

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
MARCH 20, 2008
9 AM**

AGENDA

INVOCATION AND PLEDGE OF ALLEGIANCE

**APPROVAL OF CHANGES TO THE AGENDA AND REMOVAL OF CONSENT
AGENDA ITEMS WITH QUESTIONS, AS REQUESTED BY BOARD MEMBERS**

I. PUBLIC COMMENT

Three (3) Minutes Are Allowed for Each Speaker

II. CITIZENS' ENVIRONMENTAL ADVISORY COMMITTEE

Report from the Chair – David Jellerson

III. CONSENT AGENDA

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

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JANUARY 17, 2008 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting and Public Hearing, scheduled for Thursday, January 17, 2008, 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 Brian Blair, Rose Ferlita, Ken Hagan (arrived at 9:15 a.m.), Jim Norman, Mark Sharpe, and Kevin White.

Chairman Higginbotham called the meeting to order at 9:06 a.m. The Legacy Home School Group led in the pledge of allegiance to the flag. Commissioner Blair gave the invocation.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, stated Item V, proclamation recognizing the career of Alan Wright, and Item VII, National Radon Poster Contest competition recognition, would be heard after the Consent Agenda; Item G, second required vote to amend EPC rules of order regarding meeting starting time, was added to the Consent Agenda. **Commissioner White moved the changes, seconded by Commissioner Blair, and carried six to zero.** (Commissioner Hagan had not arrived.)

PUBLIC COMMENT

Ms. Marilyn Smith, County resident, perceived the EPC was being attacked for political reasons and requested the EPC strengthen the rules.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson reported the January 7, 2008, meeting included election of officers and stated the Tampa Bay Nitrogen Management Consortium committee recommended the EPC approve a pollution recovery fund (PRF) grant of \$5,000 as a consortium member to support the process. Mr. Jellerson deferred comments to the public hearing regarding the Tampa Bay Estuary Program and wetlands advisory committee discussion.

CONSENT AGENDA

- A. Approval of minutes: December 13, 2007.
- B. Monthly activity reports.
- C. PRF report.

THURSDAY, JANUARY 17, 2008 - DRAFT MINUTES

- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary.
- F. Status report on EPC/Planning and Growth Management Department process review.
- G. Second required vote to amend EPC rules of order regarding meeting starting time.

Commissioner White moved the Consent Agenda, seconded by Commissioner Sharpe, and carried seven to zero.

EXECUTIVE DIRECTOR

Proclamation Recognizing Career of Alan Wright, Mr. River - Dr. Garrity stated the proclamation was for dedicated service to the community, environment, and the County by Mr. Wright. A memorial service would be held on Tuesday, January 29, 2008, at River Tower Park at 4:00 p.m. Commissioner Blair read the proclamation regarding EPC designating the water quality monitoring network in the Hillsborough River as the Alan Wright Memorial Water Quality Monitoring Network, which was accepted by Mr. Pete Owens, EPC staff, and Mr. John Wilshusen, partner, who offered laudatory remarks. Commissioners Ferlita and Sharpe offered appreciative comments.

AIR MANAGEMENT DIVISION

National Radon Poster Contest Competition Recognition - Mr. Jerry Campbell, Director, EPC Air Management Division, presented the item. Ms. Cindy Morris, Hillsborough County Health Department (Health Department), stated a poster contest was sponsored by the Health Department, the Florida Department of Health, Environmental Protection Agency, and the National Safety Council. Mr. Daniel Carr, County resident, won first place locally and second place in the national contest. Ms. Morris stated January 2008 was declared National Radon Month, and Mr. Carr's poster would be utilized throughout the State for educational efforts. Mr. Carr accepted a plaque and a certificate of appreciation and thanked the EPC Board for the recognition. Responding to Commissioner Blair, Mr. Carr said a radon testing kit could be purchased at a hardware store.

PUBLIC HEARING

Consider Amendment, Section 1-11.12 to Chapter 1-11, Wetlands Rule - Chairman Higginbotham called for a motion to open the public hearing. **Commissioner Sharpe so moved, seconded by Commissioner White, and carried seven to zero.**

THURSDAY, JANUARY 17, 2008 - DRAFT MINUTES

Dr. Garrity reviewed the hybrid program, criteria, and rule language and gave a brief overview of workshops and responses to citizens. Attorney Andrew Zodrow, EPC Legal Department, stated the hybrid model provided for EPC coordination with the Southwest Florida Waste Management District (SWFWMD) on incorporating agricultural ground and surface water management (AGSWM) principles and EPC wetland impact reviews. He reviewed procedures for current EPC wetland rules; discussed benefits to farmers; addressed public notification; noted additional public comments addressed, proposed changes, exemptions, rule language, conditions, and limitations; and summarized staff recommendation, as provided in background material.

Chairman Higginbotham called for public comment. Mr. Hugh Gramling, chairman, Agriculture Economic Development Council, urged the EPC Board to accept the rule as written and recommended a five-year period for mitigation.

Ms. Vivian Bacca, 413 El Greco Drive, submitted information, stated a geographic information mapping system was not as definitive as wetlands delineation, perceived one-third of small isolated wetlands would be at risk under the new rules, and opined a cumulative impact analysis should be conducted.

