

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
COUNTY CENTER 2ND FLOOR
JULY 16, 2009
9:00 AM**

**INVOCATION AND PLEDGE OF ALLEGIANCE
APPROVAL OF CHANGES TO THE AGENDA AND REMOVAL OF CONSENT
AGENDA ITEMS FOR DISCUSSION 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

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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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JUNE 18, 2009 - ENVIRONMENTAL PROTECTION COMMISSION – DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, June 18, 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 (arrived at 9:09 a.m.), Ken Hagan, Jim Norman, Mark Sharpe, and Kevin White.

Chairman Higginbotham called the meeting to order at 9:02 a.m., led in the pledge of allegiance to the flag, and gave the invocation.

CHANGES TO THE AGENDA

Commissioner Norman withheld Item III.F., request authority to take legal action against Ms. Kelly Wishau; complimented EPC on settling the case and reaching an agreement; and recommended EPC General Counsel Richard Tschantz meet with the Wishaus to work out the details and bring the item back at the end of the meeting. Chairman Higginbotham agreed. Dr. Richard Garrity, EPC Executive Director, moved the Environmental Resource Management Division items to the Consent Agenda; emphasized Item V.A., water quality/benthic data summary results of monitoring Tampa Bay Water (TBW) desalination plant, was good news and caused no impacts to the Apollo Beach embayment; and requested deferring Item VI.A, adopt Board policies and report on Executive Director policies, until the next EPC meeting. **Commissioner Norman moved the changes, seconded by Commissioner White, and carried six to zero.** (Commissioner Ferlita had not arrived.)

PUBLIC COMMENT

Ms. Vivian Bacca, 413 El Greco Drive, supported the EPC budget update request and asked the EPC to consider participating in the Sterling management system.

CONSENT AGENDA

- A. Approval of minutes: May 21, 2009.
- B. Monthly activity reports.
- C. Pollution Recovery Fund (PRF) report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summaries.
- F. Request authority to take appropriate legal action against Ms. Kelly Wishau. **Withheld for discussion.**
- G. Water quality and benthic data summary results of monitoring TBW desalination plant.
- H. Status report of Tampa Bay Nitrogen Management Consortium and the reasonable assurance document.

Chairman Higginbotham called for a motion to approve the Consent Agenda. **Commissioner Sharpe so moved, seconded by Commissioner Norman, and carried six to zero.** (Commissioner Ferlita had not arrived.)

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson – Mr. Jellerson reported the June 1, 2009, CEAC meeting included a review of past PRF projects and funding; mangrove trimming regulation updates; and the Tom Koulianos Citizens Conservation Efficiency Award, which staff requested to defer because there was no staff/budget allocation. **Commissioner Sharpe made that motion, seconded by Commissioner Hagan, and carried seven to zero.**

EXECUTIVE DIRECTOR

Budget Update and Response to the County Administrator Recommended Budget -Dr. Garrity discussed EPC priorities, management strategies, goals, objectives, staff reduction/productivity, regulatory/monitoring programs, public served, prior/current year reductions impact, previous EPC Board action, fiscal year (FY) 2010 and FY 2011 budget summary/revisions, being treated the same as the County, current/proposed organizational structure, FY 2010 additional cuts, and agencywide performance measures and outcomes. Staff recommended flagging the EPC Countywide General Fund to restore \$670,000 to the total budget for FY 2010 and \$739,628 for FY 2011.

Commissioner Sharpe flagged the request for the 14 percent reduction and asked EPC to participate in the Sterling management system to help with a charged mandate. Commissioner Ferlita seconded the flag. Dr. Garrity agreed and responded to queries from Commissioners Beckner and Norman regarding additional responsibilities with no pay increase and consolidating/streamlining legal departments. Commissioner Norman supported referring the request to the County Administrator to look at the facts, perceiving there could be more consolidation. Responding to Commissioner White, Dr. Garrity explained EPC had used the County Attorney's Office for personnel issues and had regulatory authority over the County and the municipalities. Attorney Tschantz recalled an audit response related to merging/separating legal departments and could provide information. Commissioner Hagan responded to Commissioner Beckner regarding identifying the dollar amount for flagged items. Commissioner Ferlita opined Dr. Garrity was providing a comparison of a reduction in equities/inequities. Chairman Higginbotham said the item would be addressed at the budget workshop.

CONSENT AGENDA ITEM WITHHELD FOR DISCUSSION/QUESTIONS

Request Authority to Take Appropriate Legal Action Against Ms. Kelly Wishau – Attorney Tschantz stated the parties were in agreement and working on a settlement and could report back by e-mail or at the next EPC meeting. Commissioner Norman recommended reporting back at the next EPC meeting on the settlement. Responding to Commissioner White, Attorney Tschantz said the settlement did not require action.

There being no further business, the meeting was adjourned at 9:47 a.m.

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

JUN TOTAL

A. Public Outreach/Education Assistance

1.	Phone calls	195	1,612
2.	Literature Distributed	-	150
3.	Presentations	-	11
4.	Media Contacts	2	24
5.	Internet	60	547
6.	Host/Sponsor Workshops, Meetings, Special Events	-	4

B. Industrial Air Pollution Permitting

1.	Permit Applications received (Counted by Number of Fees Received)		
	a. Operating	6	66
	b. Construction	22	72
	c. Amendments	-	-
	d. Transfers/Extensions	-	13
	e. General	-	-
	f. Title V	11	32
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ^1 (Counted by Number of Fees Collected) - ^2 Counted by Number of emission Units affected by the Review)		
	a. Operating ^1	7	69
	b. Construction ^1	9	93
	c. Amendments ^1	-	-
	d. Transfers/Extensions ^1	3	10
	e. Title V Operating ^2	9	67
	f. Permit Determinations ^2	-	10
	g. General	-	14
3.	Intent to Deny Permit Issued	-	-

C. Administrative Enforcement

1.	New cases received	-	10
2.	On-going administrative cases		
	a. Pending	8	8
	b. Active	9	9
	c. Legal	3	3
	d. Tracking compliance (Administrative)	14	14
	e. Inactive/Referred cases	-	-
	TOTAL	34	34
3.	NOIs issued	2	14
4.	Citations issued	-	1
5.	Consent Orders Signed	1	10
6.	Contributions to the Pollution Recovery Fund	\$ 376	\$ 26,807
7.	Cases Closed	1	14

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

JUN TOTAL

D. Inspections

1.	Industrial Facilities	18	149
2.	Air Toxics Facilities		
	a. Asbestos Emitters	-	-
	b. Area Sources (i.e. Drycleaners, Chrome Platers, etc.)	2	14
	c. Major Sources	3	45
3.	Asbestos Demolition/Renovation Projects	36	160

E. Open Burning Permits Issued

3	15
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F. Number of Division of Forestry Permits Monitored

450	1,791
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G. Total Citizen Complaints Received

69	488
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H. Total Citizen Complaints Closed

59	481
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I. Noise Sources Monitored

4	33
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J. Air Program's Input to Development Regional Impacts

4	17
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K. Test Reports Reviewed

64	590
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L. Compliance

1.	Warning Notices Issued	6	76
2.	Warning Notices Resolved	5	47
3.	Advisory Letters Issued	7	53

M. AOR's Reviewed

13	60
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N. Permits Reviewed for NESHAP Applicability

5	15
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O. Planning Documents coordinated for Agency Review

2	12
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**FY 09 - MONTHLY ACTIVITIES REPORT
WASTE MANAGEMENT DIVISION**

**FY TO
JUN DATE**

A. ENFORCEMENT

1.	New cases received	3	3
2.	On-going administrative cases	117	117
	Pending	8	8
	Active	37	37
	Legal	13	13
	Tracking Compliance (Administrative)	47	47
	Inactive/Referred Cases	12	12
3.	NOI's issued	1	9
4.	Citations issued	1	10
5.	Consent Orders and Settlement Letter Signed	-	13
6.	Civil Contributions to the Pollution Recover Fund (\$)	\$ 788	\$ 37,209
7.	Enforcement Costs Collected (\$)	\$ 113	\$ 14,154
8.	Cases Closed	3	15

B. SOLID AND HAZARDOUS WASTE

1.	FDEP Permits Received	3	10
2.	FDEP Permits Reviewed	-	6
3.	EPC Authorization for Facilities NOT Requiring DEP Permit	2	4
4.	Other Permits and Reports	2	
	County Permits Received	3	10
	County Permits Reviewed	3	11
	Reports Received	29	284
	Reports Reviewed	34	273
5.	Inspections (Total)	286	3,561
	Complaints	26	171
	Compliance/Reinspections	19	142
	Facility Compliance	30	237
	Small Quantity Generator	211	3,004
	P2 Audits	-	7
6.	Enforcement		
	Complaints Received	28	181
	Complaints Closed	24	160
	Warning Notices Issued	1	10
	Warning Notices Closed	1	21
	Compliance Letters	116	711
	Letters of Agreement	1	5
	Agency Referrals	2	6
7.	Pamphlets, Rules and Material Distributed	198	1,503

C. STORAGE TANK COMPLIANCE

1.	Inspections		
	Compliance	16	741
	Installation	14	110
	Closure	14	109
	Compliance Re-Inspections	37	175

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

	<u>JUN</u>	<u>FY TO DATE</u>
2. Installation Plans Received	16	84
3. Installation Plans Reviewed	17	86
4. Closure Plans & Reports		
Closure Plans Received	9	68
Closure Plans Reviewed	9	68
Closure Reports Received	7	66
Closure Reports Reviewed	10	83
5. Enforcement		
Non-Compliance Letters Issued	52	639
Warning Notices Issued	5	31
Warning Notices Closed	1	9
Cases Referred to Enforcement	3	8
Complaints Received	-	16
Complaints Investigated	-	14
Complaints Referred	-	1
6. Discharge Reporting Forms Received	5	28
7. Incident Notification Forms Received	15	135
8. Cleanup Notification Letters Issued	5	28
9. Public Assistance	-	-

D. STORAGE TANK CLEANUP

1. Inspections	30	335
2. Reports Received	113	1,057
3. Reports Reviewed	111	1,042
Site Assessment Received	8	93
Site Assessment Reviewed	6	85
Source Removal Received	2	26
Source Removal Reviewed	2	25
Remedial Action Plans (RAP'S) Received	10	94
Remedial Action Plans (RAP'S) Reviewed	11	91
Site Rehabilitation Completion Order/No Further Action Rec'd	5	43
Site Rehabilitation Completion Order/No Further Action Revw'd	5	47
Active Remediation/Monitoring Received	48	433
Active Remediation/Monitoring Reviewed	45	427
Others Received	40	368
Others Reviewed	42	368

E. RECORD REVIEWS

16	145
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F. LEGAL PIR'S

12	55
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G. PUBLIC INFORMATION PROJECTS

-	13
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**FY 09 - MONTHLY ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

**FY TO
JUN DATE**

A. ENFORCEMENT

1.	New Enforcement Cases Received	1	33
2.	Enforcement Cases Closed	5	33
3.	Enforcement Cases Outstanding	47	472
4.	Enforcement Documents Issued	7	53
5.	Recovered Costs to the General Fund	\$ 870	\$ 5,718
6.	Contributions to the Pollution Recovery Fund	\$ 6,633	\$ 66,279

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1.	Permit Applications Received	13	148
	a. Facility Permit	3	26
	(i) Types I and II	-	3
	(ii) Type III	3	23
	b. Collection Systems - General	7	59
	c. Collection systems-Dry Line/Wet Line	3	62
	d. Residuals Disposal	-	1
2.	Permit Applications Approved	17	145
	a. Facility Permit	5	19
	b. Collection Systems - General	7	59
	c. Collection systems-Dry Line/Wet Line	5	66
	d. Residuals Disposal	-	1
3.	Permit Applications Recommended for Disapproval	-	1
	a. Facility Permit	-	-
	b. Collection Systems - General	-	1
	c. Collection systems-Dry Line/Wet Line	-	-
	d. Residuals Disposal	-	-
4.	Permit Applications (Non-Delegated)	2	2
	a. Recommended for Approval	2	2
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	15	15
	b. Collection Systems - General	8	8
	c. Collection systems-Dry Line/Wet Line	10	10
	d. Residuals Disposal	-	-
7.	Permit Determination	3	22

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

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

C. INSPECTIONS - DOMESTIC

1. Compliance Evaluation	6	116
a. Inspection (CEI)	1	46
b. Sampling Inspection (CSI)	5	70
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance	69	472
a. Inspection (RI)	16	92
b. Sample Inspection (SRI)	-	5
c. Complaint Inspection (CRI)	52	369
d. Enforcement Inspection (ERI)	1	6
3. Engineering Inspections	33	290
a. Reconnaissance Inspection (RI)	2	11
b. Sample Reconnaissance Inspection (SRI)	-	-
c. Residual Site Inspection (RSI)	1	4
d. Preconstruction Inspection (PCI)	2	34
e. Post Construction Inspection (XCI)	28	241
f. On-site Engineering Evaluation	-	-
g. Enforcement Reconnaissance Inspection (ERI)	-	-

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received	5	21
a. Facility Permit	5	16
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	-
(iii) Type III w/o Groundwater Monitoring	5	16
b. General Permit	-	1
c. Preliminary Design Report	-	4
(i) Types I and II	-	-
(ii) Type III with Groundwater Monitoring	-	-
(iii) Type III w/o Groundwater Monitoring	-	4
2. Permits Recommended to DEP for Approval	-	-

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

	JUN	FY TO DATE
3. Special Project Reviews	1	14
a. Facility Permit	1	13
b. General Permit	-	1
4. Permitting Determination	-	-
5. Special Project Reviews	41	319
a. Phosphate	11	47
b. Industrial Wastewater	17	122
c. Others	13	150

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation (Total)	12	97
a. Inspection (CEI)	12	97
b. Sampling Inspection (CSI)	-	-
c. Toxics Sampling Inspection (XSI)	-	-
d. Performance Audit Inspection (PAI)	-	-
2. Reconnaissance (Total)	15	121
a. Inspection (RI)	4	55
b. Sample Inspection (SRI)	-	-
c. Complaint Inspection (CRI)	11	66
d. Enforcement Inspection (ERI)	-	-
3. Engineering Inspections (Total)	12	48
a. Compliance Evaluation (CEI)	12	46
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	50	511
a. Domestic	35	417
(i) Received	22	176
(ii) Closed	13	241
b. Industrial	15	94
(i) Received	10	49
(ii) Closed	5	45

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

	<u>JUN</u>	<u>FY TO DATE</u>
2. Warning Notices	16	144
a. Domestic	14	120
(i) Received	9	69
(ii) Closed	5	51
b. Industrial	2	24
(i) Received	-	16
(ii) Closed	2	8
3. Non-Compliance Advisory Letters	19	149
4. Environmental Compliance Reviews	163	1,523
a. Industrial	36	465
b. Domestic	127	1,058
5. Special Project Reviews	1	8

