as evidenced by the continuing noise complaints received from adjacent neighbors and documented violation of the EPC noise standards. To date ICC has failed to contract with an acoustical professional and submit a proposed corrective action plan to EPC Air Management staff as required by paragraph nine of the Consent Order. The ICC has recently hired a construction company to help resolve these issues and come into compliance with Consent Order and the EPC rules. EPC staff is requesting authority to take appropriate legal action to compel compliance with the Rules of the EPC, and the ability to settle any civil lawsuit.

**List of Attachments:** None





## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** Memorandum of Understanding with the City of Tampa regarding noise regulation enforcement

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

**Division:** Air Management Division

**Recommendation:** Informational Report Only

**Brief Summary:** The EPC staff, City of Tampa staff, and Tampa Police Department have developed a noise regulation Memorandum of Understanding (MOU) to replace an out-of-date version of the MOU from 2001. The MOU memorializes the division of duties between the EPC and City of Tampa to avoid overlapping enforcement in the City's Central Business District, the Ybor Historic District, and the Channel District and to defer to the Tampa Police Department to handle noise coming from within residences.

**Financial Impact:** No financial impact

**Background:** The City of Tampa and EPC entered into a Memorandum of Understanding for noise regulation matters on April 2, 2001. Since that time the City of Tampa noise regulation powers have shifted from City staff to the Tampa Police Department (TPD). Additionally, the EPC has amended its rule to exempt music and entertainment noise from the City's Central Business District, the Ybor Historic District, and the Channel District. Thus, the City and EPC have renegotiated the revised MOU and it will be executed by the Executive Director and Mayor in the next few weeks.

The revised MOU memorializes the division of duties between the EPC and City of Tampa to avoid overlapping enforcement in certain parts of the City. More specifically, the EPC will respond to noise complaints regarding stationary sources of outdoor noise, except for those activities or events specifically exempted by Chapter 1-10, within the City as follows: a) All noise complaints within the Central Business District, the Ybor City Historic District, and the Channel District that do not originate from musical or entertainment events, including but not limited to complaints regarding industrial, air conditioning equipment, and generator noise; and b) All noise complaints within the City outside the Central Business District, the Ybor City Historic District, and the Channel District, except for noise originating from within a residential structure or its appurtenances. The City will respond to noise complaints within the City as follows: a) All noise complaints that originate from musical or entertainment events within the Central Business District, the Ybor City Historic District, and the Channel District; and b) All noise complaints within the CITY that originate from within a residential structure or its appurtenances.

Thus, the City will handle entertainment noise in the three Districts, plus typical residential disturbances that require armed law enforcement to respond, as opposed to EPC staff. Additionally, the EPC will assist the TPD with technical matters and the TPD will assist the EPC with security matters, as need and as resources allow.

**List of Attachments:** City of Tampa and EPC Noise Regulation Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING**  
**Between the**  
**Environmental Protection Commission of Hillsborough County**  
**and the**  
**City of Tampa**

THIS MEMORANDUM OF UNDERSTANDING, hereinafter referred to as the "MOU," is made and entered into by and between the City of Tampa, a political subdivision of the State of Florida ("CITY"), located at 315 E. Kennedy Boulevard, Tampa, Florida 33602 and the Environmental Protection Commission of Hillsborough County ("EPC"), a political subdivision of the State of Florida, located at 3629 Queen Palm Drive, Tampa, Florida 33619.

WITNESSETH:

**WHEREAS**, it is the purpose and intent of this MOU and the parties hereto to permit and authorize the CITY and EPC to make the most efficient use of their respective powers, resources, authority and capabilities by enabling them to cooperate on the basis of mutual advantage and thereby provide the services and efforts provided for herein in the manner that will best utilize existing resources, powers and authority available to each of them and to avoid duplication of effort; and

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

**WHEREAS**, the City of Tampa is a municipal corporation organized and existing under the laws of the State of Florida; and

**WHEREAS**, Section 8(8) of EPC's Special Act 84-446, Laws of Florida as amended, authorizes the Executive Director to cooperate with appropriate public agencies; and