Mr. Dale McClellan, president, Hillsborough County Farm Bureau, was in favor of the rule with the exception of the seven-year time frame. Ms. Pamela Clouston, 1621 Thompson Road, representing Rural Lithia Area Neighborhood Defense (R-LAND), addressed Recommendation 2, noted the importance of preserving wetlands, proposed streamlining for efficiency of business operations without impacting wetlands protection, and opposed the rule change.

Ms. Mariella Smith, County resident, perceived the exemption consisted of loopholes that could be used by developers, stated some agricultural lands were not being farmed, and discussed wetlands protection.

Ms. Kelly Cornelius, 18732 Dorman Road, commented on being stewards of the environment and requested not to compromise on the environment. Ms. Beverly Griffiths, Tampa Bay Group of the Sierra Club chairman, discussed preserving wetlands, perceived the amount of wetlands eligible for exemption was understated, discussed pollution runoff, and opposed the rule change.

Mr. Edward Ross, County resident, spoke in honor of Mr. Wright, discussed quality of life and natural preserves, recalled in 1970 the County salaried farmers to place wetlands on their property, commented on flooding and water issues, and opposed the rule change.

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Ms. Denise Layne, executive director, Coalition 4 Responsible Growth, submitted information, said protection would be weakened if the rule was adopted, noted the goal was to streamline the process, and commented on being stewards of the environment.

Mr. John Hendershot, County resident, stated quarter-acre wetlands served as natural ecological niches and feeding grounds for the environment and animals and noted bird habitation was diminishing and destruction of wetlands would cause that process to continue. Ms. Marilyn Smith, County resident, perceived decisions being made would shorten the life of water and food consumption.

Ms. Terry Flott, United Citizens Action Network (U-CAN), perceived the proposed exemptions to the wetlands rule would not accomplish the goal of promoting a healthy vibrant economy for all citizens and would reduce existing protections and increase environmental and financial cost to taxpayers; noted no science-based environmental impacts, studies of research, or financial reports had been presented during public meetings, workshops, or in response to U-CAN questions; and discussed conversion of agricultural lands, tax and environmental loopholes, and political pandering.

Mr. Roy Davis, 3224 McIntosh Road, noted farmers needed continued financing to keep farming, perceived the rule was satisfactory if the time frame was changed to two years and acceptable if changed to five years, and discussed maximum acreage authorized under the AGSWM program for exemptions and wetland impacts.

Mr. Jellerson reported the wetlands advisory committee and CEAC recommended EPC approve the proposed rule and change the time frame to five years.

Dr. Garrity responded to queries from Commissioner Sharpe regarding keeping the land as farmland so it would not become developed, filling wetlands, destroying isolated half-acre wetlands, and AGSWM proposal. Commissioner Sharpe wanted quarterly reports throughout the life of the program, expressed concern with diminishing the time frame, and supported the original recommendation. Responding to Commissioner Blair, Mr. Robert Stetler, EPC staff, explained 50 percent of wetlands were lost through time, and other regulatory agencies did not have good data to tell how many wetlands were on the landscape at that point and in subsequent years; stated permits continued to be issued for wetlands loss, and wetland mitigation had been authorized; and noted strong restoration programs from SWFWMD and federal agencies to replace wetlands in the County. Discussion ensued regarding successful mitigation, wetlands gained, and statistical data. Commissioner Blair asked whether more wetlands were being created in the County. Mr. Stetler stated if

THURSDAY, JANUARY 17, 2008 - DRAFT MINUTES

there were impacts to a functional wetland, the functions of the wetland would need to be replaced in order not to have a net loss, and noted a concerted effort from agencies to restore wetlands. Commissioner Blair supported the five-year time frame.

Responding to Commissioner White, Dr. Garrity stated small, isolated wetlands might have been exempt from mitigation, explained the proposed rule, noted several plans were proposed, and discussed reasons for proposing seven years. Commissioner White wanted to ensure the proposal was fair and equitable for everyone involved. After commenting on the purpose of the hearing, recognizing the EPC was including further regulations with the plan, stating farmers were the first environmentalists, perceiving another layer of government was placed on farmers, and voicing appreciative comments for farmers, **Commissioner Norman moved the recommendation by staff with the five-year amendment. Commissioner Blair seconded the motion** based on CEAC, wetland advisory committee, and staff recommendation.

Dr. Garrity perceived the proposal would cause minor impacts to wetlands, stated two applications were received from farmers in the past five years, and agreed to make quarterly audits instead of annual audits. Mr. Zodrow verified quarter-acre wetlands of 10,000 square feet could be destroyed as long as the property was agricultural, noncommercial, or nonresidential for seven years, which would have no mitigation or compensation, and explained reasons staff proposed the rule language. Discussion ensued regarding the AGSWM program, rules, and reasonable use. Commissioner Blair reiterated how much farmers were appreciated. Commissioner Ferlita noted the importance and need for the agricultural community, commented on e-mails received and streamlining the process, expressed uncertainty whether the provision proposed would simplify the process or make the process more efficient, wanted protection for the agricultural community, perceived the proposal would leave loopholes concerning wetland protection, noted the EPC Board had dual responsibilities, and stated she would not support the motion.