G. RECORD REVIEWS

1. Permitting Determination	5	43
2. Enforcement	1	6

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

1. Air division	54	506
2. Waste Division	-	-
3. Water Division	20	169
4. Wetlands Division	1	1
5. ERM Division	153	1,330
6. Biomonitoring Reports	9	51
7. Outside Agency	20	252

I. SPECIAL PROJECT REVIEWS

		64
1. DRIs	5	20
2. ARs	-	8
3. Technical Support	-	31
4. Other	-	5

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

**FY TO
JUN 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	88	826
Timeframes Met	100%	100%
Year to Date	99%	99%

Formal Wetland Delineation Surveys

Projects	14	103
Total Acres	309	1,504
Total Wetland Acres	29	263
# Isolated Wetlands < 1/2 Acre	7	33
Isolated Wetland Acreage	0.7	5.3

Construction Plans Approved

Projects	20	157
Total Wetland Acres	24	414
#Isolated Wetlands < 1/2 Acre	5	60
Isolated Wetland Acreage	1.01	13.2
Impacts Approved Acreage	0.52	4.85
Impacts Exempt Acreage	0.52	5.3

Mitigation Sites in Compliance

Ratio	197/204	197/204
Percentage	97%	97%

Compliance Actions

Acreage of Unauthorized Wetland Impacts	1.30	10.40
Acreage of Wtaer Quality Impacts	0.00	0.00
Acreage Restored	0.70	9.10

General

Telephone Conferences	699	5,384
Scheduled Meetings	205	1,642
Unscheduled Citizen Assistance	393	1,087

REVIEW TIMES

# of Reviews	224	2,313
% On Time	97%	98%
% Late	3%	2%

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

		<u>JUN</u>	<u>FY TO DATE</u>
A. General			
1.	Telephone conferences	699	5,814
2.	Unscheduled Citizen Assistance	393	1,132
3.	Scheduled Meetings	205	1,833
4.	Correspondence	1,614	5,502
1/ 5.	Intergency Coordination	41	141
1/ 6.	Trainings	35	76
1/ 7.	Public Outreach/Education		4
1/ 8.	Quality Control	12	40

B. Assessment Reviews

1.	Wetland Delineations	18	170
2.	Surveys	14	152
3.	Miscellaneous Activities in Wetland	45	248
4.	Mangrove	7	52
5.	Notice of Exemption	-	23
6.	Impact/Mitigation Proposal	16	153
7.	Tampa Port Authority Permit Applications	68	392
8.	Wastewater Treatment Plants (FDEP)	1	2
9.	Development Regn'l Impact (DRI) Annual Report	8	19
10.	On-Site Visits	106	894
11.	Phosphate Mining	7	24
12.	Comp Plan Amendment (CPA)	4	15
1/ 13.	AG SWM		4
	Sub-Total	294	2,148

Planning and Growth Management Review

14.	Land Alteration/Landscaping	2	16
15.	Land Excavation	-	4
16.	Rezoning Reviews	15	134
17.	Site Development	34	257
18.	Subdivision	15	139
19.	Wetland Setback Encroachment	3	38
20.	Easement/Access-Vacating	-	4
21.	Pre-Applications	5	169
1/ 22.	Agriculture Exemption	3	6
	Sub-Total	77	767
	Total Assessment Review Activities	371	2,915

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

**JUN FY TO
 DATE**

C. Investigation and Compliance

1.	Warning Notices Issued	13	80
2.	Warning Notices Closed	5	39
1/ 3.	Complaints Closed	30	101
4.	Complaint Inspections	41	367
5.	Return Compliance Inspections for Open Cases	26	271
6.	Mitigation Monitoring Reports	43	267
7.	Mitigation Compliance Inspections	37	219
8.	Erosion Control Inspections	20	219
9.	MAIW Compliance Site Inspections	24	161
10.	TPA Compliance Site Inspections	5	22
2/ 11.	Mangrove Compliance Site Inspections	-	-
1/ 12.	Conservation Easement Inspection	3	4

D. Enforcement

1.	Active Cases	17	17
2.	Legal Cases	-	-
3.	Number of "Notice of Intent to Initiate Enforcement"	-	11
4.	Number of Citations Issued	1	2
5.	Number of Consent Orders Signed	2	28
6.	Administrative - Civil Cases Closed	2	34
7.	Cases Referred to Legal Department	-	3
8.	Contributions to Pollution Recovery	\$ 8,450	\$ 94,971
9.	Enforcement Costs Collected	\$ 2,147	\$ 11,419

E. Ombudsman

1.	Agriculture	4	29
2.	Permitting Process & Rule Assistance	2	9
3.	Staff Assistance	-	82
4.	Citizen Assistance	2	8

1/ Reported activity beginning with April 2009.

2/ Reported activity beginning with May 2009.

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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 06/30/09**

	<u>As of 6/30/09</u>
Beginning Fund Balance, 10/01/08	\$ 908,910
Interest Accrued	45,886
Deposits	226,562
Disbursements	(174,460)
Intrafund Budget Transfers to Project Fund	(443,301)
Intrafund Budget Transfers from Project Fund	34,233
Pollution Recovery Fund Balance	<u>\$ 597,830</u>
Encumbrances:	
Pollution Prevention/Waste Reduction (101)	\$ 2,263
Artificial Reef Program	64,363
PRF Project Outreach	44,526
PRF Project Monitoring	10,577
Total Encumbrances	<u>\$ 121,729</u>
Minimum Balance (Reserves)	\$ 120,000
Balance Available 06/30/09	<u><u>\$ 356,101</u></u>

PROJECT FUND

	<u>Project Amount</u>	<u>Project Balance</u>
Open Projects		
FY 06 Projects		
COT Parks Dept/Cypress Point (97)	\$ 100,000	\$ 100,000
Bahia Beach Restoration (contract 04-03)	150,000	55,657
Field Measurement for Wave Energy	125,000	9,884
Port of Tampa Stormwater Improvement	45,000	45,000
	<u>\$ 450,000</u>	<u>\$ 210,541</u>
FY 07 Projects		
Tank Removal	\$ 25,000	\$ 1,570
Agriculture Best Management Practice Impl	150,000	100,857
Lake Thonotosassa Assessment	75,000	75,000
Natures Classroom Cap, PH III	188,000	188,000
Pollution Monitoring Appl Pilot Project	45,150	6,773
Seagrass & Longshore Bar Recovery	75,000	30
Seawall Removal Cotanchobee Ft Brooke Park	100,000	100,000
Knights Preserve	35,235	-
Oyster Reef Shore/Stub & Enhance	30,000	35
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>\$ 557,618</u>
FY 08 Projects		
Australian Pine Removal E.G. Simmons Park	\$ 80,000	\$ 80,000
Restoration of MOSI	125,000	65,208
Invasive Plant Removal Egmont Key	133,000	12,415
Lake Magdalene Special Disposition District	66,954	27,330
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>\$ 300,064</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 06/30/09**

Fund Balance as of 10/1/08	\$ 241,187
Interest Accrued	4,948
Disbursements FY 09	-
Fund Balance	<u>\$ 246,135</u>
Encumbrances Against Fund Balance:	
SP634 Cockroach Bay ELAPP Restoration	246,135
Total Encumbrances	<u>\$ 246,135</u>
Fund Balance Available 06/30/09	<u><u>\$ -</u></u>

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

APRIL - JUNE 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
No ID	2 SURVEY CARDS - TOTAL POINTS	8.0	8.0	7.0	6.0	6.0	6.0	7.0
	AVERAGE	4.0	4.0	3.5	3.0	3.0	3.0	3.5
	Comments: <i>I was looking for an overall organization chart showing each division/section in the EPC. A list of EPC employees, their section, the title and contact information. No information found except for the upper levels of the organization (Board, directors).</i>							
Waste	5 SURVEY CARDS - TOTAL POINTS	25.0	25.0	25.0	25.0	20.0	20.0	25.0
	AVERAGE	5.0	5.0	5.0	5.0	5.0	5.0	5.0
	Comments: <i>Mary Jo Howell was awesome. Accomodating as anyone could be. Thanks MJ They are always very helpful and polite.</i>							
Water	3 SURVEY CARDS - TOTAL POINTS	10.0	10.0	8.0	10.0	10.0	10.0	10.0
	AVERAGE	5.0	5.0	4.0	5.0	5.0	5.0	5.0
	Comments: <i>Jeff Sklut was knowledgeable, informative, prompt and able to clearly explain how my communities sewer plant is supposed to operate. I am going to suggest that the Board of Directors of our condo association request him to attend a meeting of the Board as a guest speaking.</i>							
	<i>Just wanted to follow up with you so that I could personally thank you for signing off so quickly on the above permit. I also wanted to let you know that your staff (Kim Barlow and Lora Woodard in particular) did a grat job expediting their review and getting this through to the finish line and that their efforts helped me and my client immensely. I hope that you let them know my feelings and that they did a great job. Thanks again.</i>							
	<i>Jeff Sklut was very helpful. He called me for additional information about the complaint I filed and then promptly visited the site in question and then gave me a follow-up call all within about 1.5 hours. This is impressive local service. Thanks.</i>							
Wetlands	2 SURVEY CARDS - TOTAL POINTS	10.0	10.0	10.0	10.0	10.0	10.0	10.0
	AVERAGE	5.0	5.0	5.0	5.0	5.0	5.0	5.0
	Comments: <i>What a wonderful place! Kim Tapley was so nice. Kim Tapley and Kelly Holland are excellent representatives of the Wetland Division.</i>							
12 CARDS	TOTAL EPC AVERAGE	4.8	4.8	4.5	4.6	4.6	4.6	4.7

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: July 16, 2009

Subject: Legal Case Summary for July 2009

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

Division: Legal Department

Recommendation: None, informational update.

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

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

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

List of Attachments: July 2009 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
July 2009

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [5]

Florida Gas Transmission Co., LLC [LEPC08-029]: On October 31, 2008 Florida Gas Transmission Company, LLC filed an application for an order granting a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline and compression facilities and to acquire pipeline facilities. On November 13, 2008 the EPC Board granted the Legal Dept. authority to intervene in the FERC certification process to protect the interests of Hillsborough County's environment. The EPC filed its motion to intervene on November 26, 2008. A draft Environmental Impact Statement was issued by FERC and the EPC provided comments on the draft in early June 2009. (RT/RM).

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

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

Evelyn Romano [LEPC09-005]: On March 7, 2009 the Appellant filed a request for an extension of time to file a Notice of Appeal to challenge a wetland impact approval and mitigation agreement. The Legal Department granted the request and the Appellant has until April 30, 2009 to file an appeal in this matter. On April 27, 2009 the Appellant filed a Notice of Appeal and the matter has been transferred to a Hearing Officer to conduct an administrative hearing. (AZ)

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

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES [0]

EXISTING CIVIL CASES [17]

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. One February 18, 2009 the EPC filed a Complaint in Circuit Court for civil penalties and injunctive relief. Due to lack of response the Clerk's office entered a default against Robilotta on May 7, 2009. (RM)

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

Realty Group, LLC., SRJ Enterprises, LLC and Surinder Joshi [LEPC08-028]: On November 13, 2008, the EPC Board granted authority to take legal action against the Defendants for unresolved violations of several EPC Rules including the Waste Management Rule, Chapter 1-7, the Storage Tank Rule, Chapter 1-12, and the Water Quality Rule, Chapter 1-5 at the 301 Truck Stop. On April 23, 2009, the EPC Legal Department filed a lawsuit seeking all corrective actions as well as assessment of civil penalties and costs in the matter. The parties are in negotiations concerning a settlement of the 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. On May 6, 2009, The EPC Legal Department filed a lawsuit seeking an injunction and recovery of penalties and costs for failure to assess the petroleum contamination. (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. The parties have agreed to a settlement for payment and the case should be closed soon. (AZ)

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 and a lawsuit will be filed. (RM)

Hindu Religious Center, Inc. [LEPC09-008]: On April 16, 2009 the EPC Board granted authority to take legal action against the Respondent for violations of the EPC Act and Chapter 1-10, Rules of the EPC (Noise Pollution). In September 2008 Respondent and EPC staff entered into a Consent Order to address the violations. Respondent has failed to comply with the corrective measures contained therein and, as a result, continues to violate the EPC noise standards. The Center has begun to modify the facility in an effort to comply with the Consent Order and EPC will evaluate the recent upgrades. The lawsuit will not be filed if the remedies are effective. (RM)

U.S. Bankruptcy Court in re Jerry A. Lewis [LEPC09-011]: On May 1, 2009 the U.S. Bankruptcy Court Middle District of Florida filed a Notice of Chapter 13 Bankruptcy Case regarding Jerry A. Lewis. On May 26, 2009, the EPC filed a Proof of Claim with the Court. The EPC's basis for the claim is a recorded judgment lien awarded in Civil Court against Mr. Lewis concerning unauthorized disposal of solid waste. (AZ)

RECENTLY RESOLVED CIVIL CASES [1]

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)

C. OTHER OPEN CASES [6]

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)

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 subsequent requests for extension through August 27, 2009. (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 and the parties are negotiating. (RM)

OneSteel [LEPC09-010]: On April 30, 2009 the Petitioner (OneSteel) filed a request for an extension of time to file a Petition for Administrative Hearing to challenge a draft Air Construction Permit. The request was granted and the Petitioner has until July 14, 2009 to file a petition for administrative hearing. (RM)

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

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: July 16, 2009

Subject: Settlement concerning EPC CASE #2007-2828E - Ms. Kelly Wishau

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

Division: Wetlands Management Division

Recommendation: Informational.

Brief Summary: Ms. Wishau owns real property located at 3604 Cork Road, Plant City, Florida. Within the property are jurisdictional wetlands. Ms. Wishau had unauthorized wetland impacts on her property, including dredging, filling, disking, and clearing in wetlands. The EPC staff was preparing to bring this case to the June 2009 regular EPC board meeting to request authority to file suit; however, the parties settled the case and the matter has been resolved.

Background: On May 13, 2005, Ms. Wishau entered into a Settlement Letter with the EPC in resolution of unauthorized wetland impacts on her property. On January 24, 2007, EPC staff issued Warning Notice #2007-2828E for unauthorized fill placement in wetlands. On May 3, and November 14, 2007 additional unauthorized wetland impacts were observed including pond excavation, fill placement, and tree clearing with associated debris placed in wetlands. On February 21st and 28th, 2008, EPC staff observed additional tree clearing within the wetlands. On April 28, 2008, a Citation of Violation and Order to Correct (Citation) was issued to Ms. Wishau for the referenced wetland violations. The Citation was not been timely appealed and became a final order by operation of law. On April 28, 2009, EPC staff observed additional unauthorized dredging and soil deposition in wetlands on the property. The EPC staff was preparing to bring this case to the June 2009 regular EPC board meeting to request authority to take appropriate civil action to compel compliance. During the June board meeting, Ms. Wishau agreed to the EPC terms for settlement and a written agreement was reached to resolve the Citation and the violations.