**WHEREAS**, EPC's activities include the regulation of noise pollution in Hillsborough County, including the municipality of Tampa, as follows: responding to complaints concerning excessive noise; inspecting potential sources of noise and conducting tests to determine compliance with environmental regulations; regularly enforcing the sound level limits of Chapter 1-10, Rules of the EPC; and providing information to citizens and businesses regarding EPC's noise rule; and

**WHEREAS**, the CITY also regulates noise within the jurisdictional boundaries of the City of Tampa in accordance with Section 14-151, City of Tampa Code of Ordinances, and has established both city-wide sound level limits and other specific sound level limits for the Central Business District, the Ybor City Historic District and the Channel District as each is delineated in Chapter 27, City of Tampa Code of Ordinances; and

**WHEREAS**, the EPC has exempted compliance with noise regulations, including the sound level limits, in Chapter 1-10, Rules of the EPC as it relates to noise pollution originating from entertainment or musical events in the Central Business District, the Ybor City Historic District and the Channel District as those districts are already regulated by the CITY; and

**WHEREAS**, the EPC and the CITY have determined that it is in the best interest of both parties to coordinate their responses to noise complaints within the CITY to facilitate the most efficient and effective use of resources to achieve a common goal;

**NOW, THEREFORE**, the CITY and EPC hereby agree as follows:

### **PART I: RESPONSIBILITIES**

1. The EPC will respond to noise complaints regarding stationary sources of outdoor noise, except for those activities or events specifically exempted by Chapter 1-10, within the CITY as follows:
  - a. All noise complaints within the Central Business District, the Ybor City Historic District, and the Channel District that do not originate from musical or entertainment events, including but not limited to complaints regarding industrial, air conditioning equipment, and generator noise.
  - b. All noise complaints within the CITY outside the Central Business District, the Ybor City Historic District, and the Channel District, except for noise originating from within a residential structure or its appurtenances.
2. The CITY will respond to noise complaints within the CITY as follows:
  - a. All noise complaints that originate from musical or entertainment events within the Central Business District, the Ybor City Historic District, and the Channel District.
  - b. All noise complaints within the CITY that originate from within a residential structure or its appurtenances.

### **PART II: COORDINATION OF EFFORT**

1. **The CITY contact** for purposes of coordinating noise complaint responses is the Executive Officer to the Chief of Police, Tampa Police Department at 813-276-3785.
2. **The EPC contact** for purposes of coordinating noise complaint responses is the Chief of Citizen Response and Asbestos, EPC Air Management Division at 813-627-2600, extension 1277.

3. Either party will update the other in the event the above information changes.
4. EPC staff will assist the CITY with noise-related, technical issues (e.g. -- monitoring standards, background noise, etc.) within its expertise and as time and resources allow.
5. The CITY will assist EPC staff with security during late-night monitoring events within the jurisdictional boundaries of the CITY, as the CITY's time and resources allow.

**PART III: GENERAL CONDITIONS**

1. EPC and CITY staff will review the implementation of this MOU on a regularly scheduled basis, annually at a minimum, to determine whether additional coordination might improve the effectiveness of the response to noise complaints within the CITY.
2. Either party may terminate its participation without cause upon 60 days' written notice to the other party.
3. Modifications to this MOU may be presented at any time and if mutually agreed upon, shall be placed in writing and executed by both parties.
4. This MOU shall rescind and replace the previous noise Memorandum of Agreement between the CITY and EPC dated April 2, 2001.

IN WITNESS WHEREOF, the CITY and EPC have caused this MOU to be executed as of the last date signed below.