Commissioner Sharpe agreed everything needed to be done to protect the large number of quarter- and half-acre wetlands in the County and perceived tracking would help. Dr. Garrity said the rule language included what EPC wanted and would apply to bona fide agricultural activities. Mr. Zodrow reviewed key language. Commissioner Sharpe perceived the language needed to be clearer, requested an agreement, and questioned the seven-year time frame instead of the five-year time frame. Chairman Higginbotham stated trust and common sense were needed, noted checks and verification with quarterly reports would answer questions, and regarding the years, said land was the asset, not the crop.

THURSDAY, JANUARY 17, 2008 - DRAFT MINUTES

Discussion followed regarding weakening the rules. **Commissioner Norman** amended the motion to approve staff recommendation with the amendment of five years instead of seven and add a quarterly report instead of yearly, seconded by **Commissioner Blair**. EPC General Counsel Richard Tschantz suggested separating the motion because the recommendations were separate. **Commissioner Norman** moved the five-year amendment, seconded by **Commissioner Blair**, and carried five to two; **Commissioners Ferlita and White** voted no.

Commissioner Norman moved a quarterly report instead of an annual report, seconded by **Commissioner Blair**. **Commissioner Ferlita** agreed the quarterly report was better but because she had not supported the previous motion, she would not support the quarterly report. **The motion carried six to one; Commissioner Ferlita** voted no.

ENVIRONMENTAL RESOURCES MANAGEMENT (ERM) DIVISION

Approval of PRF Project With the TBEP and Approval of the Declaration of Cooperation of the Tampa Bay Nitrogen Management Consortium - Mr. Anthony D'Aquila, EPC ERM Division, gave the purpose of the item. **Commissioner Norman** moved the item, seconded by **Commissioner White**, and carried six to zero. (Commissioner Blair was out of the room.)

There being no further business, the meeting was adjourned at 11:24 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

ssg

FEBRUARY 20, 2008 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING -
DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to Consider Sending a Letter to the University of South Florida President and the Hillsborough County Legislative Delegation to Request the Institute of Food and Agricultural Sciences Not Bear a Disproportionate Impact Due to Impending University of Florida Budget Cuts and Add That to the County Legislative Program, scheduled for Wednesday, February 20, 2008, at 11:36 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Al Higginbotham and Commissioners Brian Blair, Rose Ferlita, Ken Hagan, Jim Norman, Mark Sharpe, and Kevin White.

Chairman Higginbotham called the meeting to order at 11:36 a.m.

Commissioner Norman moved that the EPC Chairman aggressively write a letter in support of the agricultural community to try to save funding, seconded by Commissioner Sharpe, and carried seven to zero.

There being no further business, the meeting was adjourned at 11:37 a.m.

READ AND APPROVED: _____

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____

Deputy Clerk

kr

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION

January FY 2008

A. Public Outreach/Education Assistance:		
1. Phone Calls:		209
2. Literature Distributed:		<u>0</u>
3. Presentations:		<u>2</u>
4. Media Contacts:		<u>4</u>
5. Internet:		<u>61</u>
6. Host/Sponsor Workshops, Meetings, Special Events		<u>0</u>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		<u>8</u>
b. Construction:		<u>5</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>0</u>
e. General:		<u>6</u>
f. Title V:		<u>0</u>
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 :		<u>11</u>
b. Construction ¹ :		<u>13</u>
c. Amendments ¹ :		<u>0</u>
d. Transfers/Extensions ¹ :		<u>0</u>
e. Title V Operating ² :		<u>15</u>
f. Permit Determinations ² :		<u>0</u>
g. General:		<u>0</u>
3. Intent to Deny Permit Issued:		<u>2</u>
C. Administrative Enforcement		
1. New cases received:		<u>2</u>
2. On-going administrative cases:		
a. Pending:		<u>6</u>
b. Active:		<u>25</u>
c. Legal:		<u>2</u>
d. Tracking compliance (Administrative):		<u>10</u>
e. Inactive/Referred cases:		<u>0</u>
	Total	<u>43</u>
3. NOIs issued:		<u>3</u>

4. Citations issued:	<u>0</u>
5. Consent Orders Signed:	<u>1</u>
6. Contributions to the Pollution Recovery Fund:	<u>\$14,000.00</u>
7. Cases Closed:	<u>7</u>
D. Inspections:	
1. Industrial Facilities:	<u>70</u>
2. Air Toxics Facilities:	
a. Asbestos Emitters	<u>0</u>
b. Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>1</u>
c. Major Sources	<u>3</u>
3. Asbestos Demolition/Renovation Projects:	<u>17</u>
E. Open Burning Permits Issued:	<u>3</u>
F. Number of Division of Forestry Permits Monitored:	<u>217</u>
G. Total Citizen Complaints Received:	<u>69</u>
H. Total Citizen Complaints Closed:	<u>82</u>
I. Noise Sources Monitored:	<u>3</u>
J. Air Program's Input to Development Regional Impacts:	<u>2</u>
K. Test Reports Reviewed:	<u>100</u>
L. Compliance:	
1. Warning Notices Issued:	<u>5</u>
2. Warning Notices Resolved:	<u>4</u>
3. Advisory Letters Issued:	<u>13</u>
M. AOR's Reviewed:	<u>0</u>
N. Permits Reviewed for NESHAP Applicability:	<u>0</u>
O. Planning Documents coordinated for Agency review.	<u>5</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
January FY 2008