List of Attachments: Settlement Document

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

**ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH COUNTY,**

Complainant,

vs.

EPC CASE #2007-2828E

KELLY WISHAU,

Respondent.

CONSENT AGREEMENT

This Consent Agreement is made and entered into between the Environmental Protection Commission of Hillsborough County (EPC) and Kelly Wishau (Respondent) in resolution of the above case pursuant to Chapter 84-446, as amended, Laws of Florida (EPC Act), and interagency agreement with the Florida Department of Environmental Protection (FDEP).

EPC finds, however, Respondent denies, the following:

1. EPC has jurisdiction over the matters addressed in this Consent Agreement (Agreement).
2. Respondent is a person within the meaning of the EPC Act. The Respondent is subject to the prohibitions of the EPC Act. Respondent owns property and is responsible for wetland impacts located at 3604 Cork Road, folio number 081190.0200, Section 14, Township 28, Range 21 (Property), Plant City in Hillsborough County.
3. On May 13, 2005, Respondent entered into a Settlement Letter with the EPC in resolution of previous unauthorized wetland impacts at the Property.
4. Within the Property are jurisdictional wetlands as defined by Section 1-11.04, Rules of the EPC, adopting the statewide uniform methodology for delineating wetlands in Section 62-340, Florida Administrative Code.
5. On January 24, 2007, the EPC staff conducted an inspection at the Property in response to a complaint and observed additional fill had been placed within jurisdictional wetlands on the north side of the Property in violation of Section 1-11.05, Rules of the EPC. On March 14, 2007, the EPC staff issued Warning Notice #2007-2828E to Respondent for these impacts.

6. On May 3, 2007, EPC staff met Respondent on-site to conduct an inspection of the area to the north and observed a jurisdictional wetland area (a pond) that had been recently excavated. Another wetland area to the east was also observed that had been disked. Then on November 14, 2007, EPC staff conducted an investigation in response to a citizen complaint and observed recent excavation and spoil deposition on the north side of the Property within jurisdictional wetlands. The excavated wetland area appeared to be approximately 5,000 square feet in size. The fill had been stock piled south of the excavated area. Staff also observed a recently cleared area of approximately 4,500 square feet on the south property line with a tree debris pile in a wetland area.
7. On February 21 and 28, 2008, EPC staff conducted a compliance inspection and observed numerous piles of trees that appeared to have been recently cleared (pushed over) and stockpiled within the wetland areas on the Property.
8. On April 28, 2008, EPC Executive Director issued a Citation to Cease and Order to Correct Violation (Citation) to Respondent by certified mail for the unauthorized wetland impacts. No appeal challenging the Citation was filed.
9. On April 28, 2009, EPC staff conducted an inspection and observed dredging and soil deposition in wetlands. On May 6, 2009, EPC staff issued Warning Notice 2009-0151E to Respondent for the wetland violations. On May 13, 2009, EPC staff field quantified the extent of the wetland violations as shown in the documents attached hereto as Exhibit B. In addition, the soil deposition will ultimately kill the wetland trees and ultimately cause clearing within the wetland.
10. None of the above referenced wetland impacts were authorized by the EPC Executive Director. The wetland violations referenced above are depicted in the photographs and sketches attached hereto as Exhibits A & B.
11. The above activities constitute violations of the EPC Act and rules promulgated thereunder, including Chapter 1-11, Rules of the EPC. Pursuant to Chapter 1-11.05, Rules of the EPC, development within wetlands of Hillsborough County which destroys, reduces or impairs the wetland or which contributes to the present or potential future destruction, reduction or impairment of the environmental benefits provided by the wetland or a portion thereof constitutes pollution as defined by Chapter 84-446, Laws of Florida, as amended, and are prohibited except to the extent as may be specifically authorized in writing by the EPC Executive Director. In addition, pursuant to Section 17 of the EPC Act, it is unlawful for any person to fail to comply with the rules and standards adopted by the EPC.

THEREFORE, having worked to resolve these matters, Respondent and the EPC mutually agree and it is **ORDERED**:

12. Respondent shall cease any activities constituting development in wetlands (as defined by Rule 1-11.02, Rules of the EPC, including but not limited to clearing [live tree and other live vegetation removal], disking, filling, dredging, or other manmade change to the property) that destroys, reduces or impairs the wetland or the environmental benefits provided by the wetland, unless specifically authorized in writing by EPC's Executive Director. Ditch and pond maintenance on the Property should not lower the originally constructed ditch bottom elevation or increase the originally constructed cross-sectional area.
13. Within 120 days of the effective date of this agreement, Respondent shall remove all unauthorized fill from the wetlands and return the impacted areas to natural grade. The unauthorized fill is identified as "unauthorized fill area," "excavated area" and "site of recent excavation and spoil deposition" in the sketches and photographs attached hereto as Exhibits A & B. All restored areas must be allowed to re-vegetate. Respondent shall remove additional historic fill piles adjacent to the ditch.
14. Respondent shall, within 150 days of the effective date of this agreement, submit to the EPC Executive Director the amount of **\$4,500.00** as an appropriate settlement. Payment shall be by check or money order payable to the "Hillsborough County Pollution Recovery Fund" and shall reference the effective date of this Order and the case number above. Payment shall be sent to the Environmental Protection Commission, 3629 Queen Palm Drive, Tampa, Florida 33619. **However, if Respondent timely complies with all conditions and corrective actions in paragraphs 12 and 13, the EPC will waive this requirement for payment.**
15. This agreement is intended to supersede and replace the previous Citation entered against Respondent on April 25, 2008 and will become final agency action on this matter.
16. Extension of Deadlines
 - a. Upon proof that any delay, resulting in a deadline not being met was due to circumstances beyond Respondent's control, the Executive Director shall extend the compliance deadlines of this agreement based upon the following:
 - b. Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent's and could not have been and cannot be overcome by Respondent's due diligence. Economic circumstances alone shall not be considered circumstances beyond the control of Respondent's, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines, be considered beyond the control of Respondent, unless the cause of the contractor's late

performance was also beyond the contractor's control.

c. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the EPC orally within 24 hours or by the next working day. Respondent also shall, within seven calendar days of oral notification to the EPC, provide EPC with written notification of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which Respondent intend to implement these measures.

d. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall be in writing and shall adopt all reasonable measures necessary to avoid or minimize delay.

e. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this agreement.

17. EPC, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this agreement, hereby waives its right to seek judicial imposition of damages or civil penalties for the incidents described in this agreement. Respondent waives her right to a hearing or judicial review of the terms of this agreement, except to the extent of proving compliance with this agreement.
18. Respondent shall, within thirty days of execution of this document, record this document in the Hillsborough County public records. Recording costs shall be paid by Respondent.
19. Entry into this agreement does not relieve Respondent of the need to comply with applicable federal, state, and local laws, regulations, and ordinances. The entry of this agreement does not abrogate the rights of substantially affected persons who are not parties to this agreement.
20. The EPC hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violations of applicable statutes or the rules promulgated thereunder. Nothing herein shall be construed to limit the authority of the EPC to undertake any action against Respondent in response to, or to recover the cost of responding to, conditions at or from the site requiring EPC action to abate an imminent hazard to the public health, welfare or the environment.
21. The provisions of this agreement shall apply to and be binding upon the parties and their successors and assigns as a final order of the EPC. The terms and conditions set forth in this agreement may be enforced in a court of competent

jurisdiction. Failure to comply with the terms of this agreement shall constitute a violation of Chapter 84-446, as amended, Laws of Florida.

22. Respondent is fully aware that violation of the terms of this agreement may subject it to judicial imposition of damages, civil penalties of up to \$5,000 per offense per day, criminal penalties and costs and expenses incurred in litigating this matter.
23. Respondent shall allow all authorized representatives of the EPC access to the property at reasonable times and upon reasonable notice for the purpose of determining compliance with the terms of this agreement and the applicable rules and statutes.
24. No modifications of the terms of this agreement shall be effective until reduced to writing and executed by both Respondent and EPC.
25. This agreement shall take effect upon the date of execution by the EPC Executive Director and shall constitute final agency action by the EPC.
26. The parties to the agreement have read the foregoing, understand its terms and agree to be bound thereto.
27. All parties agree to pay their own fees and costs, including attorney's fees and costs, incurred up to the date of execution of this agreement, but for any provided for in this agreement.

RESPONDENT: KELLY WISHAU

Date: 6/18/09

Signature: Kelly L. Wishau

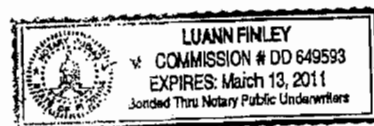
Print: Kelly L. Wishau

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF Hillsborough

Before me this 18th day of June, 2009, appeared (name) Kelly L. Wishau
who is personally known to me or who produced FL Driver's License as
identification and who acknowledged to me under oath to be the person who signed the foregoing
Affidavit.

NOTARY PUBLIC:
Signature: Luann Finley
Print: _____
My Commission Expires: _____

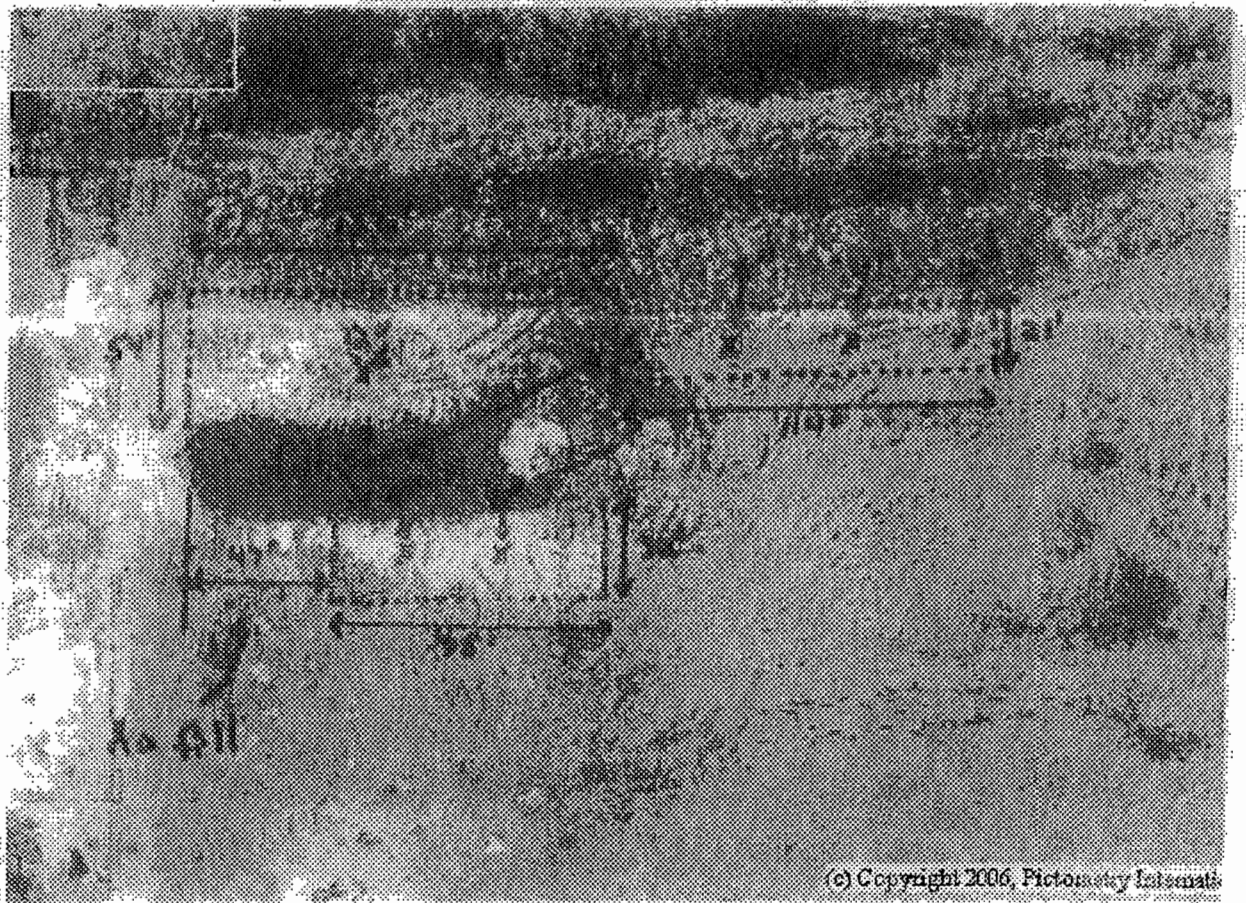


DONE AND ORDERED this 18 day of June,
2009 in Tampa, Florida.