CITY OF TAMPA, FLORIDA

ATTEST:

\_\_\_\_\_  
PAM IORIO, MAYOR

\_\_\_\_\_  
CITY CLERK

Date: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
ASSISTANT CITY ATTORNEY

ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY

\_\_\_\_\_  
Richard Garrity, Ph.D., Executive Director

Date: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
EPC Attorney

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** Clean Air Month

**Consent Agenda** \_\_\_\_\_ **Regular Agenda**  \_\_\_\_\_ **Public Hearing** \_\_\_\_\_

**Division:** Air Division

**Recommendation:** Read the Clean Air Month Proclamation and present copies to representatives from Hillsborough County Health Department and the Metropolitan Planning Organization (MPO)

**Brief Summary:** For the past 37 years, the EPC promoted May as Clean Air Month in Hillsborough County. With the Board's approval, the staff would like to continue with this annual tradition for 2009.

The proposed proclamation would be presented to representatives from Hillsborough County Health Dept. and the MPO. The theme for Clean Air Month will be "*Protecting the Air We Share... A New Standard to Live By*" to promote awareness of the importance of our air quality and of the health benefits of complying with the reduced levels of ambient ozone and lead. The MPO is instrumental in improving transportation for the County and improved public transportation is a key ingredient in reducing auto emissions that produce precursors to the formation of ozone. The County Health Department also shares a great interest in reducing both lead and ozone levels to improve the health of Hillsborough County citizen.

**Financial Impact:** No financial impact

**Background:** Each year EPC promotes May as Clean Air Month and requests the Board to read the Clean Air Month Proclamation and present copies to partnering organizations. During Clean Air Month, EPC promotes clean air education through a high school photo contest as well as a Clean Air Fair in downtown Tampa.

**List of Attachments:** None



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** Amicus Brief – US DOT, PHMSA v. Tampa Bay Pipeline Corporation

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

**Division:** Air Management Division

**Recommendation:** No EPC Board action is required.

This is an informational item only.

**Brief Summary:**

The EPC, in coordination with Hillsborough County Fire Rescue, submitted an amicus brief to the administrative hearing officer in the case of the Tampa Bay Pipeline Corporation (TBPC) v. US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA). The hearing is scheduled for April 21, 2009; EPC staff will be available to serve as witnesses for the federal agency, PHMSA, via telephone conferencing.

**Background:**

On May 7, 2008, PHMSA issued a Notice Of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (Notice) to Mr. Robert L. Rose, President of TBPC for violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The violations were uncovered as a result of PHMSA inspections on July 30 and August 2, 2007, and investigation of the November 12, 2007 incident.

On September 2, 2008, the TBPC appealed the Notice and requested an administrative hearing to dispute the probable violations and civil penalty (\$398,000) assessed.

The Executive Director of the EPC feels it is imperative to establish, on record, the context in which the TBPC operates and maintains the anhydrous ammonia pipeline in Hillsborough County. Due to a history of non-compliance with Chapter 84-446 (the EPC Act) and Chapters 1-1, 1-3, and 1-5, Rules of the EPC, the EPC submitted an amicus brief to the administrative hearing officer on April 2, 2009 in support of the federal compliance order. The brief documents the chronology of violations of the Act and Rules, and expresses EPC's concern for TBPC's operation of the pipeline, their lack of preventive maintenance and their inadequate response to numerous releases of anhydrous ammonia. In addition, the EPC offers recommendations to improve the operation and maintenance of the pipeline, TBPC's preparedness for emergencies, as well as providing additional safeguards to the citizens and environment of Hillsborough County.

**List of Attachments:** Amicus Brief





## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** Report on EPC Complaint Process

**Consent Agenda** \_\_\_\_\_ **Regular Agenda**  X  **Public Hearing** \_\_\_\_\_

**Division:** Executive Director

**Recommendation:** For information purposes only, no action required.

**Brief Summary:** It has been some time since staff has discussed the standard operating procedures of the EPC Complaint Response process with the Board. The Executive Director will introduce a discussion by staff which details the environmental complaint response policies currently in place at the EPC.