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$0.00
(b) all others	\$0.00
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	\$0.00
(b) class A2 facility - 5 year permit	\$0.00
(c) class A1 facility - 5 year permit	\$0.00
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	\$640.00
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	\$5,200.00
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	
4. Non-delegated permit revision for an air	\$480.00
5. Non-delegated permit transfer of ownership, name change or extension	\$0.00
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	\$4,000.00
(b) for structure greater than 50,000 sq ft	\$0.00
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	\$700.00
(b) renovation greater than 1000 linear feet or 1000 sq ft	\$4,000.00
8. Open burning authorization	\$1,200.00
9. Enforcement Costs	\$4,429.00

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION

February FY 2008

A. Public Outreach/Education Assistance:

1. Phone Calls:	191
2. Literature Distributed:	5
3. Presentations:	1
4. Media Contacts:	0
5. Internet:	58
6. Host/Sponsor Workshops, Meetings, Special Events	1

B. Industrial Air Pollution Permitting

1. Permit Applications Received (Counted by Number of Fees Received):	
a. Operating:	7
b. Construction:	4
c. Amendments:	0
d. Transfers/Extensions:	2
e. General:	6
f. Title V:	2
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 :	6
b. Construction ¹ :	20
c. Amendments ¹ :	0
d. Transfers/Extensions ¹ :	0
e. Title V Operating ² :	0
f. Permit Determinations ² :	0
g. General:	5

3. Intent to Deny Permit Issued:

	0
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C. Administrative Enforcement

1. New cases received:	0
2. On-going administrative cases:	
a. Pending:	4
b. Active:	27
c. Legal:	2
d. Tracking compliance (Administrative):	11
e. Inactive/Referred cases:	0
Total	44

3. NOIs issued:	4
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4. Citations issued:	1
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5. Consent Orders Signed:	2
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6.	Contributions to the Pollution Recovery Fund:	\$500.00
7.	Cases Closed:	0
D.	Inspections:	
1.	Industrial Facilities:	10
2.	Air Toxics Facilities:	
a.	Asbestos Emitters:	0
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	1
c.	Major Sources	4
3.	Asbestos Demolition/Renovation Projects:	17
E.	Open Burning Permits Issued:	4
F.	Number of Division of Forestry Permits Monitored:	246
G.	Total Citizen Complaints Received:	75
H.	Total Citizen Complaints Closed:	64
I.	Noise Sources Monitored:	8
J.	Air Program's Input to Development Regional Impacts:	4
K.	Test Reports Reviewed:	0
L.	Compliance:	
1.	Warning Notices Issued:	19
2.	Warning Notices Resolved:	23
3.	Advisory Letters Issued:	5
M.	AOR's Reviewed:	0
N.	Permits Reviewed for NESHAP Applicability:	11
O.	Planning Documents coordinated for Agency review.	8

**FEES COLLECTED FOR AIR MANAGEMENT DIVISION
February FY 2006**

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$0.00</u>
(b) all others	<u>\$0.00</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	<u>\$0.00</u>
(b) class A2 facility - 5 year permit	<u>\$0.00</u>
(c) class A1 facility - 5 year permit	<u>\$0.00</u>
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$3,840.00</u>
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$560.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$4,806.66</u>
4. Non-delegated permit revision for an air	<u>\$0.00</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$0.00</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	<u>\$2,200.00</u>
(b) for structure greater than 50,000 sq ft	<u>\$600.00</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$300.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$200.00</u>
8. Open burning authorization	<u>\$2,400.00</u>
9. Enforcement Costs	<u>\$892.00</u>

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



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 Ph: (813) 627-2600

Fax Numbers (813):
 Admin. 627-2620 Waste 627-2640
 Legal 627-2602 Wetlands 627-2630
 Water 627-2670 ERM 627-2650
 Air 627-2660 Lab 272-5157

Executive Director
 Richard D. Garrity, Ph.D.

MEMORANDUM

DATE: February 12, 2008

TO: Tom Koulianos, Director of Finance and Administration

FROM: Mary Jo Howell, Executive Secretary, Waste Management Division
 through *HB*
 Hooshang Boostani, Director of Waste Management

SUBJECT: **WASTE MANAGEMENT'S JANUARY 2008
 AGENDA INFORMATION**

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	1
2. On-going administrative cases	112
a. Pending	5
b. Active	49
c. Legal	9
d. Tracking Compliance (Administrative)	33
e. Inactive/Referred Cases	16
3. NOI's issued	0
4. Citations issued	2
5. Consent Orders and Settlement Letters Signed	1
6. Civil Contributions to the Pollution Recovery Fund	\$36,184
7. Enforcement Costs collected	\$1,235
9. Cases Closed	3

B. SOLID AND HAZARDOUS WASTE

1. FDEP Permits (received/reviewed)	1/2
2. EPC Authorization for Facilities NOT requiring DEP permit	1/4
3. Other Permits and Reports	
a. County Permits	2/3
b. Reports	44/40
4. Inspections (Total)	228
a. Complaints	21
b. Compliance/Reinspections	13
c. Facility Compliance	18
d. Small Quantity Generator	176
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	20/21
b. Warning Notices Issued/Closed	1/4
c. Compliance letters	52
d. Letters of Agreement	0
e. Agency Referrals	2
6. Pamphlets, Rules and Material Distributed	163