For the Environmental Protection
Commission of Hillsborough County

[Signature]
Richard D. Garrity, Ph.D., Executive Director
3629 Queen Palm Dr.
Tampa, FL 33619

27



Distance: 0 Feet

FileName: FLHILL013046NeighObliq7941_06

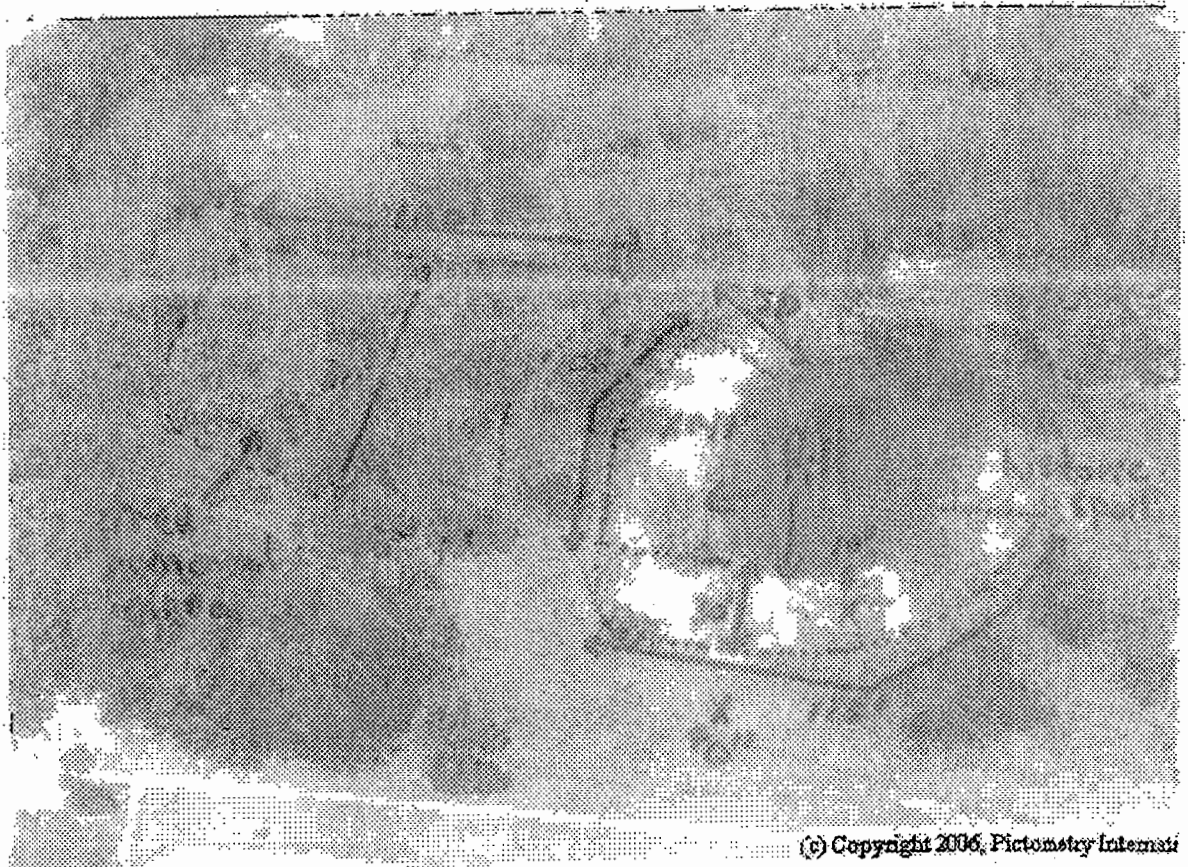
* - soil sample sites where fill was found
 fill depths are shown in inches

R. Owens
 11/5/08

Exhibit A - 1 of 3



N↓



(c) Copyright 2006, Pictometry Internati

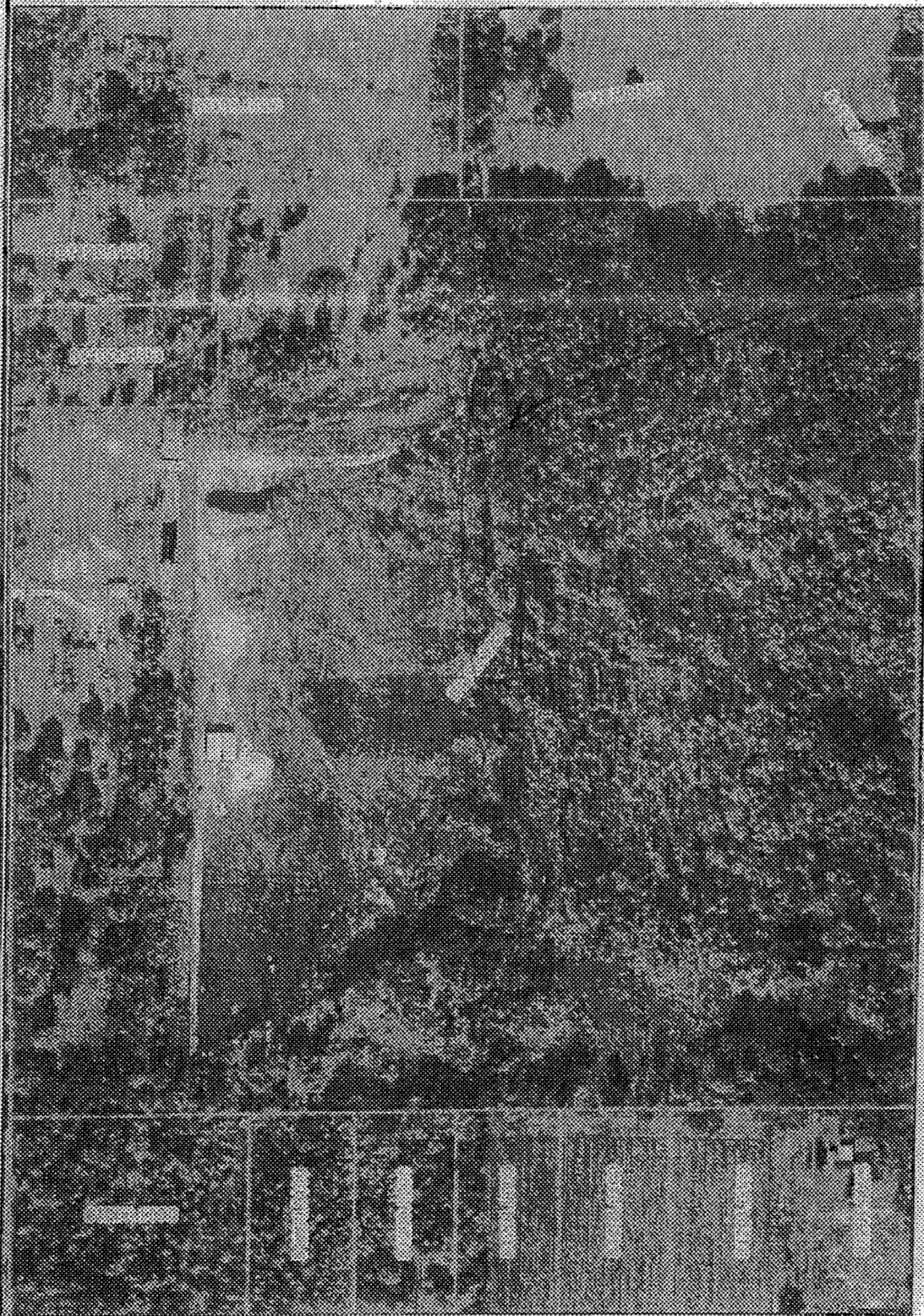
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* - soil sample sites where fill was found
fill depths are shown in inches

EXHIBIT B

WETLANDS MANAGEMENT DIVISION



site of
recent
excavation
and spoil
deposition
noted on
5/12/09

Legend

- Parcels
- 2008_MOSAIC_NC_0.5ft_HC.r
- RGB
- Red: Band 1
- Green: Band 2
- Blue: Band 3



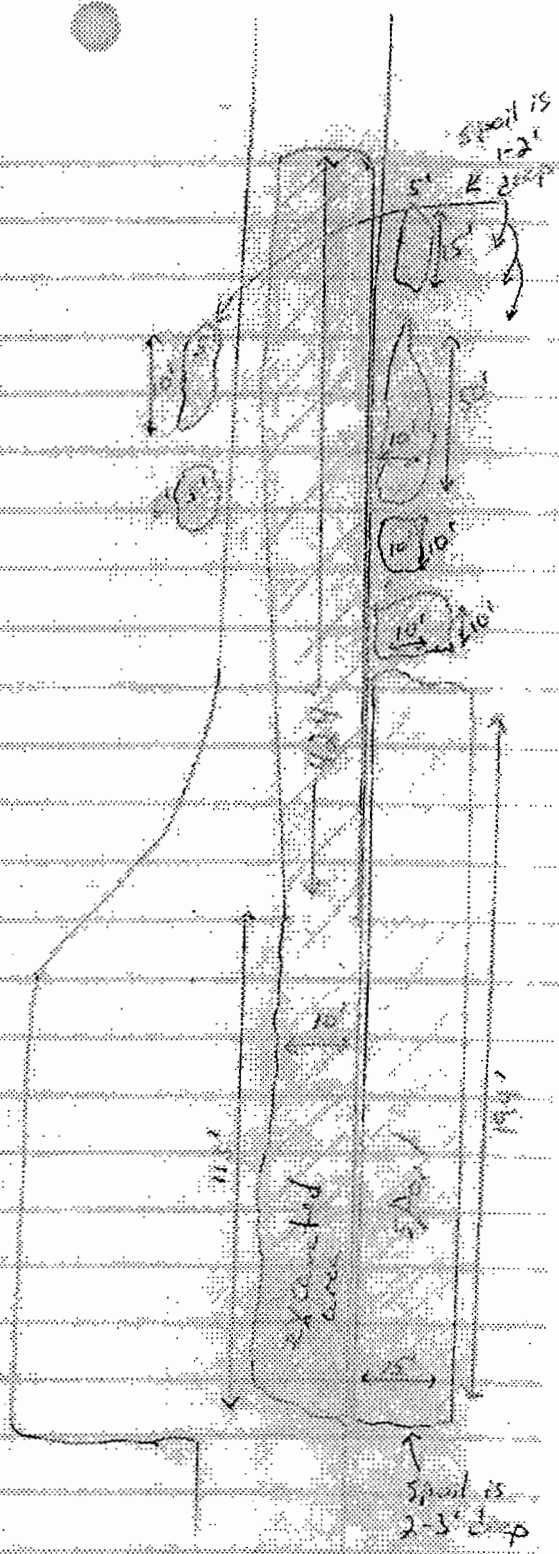
SITE INFORMATION & NOTES:

EXHIBIT
B

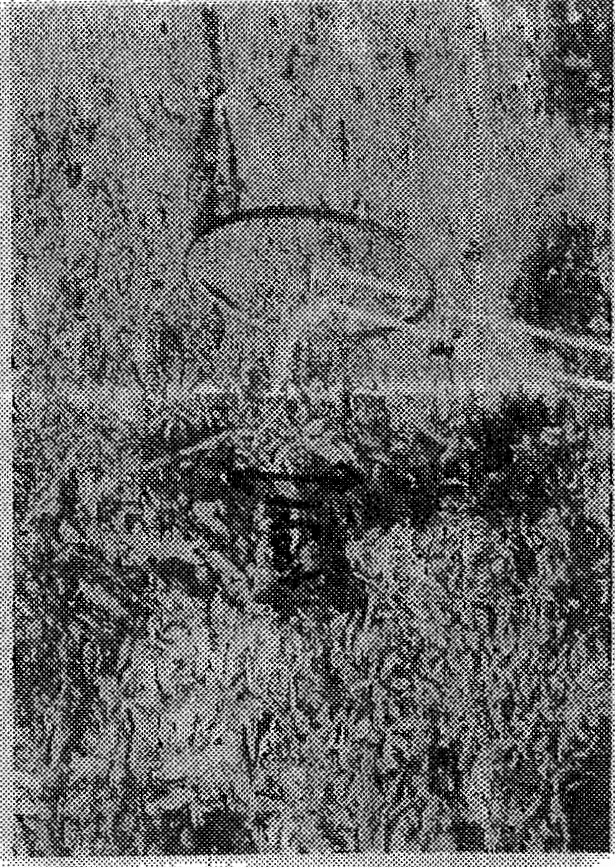
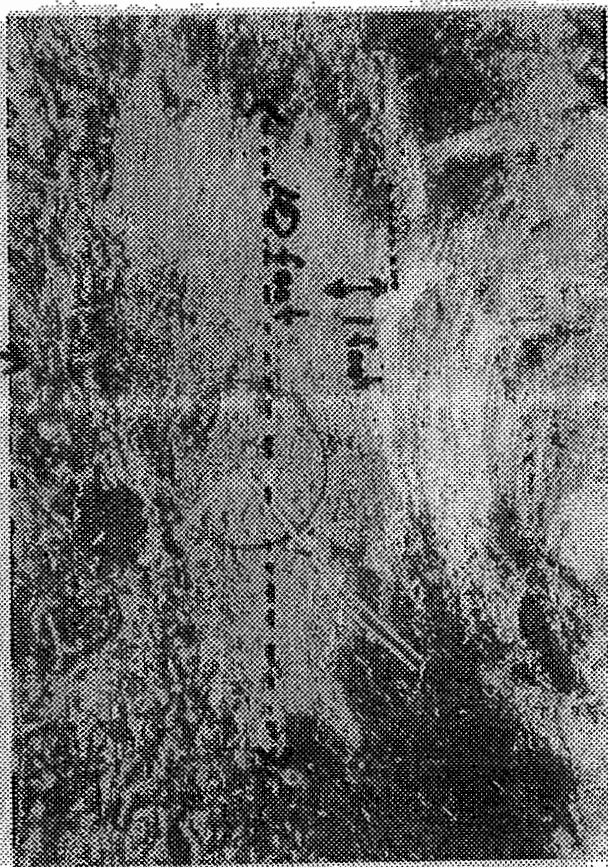