**Financial Impact:** No Financial Impact

**List of Attachments:** None

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** Hillsborough River Basin Management Action Plan (BMAP)

**Consent Agenda** \_\_\_\_\_ **Regular Agenda** XX **Public Hearing** \_\_\_\_\_

**Division:** Environmental Resources Management

**Recommendation:** Informational Report

**Brief Summary:** A Basin Management Action Plan (BMAP) has been developed for several segments of the Hillsborough River that have been designed as “impaired” due to bacterial contamination. The Basin Management Action Plan (BMAP) will need a resolution for adoption by the each of the entities of the Hillsborough River Basin Working Group.

**Financial Impact:** No Immediate Financial Impact resulting from this report

### **Background:**

Through the process of the Impaired Water Rule, 62-303 F.A.C., and via Secretarial Order, dated May 27, 2004, the Florida Department of Environmental Protection adopted the “Verified List of Impaired Waters for the Group 2 Basins”. As a consequence, several segments of the Hillsborough River have been identified as “impaired”; the rule broadly describes impaired waters as those not meeting applicable Water Quality Standards, 62-302 F.A.C.

Once a waterbody [or any segment thereof] has been designated and formally adopted as impaired, by rule, entities (both governmental and private) within the associated watershed basin must formulate specific actions, a Basin Management Action Plan (BMAP), to remediate conditions such that the waterbody will meet the applicable water quality standards.

The Hillsborough River Basin Management Action Plan (BMAP) was developed by the Hillsborough River Basin Working Group (BWG) and Technical Stakeholders (TS) in a process spanning multiple years. Both the EPC and Hillsborough County are designated as members of both the BWG and the TS. This BMAP addresses sections of waterbodies designated as waterbody identifications (WBIDs) in the Hillsborough River Basin impaired for fecal coliform bacteria (fecal coliform). It focuses on tracking and reducing fecal coliform discharges to streams verified as impaired

Hillsborough County Public Works is leading coordination with the Water Resource Services, Planning and Growth Management Department and EPC to prepare a presentation of the action required by the BOCC to endorse the Hillsborough River BMAP. The presentation is anticipated for the mid- May BOCC meeting

**List of Attachments:** Supporting documentation for this agenda item is lengthy. Rather than print copies and include them as attachments, internet links are provided.

FDEP Secretarial Order for the Adoption of the Verified List of Impaired Waters for the Group 2 Basins [May 27, 2004]: [http://www.dep.state.fl.us/water/tmdl/docs/Group2\\_Order.pdf](http://www.dep.state.fl.us/water/tmdl/docs/Group2_Order.pdf)

Final Adoptable Hillsborough River Basin Management Action Plan:

[ftp://ftp.dep.state.fl.us/pub/water/BMAP/Tampa\\_Bay\\_Tributaries/Fecal%20BMAP/BMAP%20Draft%20Hillsborough%20River%206-21-07B%20ftp%20version1.pdf](ftp://ftp.dep.state.fl.us/pub/water/BMAP/Tampa_Bay_Tributaries/Fecal%20BMAP/BMAP%20Draft%20Hillsborough%20River%206-21-07B%20ftp%20version1.pdf)



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** Processed Yard Trash Regulation Update and Action Plan

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

**Division:** Waste Management Division

**Recommendation:**

No staff recommendations. Provided to the Board for informational purposes only.

**Brief Summary:**

Staff is providing an informational update and a plan of action, moving forward, with regard to the EPC's continuing efforts to establish and clarify regulations applicable to the reuse of processed yard trash in Hillsborough.

**Background:**

Staff is reporting back to Board as requested on the regulation of the reuse and disposal of yard trash and processed yard trash in Hillsborough County and the EPC sponsored public workshop on March 5, 2009.

The workshop was utilized as a forum to explain how current regulations and policies are interpreted and applied in Hillsborough County and to provide an overview of possible future regulations and to discuss how those regulations may be applied and how they might impact yard trash recycling and reuse in Hillsborough County.

Staff is providing an informational update and a plan of action with regard to the EPC's continuing efforts to establish and clarify regulations applicable to the reuse of processed yard trash in Hillsborough.