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	73
b. Installation	11
c. Closure	11
d. Compliance Re-Inspections	20
2. Installation Plans Received/Reviewed	11/16
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	06/07
b. Closure Reports Received/Reviewed	07/08
4. Enforcement	
a. Non-compliance Letters Issued/Closed	52
b. Warning Notices Issued/Closed	00/02
c. Cases referred to Enforcement	00
d. Complaints Received/Investigated	00/00
e. Complaints Referred	00
5. Discharge Reporting Forms Received	01
6. Incident Notification Forms Received	25
7. Cleanup Notification Letters Issued	01
8. Public Assistance	200+

D. STORAGE TANK CLEANUP

1. Inspections	33
2. Reports Received/Reviewed	124/162
a. Site Assessment	9/10
b. Source Removal	00/05
c. Remedial Action Plans (RAP's)	10/14
d. Site Rehabilitation Completion Order/ No Further Action Order	05/04
e. Active Remediation/Monitoring	63/88
f. Others	37/41
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

E. RECORD REVIEWS - 25

F. PUBLIC INFORMATION PROJECTS - 0

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



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

Executive Director
 Richard D. Garrity, Ph.D.

M E M O R A N D U M

DATE: March 11, 2008

TO: Tom Koulianos, Director of Finance and Administration

FROM: Mary Jo Howell, Executive Secretary, Waste Management Division
 through
 Hooshang Boostani, Director of Waste Management

SUBJECT: **WASTE MANAGEMENT'S FEBRUARY 2008
 AGENDA INFORMATION**

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	3
2. On-going administrative cases	112
a. Pending	2
b. Active	50
c. Legal	11
d. Tracking Compliance (Administrative)	33
e. Inactive/Referred Cases	16
3. NOI's issued	0
4. Citations issued	0
5. Consent Orders and Settlement Letters Signed	2
6. Civil Contributions to the Pollution Recovery Fund	\$25,722
7. Enforcement Costs collected	\$3,293
9. Cases Closed	1

B. SOLID AND HAZARDOUS WASTE

1. FDEP Permits (received/reviewed)	00/01
2. EPC Authorization for Facilities NOT requiring DEP permit	00/00
3. Other Permits and Reports	
a. County Permits	00/04
b. Reports	32/38
4. Inspections (Total)	250
a. Complaints	27
b. Compliance/Reinspections	12
c. Facility Compliance	43
d. Small Quantity Generator	167
e. P2 Audits	1
5. Enforcement	
a. Complaints Received/Closed	31/30
b. Warning Notices Issued/Closed	02/03
c. Compliance letters	72
d. Letters of Agreement	0
e. Agency Referrals	1
6. Pamphlets, Rules and Material Distributed	164

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	52
b. Installation	09
c. Closure	15
d. Compliance Re-Inspections	16
2. Installation Plans Received/Reviewed	15/13
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	09/08
b. Closure Reports Received/Reviewed	13/05
4. Enforcement	
a. Non-compliance Letters Issued/Closed	52
b. Warning Notices Issued/Closed	00/00
c. Cases referred to Enforcement	02
d. Complaints Received/Investigated	03/03
e. Complaints Referred	00
5. Discharge Reporting Forms Received	05
6. Incident Notification Forms Received	20
7. Cleanup Notification Letters Issued	04
8. Public Assistance	06

D. STORAGE TANK CLEANUP

1. Inspections	31
2. Reports Received/Reviewed	120/142
a. Site Assessment	15/14
b. Source Removal	01/01
c. Remedial Action Plans (RAP's)	13/16
d. Site Rehabilitation Completion Order/ No Further Action Order	02/02
e. Active Remediation/Monitoring	63/79
f. Others	26/30
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

E. RECORD REVIEWS - 20

F. PUBLIC INFORMATION PROJECTS - 0

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
FEBRUARY, 2008**

A. ENFORCEMENT

1. New Enforcement Cases Received:	5
2. Enforcement Cases Closed:	4
3. Enforcement Cases Outstanding:	60
4. Enforcement Documents Issued:	8
5. Recovered costs to the General Fund:	\$ 1,775.00
6. Contributions to the Pollution Recovery Fund:	\$ 45,250.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Little Tadpole MHP	Failure to meet effluent limits	\$ 2,000.00
b. Cleveland St. Villas	Placement of c/s in service without acceptance letter	\$ 500.00
c. Bayport Commons	Construction without a permit	\$ 4,000.00
d. Scott Grantham	Improper Operation/Failure to maintain	\$ 50.00
e. Starlite MHP WWTF	C.O. 07-9634	\$ 38,200.00
f. Vonderburg Townhomes	Placement of c/s in service without acceptance letter	\$ 500.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	29
a. Facility Permit:	2
(i) Types I and II	0
(ii) Types III	2
b. Collection Systems-General	9
c. Collection Systems-Dry Line/Wet Line:	18
d. Residuals Disposal:	0
2. Permit Applications Approved:	22
a. Facility Permit:	5
b. Collection Systems-General:	6
c. Collection Systems-Dry Line/Wet Line:	11
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
4. Permit Applications (Non-Delegated):	0
a. Recommended for Approval:	0
5. Permits Withdrawn:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0