NT

Rowens
5/13/67
no scale



North end of excavation



Spill area
↓



Spill area





Scrambled



S10



Scrambled



excavated area



Spill

excavated area

excavated area



Spill



Spill

2 Curves 5/13/07



Spill point



Spill

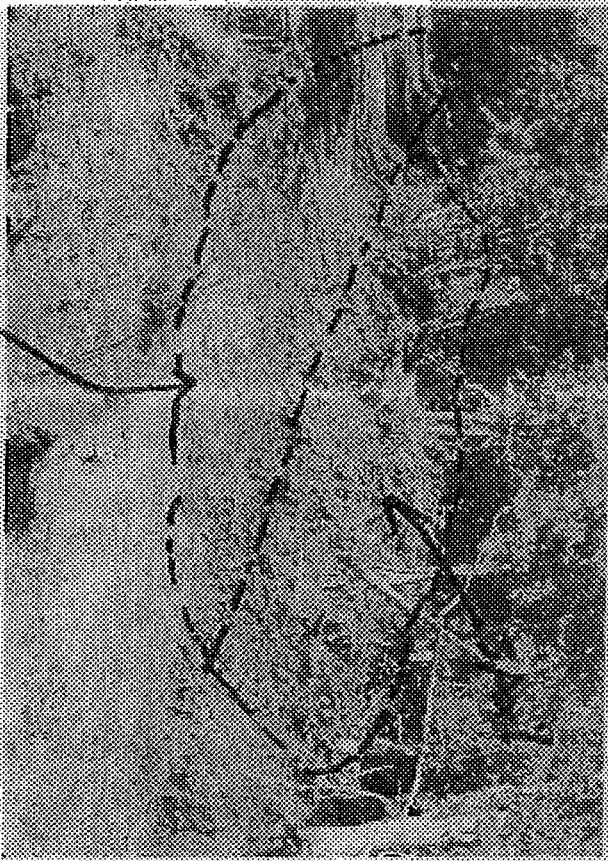
cracks
area



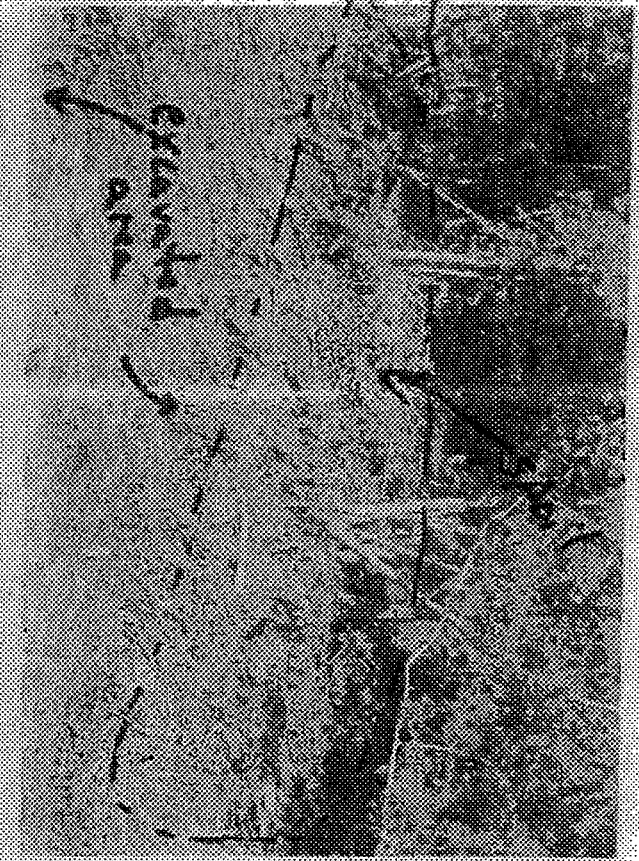
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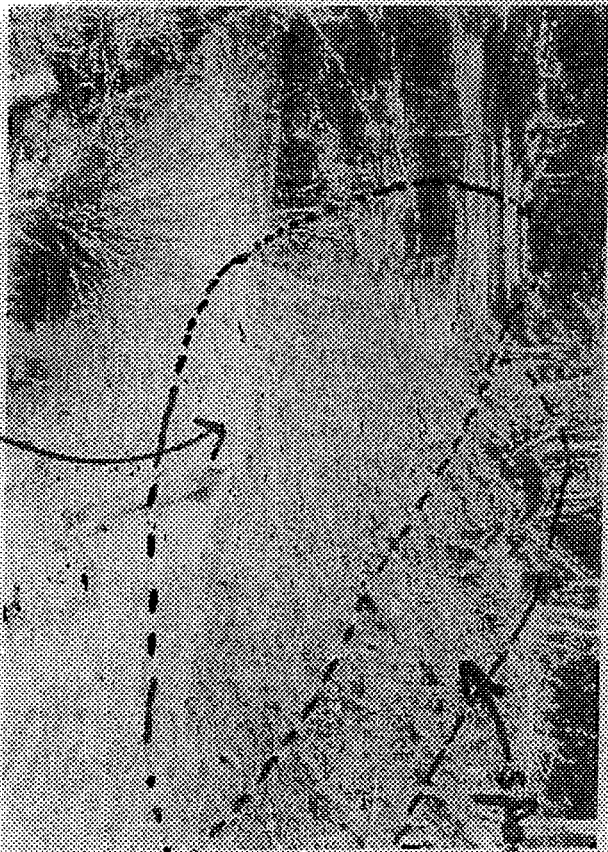
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area



excavated area

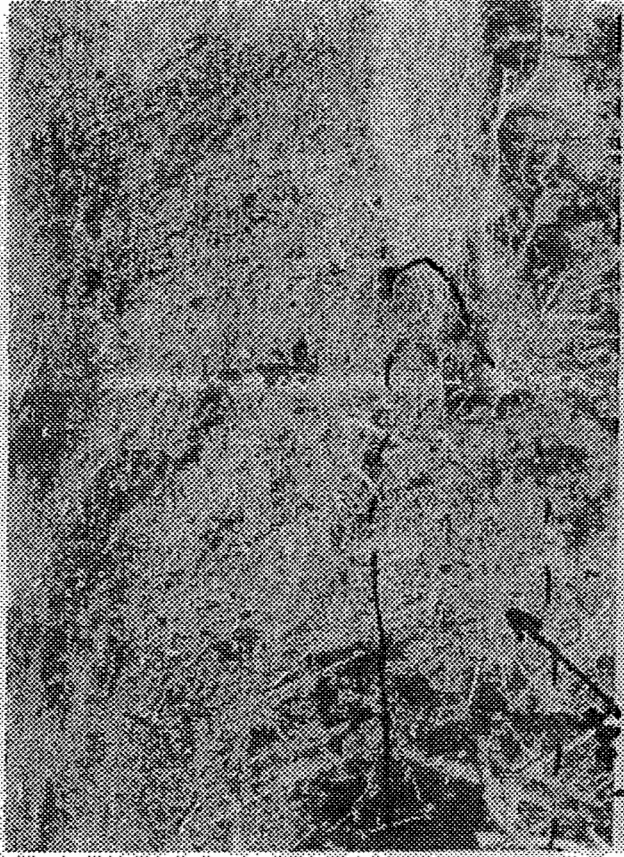


excavated area

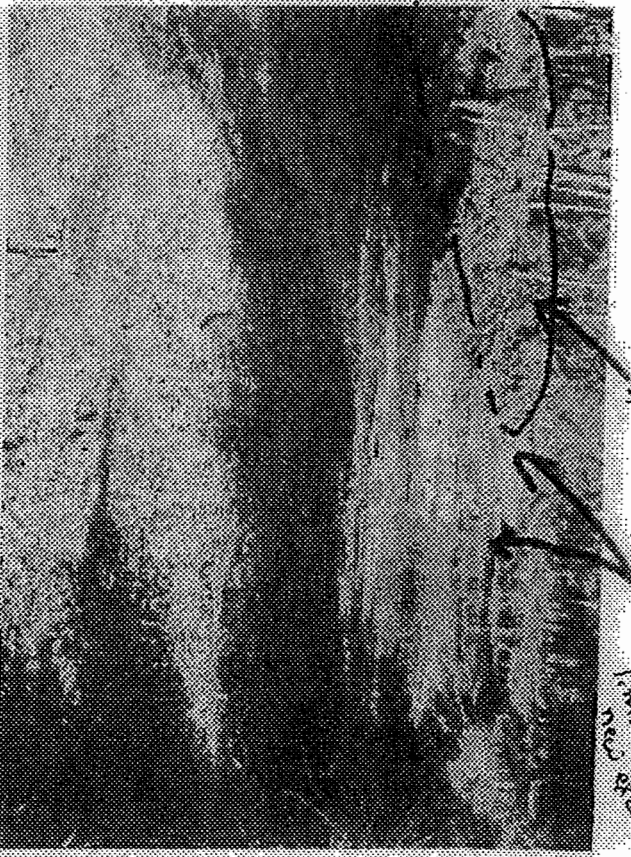


excavated area





Spot 1



Spot 1

scattered
limonite
oxidation

60/15/15 5/13/09

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: July 16, 2009

Subject: Response to Questions During Budget Discussion

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

Division: Executive Director

Recommendation: Informational

Brief Summary: During the June 18, 2009 regular EPC meeting and the BOCC workshop there were discussions concerning three EPC budget areas: (1) the status of the Water Resource Team budget; (2) feasibility of consolidating portions of the EPC Legal Department with the County Attorney's Office; and (3) report of EPC delegated programs.

Background: The EPC staff was requested to provide an informational report on three budget areas. (1) The first issue is a report on the status of the Water Resource Team in the EPC and the status of the funds budgeted to that activity. A report on this subject is attached. (2) The second issue is a report on the feasibility of consolidating the legal functions in the EPC with other entities for cost savings. After researching the issue, the EPC staff's position is to maintain the current status of the Legal Department utilizing the County Attorney's Office for non-environmental related cases. A report on this subject is attached. (3) The third subject is a report on EPC delegated programs, including the recent Tampa Port Authority interlocal agreement. A report on this subject is also attached.

List of Attachments: Three reports with supporting information

ENVIRONMENTAL PROTECTION COMMISSION

HILLSBOROUGH COUNTY WATER TEAM

The Hillsborough County Water Team was created in 1999 by the BOCC and initially funded participating members from the County Attorney's Office, the Water Department and the Environmental Protection Commission (EPC) from several alternative funding sources. The following provides a chronology of EPC's participation.

In March, 1999, four pre-existing positions within EPC were approved to be funded by the Water Team funding. In November, 1999 new positions totaling five full-time and one part-time for a total of 5.7 FTEs was approved for the Hillsborough Independent Monitoring Program (HIMP) to be funded by the Water Team. In FY 05, .63 FTE was added to the monitoring program. This brought the total program up to 10.33 FTEs.

In FY 06 the balance of funding declined for the overall program and the BOCC recommended the Hillsborough County Water Team be reduced and use funding from the County's Water Resource Department's enterprise fund. Three of the original pre-existing positions were returned to the general fund and the fourth was deleted; .63 part-time FTE from the monitoring team was also eliminated. The remaining monitoring team, 5.7 FTEs was funded by the general fund and reimbursed by the Water Resource Department through an inter-local agreement with the County.

In FY 08 the County Administrator recommended the elimination of the HIMP program and the 5.7 FTEs and operating funds were deleted from the EPC budget.

EPC will continue to comment and participate in water supply planning and operations as time and resources allow, without any specific, dedicated water resource staff.

ENVIRONMENTAL PROTECTION COMMISSION

LEGAL SERVICES

Background: During the June 2009 regular board meeting there was a discussion regarding consolidating the assistant attorneys in the EPC Legal Department with the Hillsborough County Attorney's Office. This discussion has been raised on several occasions in the past. Each time it has been decided that the EPC Legal Department should remain as a separate independent body located at the EPC offices. There are several reasons why it is imperative that the entire Legal Department remain under the EPC offices separate and distinct from the County Attorney's Office. It is also important to note that the Commission has voted on this subject several times in the past. First, in 1982, the Commission established the full time counsel position for the EPC. This was done for two reasons: (1) to avoid conflicts of interest with the County and (2) to improve accessibility of legal counsel to the EPC staff. Subsequently an audit was performed in 1996 that resulted in a special meeting of the EPC on April 2, 1997. During that meeting, the Commission voted to retain the EPC Legal Department within the EPC offices and to contract with the County's Attorney's Office to perform work on a case by case basis. It is recommended to maintain this current status based on the following reasons:

I. First, the reassignment of the two EPC Assistant Counsel to the Hillsborough County Attorney's Office would not contribute to any financial savings for the County. In fact, it would likely increase costs based on increased travel and increased inefficiencies by locating the attorneys roughly ten miles from the clients. In addition, any potential savings would clearly be outweighed by potential conflicts and logistical considerations.

II. Second, the current EPC Legal Department must maintain its independence and its own legal staff to better serve the agency's mission and to avoid conflicts of interest. Even with the General Counsel remaining at the EPC, it will be difficult and inefficient for staff to rely on the existing County Attorney's Office staff for the following three reasons: Independence/Conflicts of Interest, Logistics, and Cost/Efficiencies. These concerns are why the Commissioners have historically kept the department separate from the County Attorney's Office.

A. Independence/Conflicts of Interest

The EPC is an independent government distinct from the County as established by the EPC Act. The EPC regulates the County, thereby creating conflicts of interest for the County Attorney's Office when required to represent both governments in regulatory or contractual matters. The most obvious example is when EPC attorneys negotiate environmental violation settlements with the County Attorney's Office representing the opposing counsel. In addition, conflicts of interest would also exist with, including but not limited to, negotiating contracts or interlocal agreements with the County, supervisory authority over legal staff, challenging state permits and rule making that regulates Hillsborough County. It is important to note that the EPC attorneys are involved in legal issues where conflicts of interest would arise with Hillsborough County. A Hillsborough County attorney would be prohibited by Rule 4-1.7 of the Florida Bar Rules of Professional Conduct to represent the EPC wherein there is a conflict of interest presented. Transferring responsibilities concerning potential conflicts of interest to the General Counsel would not

be practical based on the current and projected workload of the General Counsel. Finally, the EPC Act and EPC Rules apply to activities within the three municipalities as well as unincorporated Hillsborough. The County Attorney's Office may have jurisdictional and/or constitutional issues pertaining to the County Charter by regulating the environmental activities of the three municipalities and/or those activities of persons residing within the jurisdiction of the three municipalities. Simply transferring each legal issue wherein a conflict of interest may arise to outside counsel or the EPC General Counsel would not increase efficiency. As provided below, utilizing outside counsel would clearly cost more than the current status of relying on EPC Assistant Counsel located at the EPC offices.

B. Cost/Efficiencies

To handle conflicts of interest the EPC would have to hire and retain outside counsel at significant cost. Various delegations and contracts from the Department of Environmental Protection (DEP) and Tampa Port Authority require the EPC to have knowledgeable environmental and administrative law attorneys. The County Attorney has skilled attorneys, but they would have to receive extensive training on environmental permitting, environmental enforcement, the Environmental Litigation Reform Act, the State Administrative Procedures Act Chapter 120, F.S., the EPC administrative appeals process, and other various specific environmental statutes and rules. It would be inefficient to train County Attorneys to do this, when existing EPC counsel is already trained and experienced.

Another example of an efficiency is the additional services the EPC Legal Department already provides. Although many local governments have a separate legislative affairs office (analyst/lobbyist), the EPC does not. The EPC relies on the Legal Department for the majority of their legislative review, analysis, and lobbying. Additionally, some local and state governments have a separate public records custodian and/or a public records department, the EPC's relies on the Legal Department for these services. This is a significant cost savings. The EPC attorneys review requested public records documents which public records laws require expeditious legal review to make sure no exempt or protected records are released to the public (trade secret in manufacturing processes, health information, social security numbers, etc.). The EPC Legal Department does rely on the County Attorney's Office for labor law, contract law, and tort law matters (i.e. – non regulatory matters). These are three efficiencies already realized.

It should also be noted that for the past three years, the EPC General Counsel has had to reduce his legal case load to handle legislative affairs, administrative issues, and policy making/rulemaking. As part of a cost saving reorganization, the General Counsel is taking on additional director duties (information systems, administration/HR, budget, accounting, procurement, and facilities). His legal role and case load will be further reduced, necessitating a greater reliance upon the two assistant counsels for legal matters.

C. Logistics

The EPC attorneys conduct many meetings, workshops, informational updates for staff, training sessions, and negotiations that require staff and attorneys to be in the same location. Locating EPC's attorneys roughly twenty minutes away from their client, significantly decreases availability and responsiveness. This further reduces efficiency and increases costs. The 1996 audit noted the EPC "... has inherent inefficiencies in operating out of two buildings. . ." Subsequently, in 1997, it was also

noted that locating attorneys away from the EPC staff would decrease the quality of service. Since that time, the EPC offices have moved farther away from County Center and are now located in Sabal Park, roughly 10 miles from County Center. The consolidation of the agency into one location, Sabal Park, served to address those inefficiencies. To relocate the agency functions in separate buildings, even farther apart, would be counterproductive. Each of the EPC attorneys meet with EPC staff regularly and no efficiency would be gained by utilizing attorneys in the County Attorney's Office. Finally, in the temporary absence of the General Counsel, another attorney would need to be assigned to act on behalf of the General Counsel concerning signing orders or other duties of the Department. As currently structured the EPC Legal Department provides streamlined and efficient response to the agency's legal needs.