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** April 16, 2009

**Subject:** 2009 Legislative Session – Environmental Update

**Consent Agenda** \_\_\_\_\_ **Regular Agenda:**  X  **Public Hearing** \_\_\_\_\_

**Division:** Legal Department

**Recommendation:** Informational Report Only

**Brief Summary:** The EPC staff is tracking numerous environmental and administrative bills during the current Legislative Session. The EPC General Counsel will provide a briefing on some of the environmental and administrative bills that could potentially impact the EPC.

**Financial Impact:** No financial impact

**Background:** The 2009 Florida Legislative Session began on Tuesday March 3, 2009, and will end on May 1, 2009. The Environmental Protection Commission (EPC) staff is tracking numerous environmental and administrative bills and various committee deliberations during the Legislative Session. Additionally, EPC staff is providing analysis and comments to the County's Public Affairs Office and the Florida Association of Counties staff. The EPC General Counsel will provide a briefing on some of the environmental and administrative bills that could potentially impact the EPC.

**List of Attachments:** April 8, 2009 Letter re: SB 1974

COMMISSION  
Kevin Beckner  
Rose V. Ferlita  
Ken Hagan  
Al Higginbotham  
Jim Norman  
Mark Sharpe  
Kevin White



Roger P. Stewart Center  
3629 Queen Palm Dr. - Tampa, FL 33619  
Ph: (813) 627-2600  
Fax Numbers (813):  
Admin. 627-2620 Waste 627-2640  
Legal 627-2602 Wetlands 627-2630  
Water 627-2670 ERM 627-2650  
Air 627-2660 Lab 272-5157

Executive Director  
Richard D. Garrity, Ph.D.

April 8, 2009

Senator Michael Bennett  
Senate Office Building  
404 S. Monroe Street, Room 306  
Tallahassee, FL 32399-1100

Subject: Senate Bill 1974 - Preemption of Local Regulation of Agricultural Activities

Dear Senator Bennett,

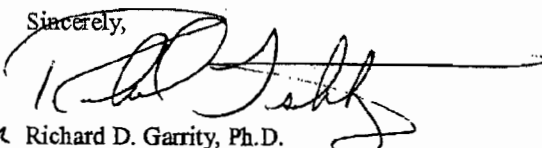
As Executive Director of the Environmental Protection Commission of Hillsborough County (EPC), a local pollution control program, I wish to express my concern over SB 1974. Except for wetland regulations adopted before January 1, 2009, this bill eliminates the existing authority of any County program statewide, including the EPC, to regulate the environmental impact of many agricultural activities. The bill retroactively nullifies county regulations that may have been in effect for over twenty-five years. Our staff typically receives complaints regarding the following activities, but would have no authority to respond if this legislation passes in its current form: animal feeding operations, stormwater runoff from farming, manure spreading operations, farm maintenance generated wastes, disposal of pesticide containers and springs protection.

The Federal Clean Water Act dictates much of what local governments are required to do, including the Total Maximum Daily Load (TMDL) program, which requires states to take certain actions to improve water quality. Local governments bear much of the responsibility in reducing non-point source pollution. We also face significant compliance and enforcement costs for failing to do so. Local governments must retain their ability to amend their Comprehensive Plans and Land Development codes to improve local water quality. Each time we are preempted from addressing particular water quality concerns, we find ourselves less able to meet state and federal TMDL requirements.

Locally, the EPC has an effective and fair regulatory approach and a good working relationship with the agricultural community. In fact, the EPC recently completed an extensive amendment to our wetland rule to provide various exemptions and general permits for many agriculture activities in wetlands. Future amendments such as this may be prohibited under this bill.

We urge you to ensure the EPC and other local environmental regulatory programs around the State are not stripped of vital jurisdiction to protect the unique environments in our counties. Thank you for your consideration of EPC's position and we look forward to working with you to improve this legislation and protect the spirit of home rule powers. Thank you for your continued support and if you have any questions, I can be reached at (813) 627-2600.

Sincerely,

  
for Richard D. Garrity, Ph.D.  
Executive Director, Environmental Protection Commission  
of Hillsborough County

cc: Environmental Protection Commission