6. Permit Applications Outstanding:	87
a. Facility Permit:	7
b. Collection Systems-General:	38
c. Collection Systems-Dry Line/Wet Line:	45
d. Residuals Disposal:	0
7. Permit Determination:	4
8. Special Project Reviews:	1
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	1
C. INSPECTIONS - DOMESTIC	122
1. Compliance Evaluation:	9
a. Inspection (CEI):	3
b. Sampling Inspection (CSI):	6
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	69
a. Inspection (RI):	24
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	42
d. Enforcement Inspection (ERI):	3
3. Engineering Inspections:	44
a. Reconnaissance Inspection (RI):	4
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	7
e. Post Construction Inspection (XCI):	32
f. On-site Engineering Evaluation:	1
g. Enforcement Reconnaissance Inspection (ERI):	0
D. PERMITTING/PROJECT REVIEW - INDUSTRIAL	36
1. Permit Applications Received:	0
a. Facility Permit:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0
b. General Permit:	0
c. Preliminary Design Report:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0

2. Permits Recommended to DEP for Approval:	0
3. Special:	1
a. Facility Permits:	1
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	35
a. Phosphate:	6
b. Industrial Wastewater:	13
c. Others:	16
E. INSPECTIONS - INDUSTRIAL	38
1. Compliance Evaluation:	11
a. Inspection (CEI):	11
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	19
a. Inspection (RI):	10
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	9
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	8
a. Compliance Evaluation (CEI):	8
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0
F. INVESTIGATION/COMPLIANCE	
1. Citizen Complaints:	
a. Domestic:	31
(i) Received:	18
(ii) Closed:	13
b. Industrial:	15
(i) Received:	7
(ii) Closed:	8
2. Warning Notices:	
a. Domestic:	12
(i) Received:	6
(ii) Closed:	6
b. Industrial:	5
(i) Received:	4
(ii) Closed:	1

3. Non-Compliance Advisory Letters:	26
4. Environmental Compliance Reviews:	162
a. Industrial:	39
b. Domestic:	123
5. Special Project Reviews:	0
G. RECORD REVIEWS	7
1. Permitting:	6
2. Enforcement:	1
H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:	
1. Air Division:	64
2. Waste Division:	0
3. Water Division:	8
4. Wetlands Division:	0
5. ERM Division:	131
6. Biomonitoring Reports:	3
7. Outside Agency:	22
I. SPECIAL PROJECT REVIEWS:	7
1. DRIs:	4
2. ARs:	0
3. Technical Support:	3
4. Other:	0

EPC WETLANDS MANAGEMENT DIVISION

BACKUP AGENDA

January 2008

A. General		Totals
1. Telephone Conferences		729
2. Unscheduled Citizen Assistance		64
3. Scheduled Meetings		269
4. Correspondence		623
B. Assessment Reviews		
1. Wetland Delineations		45
2. Surveys		42
3. Miscellaneous Activities in Wetland		26
4. Mangrove		2
5. Notice of Exemption		2
6. Impact/ Mitigation Proposal		26
7. Tampa Port Authority Permit Applications		27
8. Wastewater Treatment Plants (FDEP)		1
9. DRI Annual Report		3
10. Land Alteration/Landscaping		2
11. Land Excavation		0
12. Phosphate Mining		2
13. Rezoning Reviews		25
14. CPA		2
15. Site Development		61
16. Subdivision		28
17. Wetland Setback Encroachment		9
18. Easement/Access-Vacating		0
19. Pre-Applications		0
20. On-Site Visits		156
C. Investigation and Compliance		
1. Complaints Received		51
2. Warning Notices Issued		11
3. Warning Notices Closed		8
4. Complaint Inspections		67
5. Return Compliance Inspections		63
6. Mitigation Monitoring Reports		38
7. Mitigation Compliance Inspections		38
8. Erosion Control Inspections		20
9. MAIW Compliance Site Inspections		39
10. TPA Compliance Site Inspections		2
D. Enforcement		
1. Active Cases		32
2. Legal Cases		1
3. Number of "Notice of Intent to Initiate Enforcement"		1
4. Number of Citations Issued		0
5. Number of Consent Orders Signed		2
6. Administrative - Civil Cases Closed		3
7. Cases Referred to Legal Department		1
8. Contributions to Pollution Recovery		\$17,672.00

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
January 2008**

9. Enforcement Costs Collected	\$3,432.00
E. Ombudsman	
1. Agriculture	4
2. Permitting Process	1
3. Rule Assistance	0
4. Staff Assistance	1
5. Miscellaneous/Other	0

WETLAND REPORT FOR REVIEW TIME 2008

Month	# Of Reviews	% On Time	% Late
December			
November			
October			
September			
August			
July			
June			
May			
April			
March			
February			
January	582	99%	1%