ENVIRONMENTAL PROTECTION COMMISSION

DELEGATIONS

BACKGROUND

The **Environmental Protection Commission (EPC)** of Hillsborough County has provided natural resource protection to the residents and visitors of Hillsborough County since 1967. Created by a special act of the Florida Legislature, the EPC is a state approved local pollution control program with broad authority providing the extra assurance that its natural resources will be protected for future generations.

Over the years the EPC has evolved as a trendsetter in local environmental protection and program efficiency.

SECTION 5, 8, 11 and 12, of EPC's enabling Act, mandates the effective control and regulation of air, water and noise pollution in Hillsborough County. The Agency has accomplished this objective by providing reasonable control and regulation of activities which cause or contribute to air, water and noise pollution through the implementation of regulatory and environmental monitoring programs. (Legal Opinion-see attached Memo dated July 2, 2009)

During the evolution of the EPC in the 1970s and 1980s, the EPC funded and staffed regulatory programs to carry out the reasonable control and regulation of these activities. The Agency conducts the following regulatory activities associated with these programs:

- Reviews engineering plans of pollution source applications;
- Conducts compliance, reconnaissance and sampling inspections;
- Reviews pollution source discharge/emission monitoring reports;
- Responds to and investigates environmental complaints;
- Performs all necessary compliance and enforcement activities necessary to bring facilities into compliance with local rules and regulations;
- Takes appropriate legal action as required.

The Agency established these regulatory programs to provide the citizens of Hillsborough County assurance that pollution sources that cause or may reasonably be expected to cause pollution or contamination of air, water, soil or property are reasonably controlled and regulated; and are in compliance with effluent/emission standards and other operational requirements necessary for the protection and preservation of the environment, public health, safety and welfare.

In the early 1990s to streamline the state and local environmental regulatory process and provide one stop permitting at the local level, the Agency with Board approval decided to pursue delegation from the state FDEP for Air and Wastewater regulatory programs.

This was a perfect fit for EPC since the Agency already had the entire infrastructure in place to provide all delegation services and meet delegation requirements. Air and Wastewater Program delegations were implemented at the local level for no additional cost to EPC or the county. The only new service EPC was required to provide under delegation was the issuance of state FDEP pollution source permits at the local level. Authorizing the EPC to issue a state/local permit at the local level made the regulatory process complete.

Delegation of these programs has proved to be good government and good business. Delegation required no additional staffing or cost to the county. Delegation was a great opportunity to streamline the regulatory process, provide one-stop permitting for the regulated public at the local level, eliminate potential local and state duplication and eliminated local permit review fees.

Regulatory Program Delegation was achieved by the Air Program in 1993 followed by delegation of the Domestic Wastewater Program in 1995 and delegation of Industrial Wastewater in 2000. All of these delegations were achieved for no additional cost to the EPC or the county.

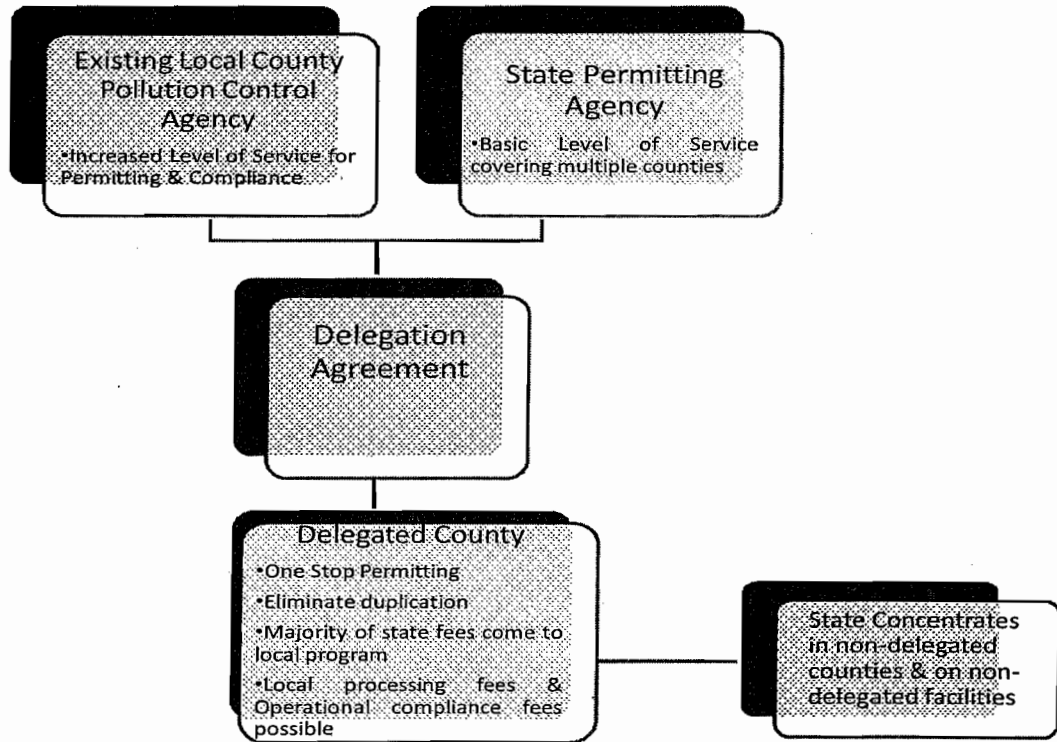
PERFORMANCE AUDIT

A performance audit of the Environmental Protection Commission was conducted by David M. Griffith & Associates, LTD. in 1996 for the purpose of appraising management performance, including the effectiveness of administration and the efficiency and adequacy of the program EPC is authorized by law to perform. A few of the findings related to delegation issues are outlined below:

- “EPC has been a leader in environmental protection in the State of Florida and has provided outstanding protection services for Hillsborough County. Major accomplishments include...obtaining full delegation from DEP of the domestic wastewater and domestic sludge programs and partial delegation of the industrial waste program”.
- “The delegation agreement between EPC and DEP regarding the domestic wastewater permitting, compliance, and enforcement program is a premier agreement that maximizes personnel resources and reduces duplication with DEP.”
- “The Water Engineering Department inspection schedule far exceeds DEP’s current and previous inspection schedules. EPC, on the average, inspects permitted facilities at least twice per year compared to the DEP average of one inspection per year per permitted facility.”
- “In discussing the delegated program and overall divisional functions with DEP, the recurring impression was that the division is an excellent program and is very

conscientious about their requirements to protect the environment. The DEP considers the EPC delegation as a model for programs in other counties.”

Delegation Framework



AIR PROGRAM DELEGATION

EPC received delegation of stationary source air permitting from the Florida Department of Environmental Protection in 1993. EPC now acts as a one-stop permitting agency ending any perceived duplication by the State.

STAFFING: Prior to delegation, the EPC had seven staff persons reviewing permit applications. In FY10, the Agency will have six staff reviewing and issuing permits. With the proliferation of computers, we have eliminated an administrative support position. Overall staffing in the Air Management Division is down some ten percent since 1993.

FEES: As part of the delegation agreement, EPC stopped collecting a local permit fee and instead agreed to share the State's revenue. EPC splits the State's minor source fees keeping 80% or approximately \$80,000 per year.

WATER PROGRAM DELEGATION

EPC received delegation of Domestic Wastewater Program Authority from the Florida Department of Environmental Protection in 1995. This delegation was amended in 1999 to include collection and transmission systems and in 2000 delegation was expanded again to include Industrial wastewater facilities.

STAFFING: The Water Program prior to delegation had nineteen employees dedicated to conducting regulatory activities. Through the implementation of numerous efficiencies over the last fifteen years the program has been able to reduce staffing by five positions or over 25%.

FEES: Like the Air Program, the Water Program decided to stop collecting a local permit fee and agreed to share 70% of the State's required permit fees for delegated facilities. This 70/30 split of the State's permit fees results in either a break even or net positive cost recovery when compared to EPC's existing fees and generates approximately \$130,000 per year in revenue. As the delegation agreement does not prohibit the EPC from assessing additional or separate local fees in addition to state fees, we are currently evaluating this as an opportunity to improve cost recovery of the program in the future.

BROWNFIELDS DELEGATION

In June of 2004, EPC entered into a Delegation Agreement with the Florida Department of Environmental Protection (FDEP) to implement the State's Brownfields Program within Hillsborough County. To date, the program has provided services that have resulted in significant increases in both real estate and sales tax revenues, as demonstrated by the opening of the new IKEA facility; development of the Avion Park complex near the Tampa Airport; and the construction of the Lodge at Lakecrest Apartments near USF, among others. As an indication of the effectiveness and value of EPC's Brownfields Program, the IKEA project alone has restored \$1,300,000.00 in annual property tax revenues and has created 400 new full time jobs with benefits.

STAFFING: No additional staff has been acquired in order to complete the delegated Brownfields tasks as those responsibilities have been undertaken with existing personnel.

FEES: The delegation agreement provides allowances for the assessment and retention of applicable fees for use in supporting the EPC's administration of the Brownfields Program. However, to date, fees have not been charged for staff services in an effort to encourage development within the Brownfields Program. No additional funds are received by the agency for the performance of Brownfields Program task as those responsibilities have been undertaken with existing personnel and within existing budget constraints.

MANGROVE DELEGATION

On October 19, 2006, DEP and EPC entered into an Order of Delegation and Operating Agreement which delegated DEP's authority Chapter 403 FS., to regulate the trimming and alteration of mangroves in Hillsborough County. Historically, EPC was typically the first agency contacted regarding Mangrove violations but could not take enforcement action, unless authorized by a delegation agreement.

STAFFING: No additional staffing was required for this delegation.

FEES: Revenues generated include permit fees collected and PRF and costs collected for mangrove enforcement cases.

TAMPA PORT AUTHORITY DELEGATION

On September 30, 2007 the EPC Board authorized the Executive Director to enter into an interlocal agreement delegating the Tampa Port Authority (TPA) permitting authority over "minor work permits" to the Environmental Protection Commission to streamline permitting and avoid confusion for applicants. The EPC previously performed the environmental review of the TPA permit per the TPA enabling act and the EPC wetland rule.

The procedure for Tampa Port Authority (TPA) "minor work permits" is TPA reviews the permit and charges \$100, then forwards the application to EPC for an environmental review for a charge of \$150. With delegation, EPC will do the entire review and issue the TPA minor work permit and collect the total \$250 fee. This eliminates the need for two stops for TPA minor work permit and any confusion by the applicants of where they need to go for a permit.

STAFFING: The EPC was authorized one position (1 FTE) to be reimbursed by TPA, not to exceed \$80,000, to train EPC in the issuance of "minor work permits". TPA reimbursed EPC a total of \$85,575.31 for training 4 individuals, equivalent to 1 FTE, from January 2008 to April 2009, in the issuance of "minor work permits". It is anticipated that the equivalency of 1 FTE will be required to support total TPA permitting.

FEES/ANALYSIS: The Amended and Restated Interlocal Agreement between the TPA and EPC was signed June 23, 2009. The agreement provides "The EPC shall collect both the current TPA and EPC permit fees for the EPC Permits it may issue in accordance with the existing fee schedules until such time as EPC adopts its own fee schedule under its applicable rules." EPC will prepare its own fee study and set fees to fully recover the cost of issuing minor work permits. TPA revenues as currently collected are projected at \$45,956 for FY 09. Total revenues are projected at \$80,000 for FY 10 and FY 11 pending EPC's fee study.

DELEGATION AGREEMENT COMPARISONS

TYPE of DELEGATION	YEAR IMPLEMENTATED	COST NEW FTEs	FEE COST RECOVERY	STAFFING LEVEL CHANGE - FTEs
AIR PROGRAM	1993	NONE	NO ADDITIONAL COST	- 1
WASTEWATER	1995 / 2000	NONE	NO ADDITIONAL COST	- 5
BROWNFIELDS	2007	NONE	NO FEES	No Change
MANGROVES	2008	NONE	NEW FEES	No Change
TAMPA PORT AUTHORITY	2009	1 FTE	FEES WILL RECOVER THE COST OF SERVICES	+ 1

IMPROVING REGULATORY PROGRAM COSTS

As stated above, the Agency is mandated to provide reasonable control and regulation of activities which cause or contribute to air, water and noise pollution and has accomplished this through the implementation of regulatory and environmental monitoring programs. Delegation has always been used as a tool to streamline the regulatory process, provide one-stop permitting for the regulated public at the local level, eliminate potential local and state duplication and in some cases eliminated local permit review fees. Delegation has also proven to be good government from a cost standpoint as delegation generally required no additional staffing or cost to the county.

Since delegation costs have been shown to be minimal to none, the level of cost recovery of regulatory programs is an EPC Board policy issue.

The Agency has started to look at a number of program service areas that could be evaluated for possible fee enhancement. If the EPC Board decides that increasing fees is a possible option to generate additional revenues, the Agency could have a fee schedule study completed in eight to ten months and recommendations for new and amended fees for Board discussion before the adoption of the FY 11 budget.

Some areas we are looking at to improve cost recovery include:

- Air Program – Implement an annual compliance fee for minor Air sources. In 2006, it was estimated it costs around \$110,000 annually to pay for the compliance activities. If you apply it evenly between the synthetic minor and true minor sources, it equates to approximately \$700 in annual fees per source.
- Water Program – Implement an annual compliance fee for domestic and industrial wastewater treatment facilities. Implement a onetime engineering inspection fee for all wastewater collection system permit applications. In 2007 an evaluation of staff time spent conducting compliance inspections and other related surveillance activities was conducted for the purpose of generating a compliance fee for delegated permitted facilities. Estimated revenue at the time of the study was around \$135,000.
- General - Evaluate and consider assessing other local program service fees. Examples: plan review fee, wastewater license fee, “record drawing” review fee, wastewater collection system construction license fee, etc.
- Delegated Programs - Consider re-negotiating local/state fee split.

AGREEMENTS

HEALTH DEPARTMENT – MOU - Coordination of Services

The EPC maintains a memorandum of understanding (MOU, latest revision October 2005) with the Hillsborough County Health Department. The purpose of the MOU is to facilitate the delineation and coordination of services between two agencies that have the responsibility to protect the public health and welfare. This coordination reduces duplicative services and is done with no additional EPC funding or resources. In addition, the MOU provides for the pooling of existing resources between the two agencies to identify and address risks posed to the public from pollution sources.

HILLSBOROUGH COUNTY - MOA - Florida Brownfields Cleanup Revolving Loan Fund

This September 2004 MOA with Hillsborough County (County) defined the roles and responsibilities of the BOCC and the EPC with respect to activities conducted under the USEPA grant for the establishment and implementation of the County, Florida Brownfields Cleanup Revolving Loan Fund. The agreement allows for the County to reimburse cost to EPC for work and activities performed by EPC on behalf of the County.

HILLSBOROUGH COUNTY - MOU – Enforcement Services

This is a MOU between EPC and the County that is mutually beneficial and provides for the County to compensate EPC for its efforts in the enforcement of solid waste regulations and illegal dumping laws and regulations in the System Service Area of the County. The funding adequacy of this agreement has not been revisited since its implementation in September 1996.

FDEP – MOU – Green Yard Partnership

This MOU between the EPC and the FDEP memorializes a partnership between EPC's Green Yard Program and the FDEP's Green Yard Program. The MOU was executed in June of 2007. The Green Yards program is a pollution prevention acknowledgment program within the EPC's SQG program that recognizes auto salvage yards that have demonstrated compliance with current regulations and have gone beyond to include certain pollution prevention strategies at their facilities. No additional positions or level of effort were necessary to implement this MOU.

SWFWMD – MOU – Wetland Regulatory Compliance Activities

Coordination of Wetland Regulatory Compliance Activities, September 2005. This MOU provides that EPC take the lead on compliance and enforcement over unauthorized wetland impacts in Hillsborough County. The MOU also provides that each agency will accept each other's final approved wetland delineations.

CITY of TAMPA – INTERLOCAL AGREEMENT – Stormwater Compliance Activities

This January 2003 Interlocal Agreement is a contract between the EPC and the City of Tampa (COT) that compensates EPC for report preparation and allows the COT to document EPC compliance and enforcement activities as part of the COT's USEPA MSW4 Permit (stormwater) compliance activities requirements. Staff performing these duties were existing positions and their salaries are now augmented from the fees paid by the COT.

HILLSBOROUGH COUNTY – INTERLOCAL AGREEMENT - NPDES Stormwater Compliance

This 2001 (amended 11/18/05) Interlocal Agreement is a contract between the EPC and the County that compensates EPC for report preparation and facility site inspections, and allows the County to document EPC compliance and enforcement activities as part of the County's USEPA MSW4 Permit (stormwater) compliance activities requirements. One staff position was added to EPC to perform these duties and that position is fully compensated by the fees paid under this agreement combined with the funds provided by the COT 2003 Stormwater Interlocal Agreement. The fees also augment other support provided by other existing positions from the combined agreements of the County and the COT.

HILLSBOROUGH COUNTY – INTERLOCAL AGREEMENT - Small Quantity Generator Program

This June 1993 Interlocal agreement allows for the County to accept work performed by the EPC to fully meet State mandates for verification and notification requirements of small quantity generators of hazardous waste pursuant to Sections 403.7225 through 403.7236, Florida Statutes (1991). The Interlocal Agreement is mutually beneficial as it fulfills the County's mandated obligations while also enabling EPC to fulfill mandates of its own act to achieve environmental protections from improper management and discharges of hazardous waste. The staff positions performing these duties are fully funded from fees collected through an agreement with the Tax Collector.

HILLSBOROUGH COUNTY – INTERLOCAL AGREEMENT - NPDES/TMDL Compliance

The EPC executed an Interlocal Agreement with Hillsborough County in March, 2002 (First Amendment 09/21/05, Second Amendment 09/18/08) that allows EPC to provide water quality sampling and laboratory analysis in support of Hillsborough County's NPDES stormwater permit and implications of the TMDL regulations. This agreement benefits both the EPC and the County to facilitate a more efficient allocation of resources to achieve a common goal of good surface water quality. EPC receives full cost recovery for providing these services to the County.

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



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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.

Memorandum

DATE: July 2, 2009
TO: Richard Garrity, Ph.D., EPC Executive Director
THROUGH: Richard Tschantz, EPC General Counsel
FROM: Andrew Zodrow, EPC Assistant Counsel *7/12*
SUBJECT: Legislative mandates in Ch. 84-446, Laws of Florida

The EPC is currently under legislative mandate to regulate sources of pollution in Hillsborough County as provided in the following analysis:

The legislative intent of Section 2 of the Hillsborough County Environmental Protection Act chapter 84-446, Laws of Florida, as amended (EPC Act), provides that "it is the intent and purpose of this act to designate the . . . environmental protection commission of Hillsborough County to provide and maintain for the citizens and visitors . . . standards which will insure the purity of all waters and soils . . ." Additionally, Section 2 of the EPC Act recognizes the necessity to regulate "activities which are causing or may reasonably be expected to cause pollution." This legislative intent clearly indicates the EPC was created to provide standards to ensure protection from air, water and soil pollution. This cannot effectively be done by merely enforcing nuisance laws or generic prohibitions in the Act; rules and permits are needed to protect the natural resources. Moreover, the EPC may not simply extricate itself from an area of pollution because another agency regulates that subject.

Section 5 of the EPC Act further provides for specific duties, functions, powers and responsibilities of the EPC. Pursuant to Section 5(1) of the EPC Act, the EPC must implement and enforce the provisions of the EPC Act. Section 5(2) of the EPC Act empowers the EPC Board to adopt rules "reasonably necessary for the implementation and effective enforcement, administration and interpretation of the provisions of this act and to provide for the effective and continuing control and regulation of air, water and noise pollution in the

county.” Sections 5 and 8 also require the Board and Executive Director to investigate ways to improve environmental protection and avoid nuisances. Most notably, Section 11 allows the EPC to require permits. It should be noted that permits are one of the most effective tools to regulate pollution emitting entities and to ensure protection of our natural resources.

Significantly, Section 17(1) of the EPC Act states “[i]t is unlawful for any person: (a) To cause or to take such action as may reasonably be expected to cause air, water or noise pollution in Hillsborough County.” Section 17(1)(a) and (b) also makes it unlawful to violate any EPC rules or standards; another legislative recognition of the importance of complying with regulatory standards established to protect natural resources. The Executive Director and the Commission are therefore under a legislative mandate to address activities that cause pollution in Hillsborough County.

Again, even if the agency eliminates a delegation agreement, the agency is still charged by law with the duty of enforcing laws, rules and regulations for the protection of the air water and soils of Hillsborough County. Pursuant to Sec. 403.412, Florida Statutes, the agency is subject to injunctive relief to compel such governmental authority. For example, if a mobile home park is discharging pollution to surface or ground waters, the EPC would be required to take appropriate enforcement over such activity regardless of a permitting program under delegation or in the absence of a local permitting program. The agency must still address these sources of pollution under the existing laws.

If the EPC were to rescind any or all of its delegations from the DEP or the Tampa Port Authority, the EPC Board and Executive Director would nevertheless be obligated by the Florida Legislature to implement “reasonable control and regulation of activities ... which ... cause pollution.” The EPC would then have to re-institute or create new local standards and permits to ensure compliance with the mandates of the EPC Act. Creating or re-instituting an EPC permitting program, or even a compliance program, where that activity was once addressed by means of a DEP delegation would be less efficient and, depending on the substantive standards, could be duplicative of the state program.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: July 16, 2009

Subject: Nutrient Management Issues Related to Aquatic Resources

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

Division: Environmental Resources Management

Recommendation: Informational Report

Brief Summary: Nutrient loading is one of the greatest challenges to maintaining good water quality in aquatic resources. This report is to advise the Board of current and developing activities for the management of nutrient pollution. As a holder of several National Pollution Discharge Elimination System (NPDES) permits the County has obligations associated with these activities.

Financial Impact: No Immediate Financial Impact resulting from this report

Background:

Excessive nutrient loading is one of the greatest challenges to maintaining good water quality in aquatic resources. Nutrients are compounds containing reactive forms of nitrogen or phosphorus and are essential for plant growth, however, in excess nutrients are detrimental.

Scientists refer to the process of increased nutrients loading to an ecosystem as *eutrophication* which results in the excessive growth of aquatic plants often microscopic algae. The effects of this disruption of the "balance of nature" produce severe reductions in water quality that are manifested in a number of ways such as fish kills due lack of oxygen (hypoxia) and habitat degradation, i.e. seagrass loss with concomitant degradation fish and other animal populations.

Efforts to maintain acceptable nutrient loading have been ongoing in Hillsborough County and Tampa Bay for a long time. We have been very successful in implementing control of point source discharges, however, non-point sources of water pollution – stormwater runoff – is much more problematic. As the result of a Consent Order, EPA has been given a strict timeline to implement actions to address stormwater pollution as codified in the Clean Water Act which provides the framework to the states to enact laws for the purpose of protecting and restoring our nation's waters; our nation's waters should be "fishable-swimmable".

The Clean Water Act established water quality standards and designated uses for waterbodies and a permit system - National Pollution Discharge Elimination System (NPDES) - for regulating the quality and quantity of pollutant(s) that could be discharged to our nation's waters. NPDES permits are issued for both point sources and non-point sources. As a holder of several National Pollution Discharge Elimination System (NPDES) permits the County has obligations associated with these permits, i.e. permit requirements.

Water bodies that do not meet water quality standards are identified as "impaired" for the particular pollutant(s) of concern – nutrients, bacteria, mercury, etc. The Clean Water Act requires Florida Department of Environmental Regulation (FDEP) submit a formal listing of impaired waters to EPA and the listing as impaired triggers the Total Maximum Daily Load (TMDL) process; a scientific determination of the maximum amount of a given pollutant that a surface water can absorb and still meet the water quality standards that protect human health and aquatic life.

FDEP has listed several waterbodies in Hillsborough County as impaired for nutrients and has recently issued draft TMDL for several of these waterbodies and is currently accepting comments. The Secretary of the FDEP is expected to formally adopt these TMDL in early September and the next phase of the process will begin; Basin Management Action Plans will be developed. BMAPs document the management actions/projects undertaken by local, regional, state, or private entities to reduce the amount of pollutant released into waterbodies to improve conditions such that it will meet standards. In accordance with Section 403.067 F.S., NPDES permits must be consistent with the requirements of adopted Total Maximum Daily Loads (TMDLs) and the MS4 operator(s), i.e. Hillsborough County, must comply with the adopted provisions of the BMAP. In general this means, Hillsborough County is compelled to continue monitoring for water quality and is compelled to implement actions that are reasonably expected to reduce nutrient loading to these impaired waters.

In the early 1990s, the Tampa Bay Estuary Program (TBEP) adopted a "hold the line strategy", with respect to nitrogen inputs into the Bay and to address this very basic management issue – how do we maintain the current rate of nitrogen loading to the bay? – the TBEP initiated formation of Nitrogen Management Consortium (NMC). The NMC was convened in 1998; it is comprised of government agencies (State and local; regulatory and non-regulatory) and non-governmental entities including phosphate industry, agricultural interests and electric utilities.

The NMC accepted responsibility for collectively meeting nitrogen load reduction goals, using a "one for all and all for one" approach. The "hold the line strategy", requires a reduction of 17 tons of nitrogen per year of nitrogen loading throughout the Tampa Bay watershed. Success of the NMC has been measured two ways. First, is the Bay meeting water quality targets for chlorophyll *a* and light penetration sufficient to allow seagrasses to grow and expand coverage? Secondly, an Action Plan Database was set up to account for nitrogen load reduction projects undertaken in the watershed by the NMC members to answer the question: Are we reducing nitrogen loading by 17 tons per year?

This approach was documented in the TBEP Tampa Bay Nitrogen Management Plan and in 2002, presented to Florida Department Environmental Protection (FDEP) as a Reasonable Assurance (RA) Document to meet state water quality criteria. FDEP accepted the RA document and Tampa Bay was removed from the State's Impaired Waters list for 2002-2007. Consequently, a Total Maximum Daily Load (TMDL) was not required for Tampa Bay. Listing

of impaired waters is on a five year cycle. In 2007, a new RA Document needed to be submitted to FDEP to cover the period 2007 to 2012, however due to extenuating circumstances (described below), FDEP has granted an extension to submitting the document to July 1, 2009.

EPA has no legal mechanism for accepting an RA document. So by law, EPA established a federal TMDL for Tampa Bay in 2008. The federal TMDL sets nitrogen loading limits consistent with the targets set by the TBEP in the "hold the line strategy". Accordingly, EPA required any new National Pollution Discharge Elimination System (NPDES) permits issued by FDEP to set discharge limits that comply with (support) the federal TMDL – the FDEP accepted Reasonable Assurance Document notwithstanding. The consequence to the EPA action has "morphed" the NMC approach ("one for all and all for one") into a different process that will carve-up the nitrogen loading "pie" among the NMC entities, i.e. a nitrogen loading allocation as part of a permit compliance condition.

Since the fall of 2008, NMC has been engaged in an on-going discussion of how to fairly and equitably allocate the annual nitrogen load as defined by the federal TMDL among the permitted entities. Consensus on the process has been reached and each entity has received a nitrogen load allocation for all their facilities and sources. NPDES permits are issued to point source dischargers, i.e. waste water treatment facility and to non point sources meaning stormwater runoff. The annual allocation to a point source is based on the facilities annual for the period 2003-2007. The nitrogen loading allocation to a non-point source, i.e. MS4 permit holder will be based on the amount land and the type of land use covered under a given MS4 permit. It is important to recognize the RA document has no regulatory authority. The allocations set forth in the RA document are actually only recommendations to FDEP.

Implementation of the provisions and allocations set forth in the RA document is addressed, but compliance is ultimately the responsibility of the FDEP. The NMC is now addressing transferring load allocations among and with entities and how to deal with "new" load sources.

The new RA document is in final draft stages, acceptance by the NMC is scheduled for later this month and submittal to FDEP is on target for the September deadline.

List of Attachments: None

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EPC Agenda Item Cover Sheet

Date of EPC Meeting: July 16, 2009

Subject: Adopting BOCC Policies and Report on Executive Director Policies

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

Division: Legal Department

Recommendation: Adopt and/or re-adopt certain BOCC Policies as EPC Board Policies and update EPC Board Policy 2007-01.

Brief Summary: Pursuant to BOCC policy all related boards and councils must adopt applicable BOCC Policies. On March 15, 2007, the EPC Board adopted approximately 84 BOCC Policies. Some of those policies have since been amended and others have been newly created by the BOCC. Thus, the EPC staff recommends the EPC Board adopt, rescind, and/or re-adopt select BOCC Policies recently adopted, rescinded, or amended. Additionally, the EPC staff is providing a follow-up presentation to the EPC Board regarding policies and procedures. In April the EPC Board was briefed on the EPC's extensive complaint receipt and response database. This report provides a general summary of the EPC Executive Director Policies and other procedures.