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
February 2008**

A. General	Totals
1. Telephone Conferences	783
2. Unscheduled Citizen Assistance	58
3. Scheduled Meetings	292
4. Correspondence	503
B. Assessment Reviews	
1. Wetland Delineations	38
2. Surveys	42
3. Miscellaneous Activities in Wetland	23
4. Mangrove	4
5. Notice of Exemption	4
6. Impact/ Mitigation Proposal	24
7. Tampa Port Authority Permit Applications	21
8. Wastewater Treatment Plants (FDEP)	2
9. DRI Annual Report	4
10. Land Alteration/Landscaping	3
11. Land Excavation	0
12. Phosphate Mining	0
13. Rezoning Reviews	21
14. CPA	2
15. Site Development	68
16. Subdivision	41
17. Wetland Setback Encroachment	5
18. Easement/Access-Vacating	0
19. Pre-Applications	47
20. On-Site Visits	111
C. Investigation and Compliance	
1. Complaints Received	40
2. Warning Notices Issued	11
3. Warning Notices Closed	3
4. Complaint Inspections	68
5. Return Compliance Inspections	60
6. Mitigation Monitoring Reports	8
7. Mitigation Compliance Inspections	16
8. Erosion Control Inspections	10
9. MAIW Compliance Site Inspections	23
10. TPA Compliance Site Inspections	12
D. Enforcement	
1. Active Cases	29
2. Legal Cases	1
3. Number of "Notice of Intent to Initiate Enforcement"	1
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	3
6. Administrative - Civil Cases Closed	4
7. Cases Referred to Legal Department	1
8. Contributions to Pollution Recovery	\$5,997.00

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
February 2008**

9. Enforcement Costs Collected	\$2,845.00
E. Ombudsman	
1. Agriculture	3
2. Permitting Process	1
3. Rule Assistance	1
4. Staff Assistance	1
5. Miscellaneous/Other	2

WETLAND REPORT FOR REVIEW TIME 2008

Month	# Of Reviews	% On Time	% Late
December			
November			
October			
September			
August			
July			
June			
May			
April			
March			
February	461	98%	2%
January	582	99%	1%

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 02/29/08**

	As of 2/29/08
Beginning Fund Balance, 10/01/07	\$ 1,112,615
Interest Accrued	36,413
Deposits	251,729
Disbursements	(65,423)
Intrafund Budget Transfers to Project Fund	(531,610)
Pollution Recovery Fund Balance	\$ 803,724
Encumbrances:	\$ 8,002
Pollution Prevention/Waste Reduction (101)	117,014
Artificial Reef Program	35,017
PRF Project Monitoring	\$ 160,033
Total Encumbrances	\$ 120,000
	\$ 120,000
Minimum Balance (Reserves)	\$ 523,691
	\$ 523,691

PROJECT FUND	Project Amount	Project Balance
Open Projects		
FY 06 Projects		\$ 100,000
COT Parks Dept/Cypress Point (97)	100,000	150,000
Bahia Beach Restoration (contract 04-03)	150,000	9,101
Tampa Shoreline Restoration	30,000	27,884
Field Measurement for Wave Energy	125,000	45,000
Port of Tampa Stormwater Improvement	45,000	\$331,985
	\$450,000	
FY 07 Projects		\$ 2,075
Agr Pesticide Collection & Education Day	24,000	7,730
Tank Removal	25,000	28,885
Industrial Facility Stormwater Inspection Prg	28,885	150,000
Agriculture Best Management Practice Impl	150,000	75,000
Lake Thonotosassa Assessment	75,000	188,000
Natures Classroom Cap, PH III	188,000	45,150
Pollution Monitoring Appl Pilot Project	45,150	1,316
Exper Land-Based Seagrass Nursery	20,000	15,613
Seagrass & Longshore Bar Recovery	75,000	100,000
Seawall Removal Cotanchobee Ft Brooke Park	100,000	125,000
Analysis of Bacteria & Beach Closures	125,000	30,002
Knights Preserve	35,235	10,040
Oyster Reef Shore/Stab & Enhance	30,000	40,906
Nitrogen Emission/Deposition Ratios, Air Pollution	40,906	75,000
Erosion Control/Oyster Bar Habitat Creation	75,000	4,486
Remediation of Illegally Dumped Asbestos	4,486	\$899,203
	\$1,041,662	
FY 08 Projects		80,000
Australian Pine Removal E.G. Simmons Park	80,000	125,000
Restoration of MOSI	125,000	133,000
Invasive Plant Removal Egmont Key	133,000	66,954
Lake Magdalene's Management Plan	66,954	19,694
Testing Reduction of TMDL in Surface Water Flow	19,694	101,962
Assessing Bacteria Lake Carroll	101,962	\$526,610
	\$526,610	

COMMISSION
 Brian Blair
 Rose V. Ferlita
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 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.

ENVIRONMENTAL PROTECTION COMMISSION
 OF HILLSBOROUGH COUNTY
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
 AS OF FEBRUARY 29, 2008

Fund Balance as of 10/01/07	\$248,370
Interest Accrued	3,630
Disbursements FY08	(5,861)

Fund Balance	\$246,139
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Encumbrances Against Fund Balance:		Start Date	Expiration Date
SP627 Tampa Bay Scallop Restoration	\$ 4,906	08/29/03	12/31/07
SP636 Fantasy Island	4,208	01/20/05	12/31/07
SP634 Cockroach Bay ELAPP Restoration	237,025	03/10/05	01/31/08
Total of Encumbrances	\$246,139		

Fund Balance Available 02/29/08	\$ - 0 -
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EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Legal Case Summary for February 2008

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

Division: Legal Department

Recommendation: None, informational update.