Financial Impact: No Financial Impact

Background:

A. Adoption or Re-adoption of BOCC Policies.

The EPC Board adopted approximately 84 Board of County Commissioner (BOCC) policies on March 15, 2007. This action was required by BOCC Policy No. 01.21.00.00 – "*Policy Requiring Boards and Councils Created by the Board of County Commissioners to Follow BOCC Policies*" (February 7, 2007). The EPC adoption of select BOCC policies is memorialized in EPC Board Policy 2007-01 (attached).

Since March 15, 2007, a few of the EPC-adopted BOCC policies have been amended by the BOCC and a few new BOCC policies have been created by the BOCC. Pursuant to BOCC Policy No. 01.21.00.00, EPC staff recommends that the EPC Board should adopt, re-adopt, and/or rescind the following new, amended, or rescinded BOCC policies:

01.05.01.00 - Policy for Making Citizen Appointments to Boards, Councils, Committees and Authorities (amended April 23, 2007 and merged and rescinded on June 17, 2009) - **RESCIND**

01.05.02.00 - Residency Requirements for Board Appointees (merged with 01.05.01.00 and rescinded on June 17, 2009) - **RESCIND**

01.05.03.00 - Policy for Making Citizen Appointments to Boards, Councils, Committees and Authorities (new - merging 01.05.01.00 and 01.05.02.00 on June 17, 2009) - **ADOPT**

01.21.00.00 - Policy Requiring Boards and Councils Created by the Board of County Commissioners to Follow BOCC Policies. (new - February 7, 2007) - **ADOPT**

01.22.00.00 - Policy Regarding Action Hillsborough County will take when the United States President Declares a National Day of Mourning (new - February 7, 2007) - **ADOPT**

01.23.00.00 - Policy establishing Proclamation and Certificate of Commendation Guidelines and Limiting Number of Commissioner-Sponsored Proclamations and Certificates of Commendation Appearing on the Board's Meeting Agenda (new - April 18, 2007, supersedes February 7, 2007) - **ADOPT**

01.24.00.00 - Expenditure of County Funds for Relocation Related Expenses (new - October 3, 2007) - **ADOPT**

02.16.00.00 - Fraudulent Misconduct Policy (new - July 16, 2008) – **ADOPT**

03.01.01.00 - Board of County Commissioners' Policy for Authorization and Reimbursement for Travel (amended June 20, 2007) – **RE-ADOPT**

03.03.09.00 - Policy for Citizen Involvement in Tampa Bay Water Projects (amended June 17, 2009) - **ADOPT**

03.05.07.00 - Budget Preparation and Limitations (new - February 7, 2007) – **ADOPT**

07.02.01.00 - Payroll Deductions for the Board of County Commissioners Payroll (amended May 2, 2007) – **RE-ADOPT**

EPC staff does not recommend adopting Policy Nos. # 03.05.08.00 (Recording of Infrastructure Assets), 08.01.01.02 (Disposal of Surplus Fleet Vehicles), 09.19.00.00 (Disposition of Unclaimed Human Bodies and Remains when death occurs in Hillsborough County), and 10.05.00.00 (Active Military Combat Duty and Veterans Disability Grant), as they do not relate to EPC functions. This action will also update EPC Board Policy 2007-01.

B. Informational Report on all EPC Policies.

The Environmental Protection Commission of Hillsborough County (EPC) has 58 **Executive Director Policies** currently in effect for employees of the Executive Director. The policies are

maintained in a manual and on the intranet for all staff to access. The policies are designed to accompany and assist the EPC staff in reaching its mission and goals within the administrative framework and standards set forth by the Executive Director of the EPC (e.g. – public records management, use of County property, conflicts of interest, harassment, etc.). On an as needed basis, the Executive Director establishes, amends, or rescinds these policies which reflect the EPC’s position on personnel issues, administrative, and other key matters that staff must comply with. All these policies which impact the entire EPC must be signed and authorized by the Executive Director.

In addition to these Executive Director Policies, but not included in the same manual, are the **Commissioner-approved Board policies** either 1) created specifically for EPC by the EPC Board, or 2) created by the Board of County Commissioners (BOCC) but adopted in whole or part by the EPC Board. These are also available on the intranet and COIN for staff to review and recent amendments are noted in Section A above.

Finally, the EPC maintains **Standard Operating Procedures** (SOPs) which only apply to one division, not agency wide, and can be developed independently without the Executive Director’s review or signature if the issues addressed in the SOP are those that deal with that Division’s area of responsibility (e.g. - how to monitor for compliance by an air emissions unit).

It should also be noted that the County Administrator maintains manuals, directives, orders, and policies (collectively referred to as “policies”). These **County Administrator policies** may be used as advisory material regarding how to address a matter when the EPC does not address that matter in an EPC policy. The Executive Director has adopted the Hillsborough County Administrator’s Human Resource Policies, Risk Management Manual, and the Procurement Policy, but whenever another EPC policy, SOP, directive, delegation, memo, or other document conflicts with any of these three County policies/manuals, the EPC guidance shall control as to that issue in conflict.

Approximately two years ago the EPC Legal Department took a more active role in maintaining all EPC Executive Director Policies and all Board Policies. In the past two years, all new and many revised Executive Director policies have being converted to a consistent format, are required to be signed by the Executive Director, and as needed may include a warning that failure to follow the policy may result in discipline.

The EPC has a robust foundation of policies and procedures and provides staff update and training as needed.

List of Attachments: EPC Board Policy 2007-01 (updated with proposed amendments)

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

-DRAFT UPDATE-

Page 1 of 1

EPC BOARD POLICY – Number 2007-01

SUBJECT: Approval of BOCC Policies

EFFECTIVE DATE: July 16, 2009

SUPERSEDES: March 15, 2007

Purpose: The Environmental Protection Commission of Hillsborough County (EPC) must approve any Hillsborough County Board of County Commissioner (BOCC) policies that they desire to be binding on themselves and the staff of the EPC.

Policy: The Environmental Protection Commission of Hillsborough County is an independent government from Hillsborough County. BOCC Policy No. 01.21.00.00 – *“Policy Requiring Boards and Councils Created by the Board of County Commissioners to Follow BOCC Policies”* (February 7, 2007) requests that the EPC Board adopt applicable BOCC policies that currently exist and which were created by the Hillsborough County Board of County Commissioners (BOCC). Therefore, the EPC Board must approve any BOCC policies that they desire to be binding on themselves and the staff of the EPC.

The attached list of BOCC policies are now also EPC Board Policies (see attachment 1). The full BOCC policies can be read on COIN and the adopted EPC Board policies can be read on the EPC Intranet. The numbering of the policies shall remain the same. Each BOCC policy adopted shall apply to the Commissioners of the EPC (a.k.a. EPC Board) and EPC staff. Where the intent of the policies is not frustrated, without need for actual revision to the policies in writing, the adopted policies shall be read to substitute “EPC Board” for “BOCC”, “EPC” for “Hillsborough County”, and “Executive Director” for “Administrator.” If substituting those names would impact the policy’s effectiveness or intent, then the policy should not be read with the substituted language. For example, the BOCC and County Administrator can only set the holiday schedule (#07.05.01.00), thus there is no need to substitute the names, but the EPC will follow that schedule.

Any previously existing EPC Board policies still remain in full effect.

Approved by: EPC Board

Approval date: March 15, 2007; amended on July 16, 2009

EPC BOARD POLICY – Number 2007-01 --- ATTACHMENT 1

Policies & Plans: Board of County Commissioners *

<u>Section Number</u>	<u>Subject</u>
Board of County Commissioners	
<u>01.01.00.00</u>	Rules of Order - Board of County Commissioners
<u>01.02.01.00</u>	Scheduling Of Board Of County Commissioners Regular Meetings
<u>01.02.05.00</u>	Scheduling Public Hearings
<u>01.02.06.00</u>	Scheduling Of Official Meetings, Taking Into Consideration Religious Holiday
<u>01.02.07.00</u>	Use of Boardroom
<u>01.03.01.00</u>	Policy for Making Awards to Appointees by the Board of County Commissioners
<u>01.05.01.00</u>	Policy for Making Citizen Appointments to Boards, Councils, Committees and Authorities
<u>01.05.02.00</u>	Residency Requirements for Board Appointees
<u>01.07.00.00</u>	Requests for Citizen Appearances before the Board of County Commissioners
<u>01.08.00.00</u>	Consultant Firm Appearance at Board Meetings
<u>01.09.00.00</u>	Capital Outlay Expenditure - Board of County Commissioners
<u>01.10.00.00</u>	Anonymous Complaints
<u>01.13.00.00</u>	Displays, Posters, Exhibits and Notices at County Facilities
<u>01.14.00.00</u>	Use of County Center Conference Center
<u>01.16.00.00</u>	Process for the Investigation and Response to Citizen Comments, Complaints and/or Requests for Services Filed with the Board of County Commissioners
<u>01.17.00.00</u>	Commissioner-Aide Contact of Administration Employees
<u>01.18.00.00</u>	Lobbying Ordinance Enforcement
<u>01.19.00.00</u>	Public Awareness, Awards & Sponsorship Activities
<u>01.20.00.00</u>	Travel Approval for the County Administrator, County Attorney and County Internal Performance Auditor & Listing of Travel on the B.O.C.C. Agenda
General	
<u>02.01.00.00</u>	Use of the County Seal
<u>02.02.00.00</u>	Bomb Threat Policy
<u>02.03.00.00</u>	Drug Free Workplace for Agencies Receiving Contractual Funds Through Community Services and Planning Policy
<u>02.04.00.00</u>	Expert Witness Fees as Taxable Costs
<u>02.05.00.00</u>	Board of County Commissioners Abuse Policy
<u>02.06.00.00</u>	Individual Commissioner Requests for the County Administrator
<u>02.07.00.00</u>	Annual Subscription Fee for Board of County Commissioners Agendas
<u>02.09.00.00</u>	BOCC Taking Position on Constitutional Amendments
<u>02.10.00.00</u>	Prohibition of Smoking in County-Owned or Leased Facilities and Vehicles
<u>02.11.00.00</u>	Performance Audit Policy
<u>02.11.02.00</u>	Citizens Advisory Committee Requests for Studies, Performance Audits, or Budget Reviews to be Provided by the Internal Performance Auditor and Events
<u>02.12.00.00</u>	Political Activities of Non-Profits
<u>02.13.00.00</u>	SLAPP Suits
<u>02.14.00.00</u>	Abstention from Selected Recognition and Events

Financial and Fiscal

- 03.00.01.00 Petty Cash and Change Funds
- 03.01.01.00 Board of County Commissioners' Policy for Authorization and Reimbursement for Travel
- 03.01.03.00 Grant Application Tracking
- 03.01.04.00 Acceptance of Credit Cards, Charge Cards, and Debit Cards for Payment of County Fees and Charges for Service
- 03.01.05.00 Purchasing Card Program
- 03.01.06.00 Direct Purchase of Construction Material
- 03.02.01.00 Policy on Bids for Capital Improvement Projects 10% or More In Excess of Estimated Construction Costs
- 03.02.02.00 Policy for Capital Improvement Budget and Five-Year Program
 - 03.02.02.01 Budget Submissions
 - 03.02.02.03 Earmarking of Funds

 - 03.02.02.09 User Fees and Cost Recovery
 - 03.02.02.11 Anticipated Revenue Shortfalls
 - 03.02.02.13 Pay Comparability with Public and Private Employers
 - 03.02.02.14 Performance Pay
 - 03.02.02.15 Performance Measurement
 - 03.02.02.17 Budgetary Position Control
 - 03.02.02.19 Balanced Budget
 - 03.02.02.20 Budgetary Control
 - 03.02.02.21 Fiscal Year
 - 03.02.02.23 Fact Based Decision Making
 - 03.02.02.24 Service and Program Delivery
 - 03.02.02.25 Budget Adjustment for Turnover Savings
- 03.02.07.00 Minimum Contract Provisions and Filing Requirements

- 03.04.01.05 Reimbursement of Legal Expenses

- 03.04.03.00 Revised Fee Schedule Department of Planning and Growth Management

- 03.04.14.00 Fees for Copies of Public Records
- 03.04.15.00 Fee Schedule for Services Performed by the Environmental Protection Commission

- 03.04.24.00 Guidelines for Use of Phosphate Severance Taxes
- 03.05.02.00 Selection and Contracting for Professional Services

Personnel (Human Resources)

- 07.02.01.00 Payroll Deductions for the Board of County Commissioners Payroll
- 07.04.01.01 Board of County Commissioners - Insurance Committee Organization and Responsibilities
- 07.05.01.00 Holiday Schedule
- 07.09.01.00 Administrative Procedures for The Whistle-Blower Act (8112.3188 (B))
- 07.11.00.00 Productivity Award Program (Formerly Employee Suggestion Program)
- 07.12.00.00 Workplace Violence Prevention Policy
- 07.13.00.00 Anti-Fraternization Policy
- 07.14.00.00 Health Insurance Portability and Accountability Act (HIPAA) Privacy Policy

Property and Equipment

- 08.01.00.01 Policy for Use of County-Owned Real Estate
- 08.01.00.02 Energy Efficiency / Conservation
- 08.01.01.00 Sale of County Owned Surplus Real Property Policy
- 08.01.01.01 Donations of Computer Equipment Declared as Surplus

- 08.02.01.00 Tangible Personal Property Control Policy
- 08.02.02.00 Policy for the Control of Tangible Personal Property Classified as Sensitive Property
- 08.02.04.00 Public Facility/Co-Location Policy

- 08.03.01.00 Filtering Non-Library Internet Access on Hillsborough County-Owned Computer Equipment

Regulatory Services

- 09.03.00.04 Bus Pass Subsidy Program

- 09.09.00.00 Notification of Violations of Tampa Bay Water's Amended and Restated Interlocal Agreement
- 09.13.02.00 Payment for Outside Legal Services and Court Appointed Attorneys
- 09.14.00.00 Proposed Appointments by County Administrator

Other (Miscellaneous)

- 10.03.00.00 Purchase of Bottled Drinking Water
- 10.04.00.00 Recognition of County Contributions to Not-For-Profit Corporations

*All BOCC Policies above were adopted by the EPC Board on March 15, 2007, the remaining unadopted BOCC policies were deleted from the list

The below policies will be amended, rescinded, or adopted and automatically integrated into the above list:

01.05.01.00 - Policy for Making Citizen Appointments to Boards, Councils, Committees and Authorities (amended April 23, 2007 and merged and rescinded on June 17, 2009) - **RESCIND**

01.05.02.00 - Residency Requirements for Board Appointees (merged with 01.05.01.00 and rescinded on June 17, 2009) - **RESCIND**

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01.21.00.00 - Policy Requiring Boards and Councils Created by the Board of County Commissioners to Follow BOCC Policies. (new - February 7, 2007) - **ADOPT**

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