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

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

Background: In an effort to provide the Commission a timely list of pending 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 pending 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: February 2008 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
February 2008

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [5]

Carolina Holdings, Inc. v. EPC [LCHP04-008]: A proposed final agency action letter denying an application for authorization to impact wetlands was sent on May 7, 2004. Carolina Holdings, Inc. requested an extension of time to file an appeal. The EPC entered an Order Granting the Request for Extension of Time on June 3, 2004 and the deadline for filing an appeal was July 2, 2004. On July 2, 2004, Carolina Holdings, Inc. filed an appeal challenging the decision denying the proposed wetland impacts. The parties have conducted mediation to attempt to resolve the matter without a hearing. The applicant re-submitted the new final site plan for re-zoning determination. Hillsborough County denied the re-zoning application. The applicant has filed a Chapter 70, F.S. dispute resolution challenge of the County's re-zoning decision. On October 4, 2006 the parties jointly responded to the Hearing Officer that the matter would continue to be held in abeyance until at least January 8, 2007. The parties responded to the Hearing Officer again stating the proposed development is still under dispute with Hillsborough County. The next status report is due on December 28, 2007. (AZ)

Irshaid Oil, Inc. [LEPC06-006]: On March 15, 2006, Mr. Nasser Irshaid filed a request for extension of time to file an appeal to challenge a Citation of Violation and Order to Correct issued by EPC on February 28, 2006, regarding waste issues. The Legal Dept. granted the request and provided the Appellant with a deadline of June 19, 2006 in which to file an appeal. On June 8, 2006 Appellant filed a second request for extension of time. It was determined that the request did not show good cause and the request was denied. Mr. Irshaid had until July 19, 2006 to file an appeal. On July 10, 2006 Mr. Irshaid filed an insufficient Notice of Appeal which was dismissed with leave to amend. Mr. Irshaid had until July 28, 2006 to file an amended appeal. Mr. Irshaid filed an appeal on July 18, 2006. A Hearing Officer was appointed on August 14, 2006. The Case Management Conference was held on Sept. 6, 2006. The Case was held in abeyance until May 24, 2007, and a status conference was scheduled for July 31, 2007 but has since been cancelled pending settlement discussions. No final hearing has been set pending possible settlement. (AZ)

Daniel A. and Celina Jozsi [LEPC06-031]: On October 17, 2006, the Jozsis filed a Notice of Appeal and Objection to an Amended Consent Order entered on September 27, 2006. The Legal Department has issued a letter acknowledging the appeal. A mediation was conducted on February 27, 2007. The mediation resulted in an impasse. The parties conducted a final hearing on the week of April 2, 2007. The Hearing Officer's Recommended Order was entered on May 31, 2007. The Jozsis filed exceptions to the Hearing Officer's recommendation and responses were also filed. The matter was transferred back to the Commission for adoption of a Final Order at the September 20, 2007 regular board meeting. On September 20, 2007 a Public Hearing was held before the Commission to consider the Hearing Officer's recommendation and render a Final Order in this case. The Commission upheld the Hearing Officer's recommendation and a Final Order was executed on October 1, 2007. On October 29, 2007, Appellants filed a Notice of Appeal of the Final Order in the Second District Court. (AZ)

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

He Il Cho v. EPC [LEPC07-031]: Appellant filed an extension of time and shortly thereafter an appeal on December 4, 2007, challenging a citation the EPC issued regarding noise violations at the now closed El Chaparro Mexican restaurant (on N. Florida Avenue). The parties are negotiating. (RM)

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES [2]

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

Medallion Convenience Stores, Inc. and MDC6, LLC [LEPC07-034]: Authority to take appropriate action against Medallion Convenience Stores, Inc. and MDC6, LLC for failing to comply with the Consent Order executed on February 28, 2007 was granted by the Commission on December 13, 2007. The Defendants have until February 21, 2008 to comply with the corrective measures. Failure to do so will result in EPC filing a civil lawsuit to compel compliance. (AZ)

EXISTING CIVIL CASES [11]

Julsar, Inc. [LEPC04-014]: Authority to take appropriate action against Julsar, Inc. for illegally removing over 11,400 square feet of regulated asbestos-containing ceiling material was granted on May 20, 2004. A Notice of Violation has issued and was received in early 2007. A Final Order was issued on June 1, 2007, and it was not appealed. The EPC filed a lawsuit to compel compliance on October 9th. (RM)

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

Jozsi, Daniel A. and Celina v. EPC and Winterroth [LEPC05-025]: Daniel A. and Celina Jozsi requested an appeal of a Consent Order entered into between James Winterroth and the EPC Executive Director. The appeal was not timely filed and the EPC dismissed the appeal. On December 8, 2005, the Jozsis appealed the order dismissing the appeal to the circuit court. The appeal was transferred to the Second District Court of Appeal (2DCA). The EPC transferred the record to the 2DCA on Aug. 24, 2006. On Sept. 27, 2006 the EPC and James Winterroth entered into an Amended Consent Order. The Jozsis were provided the right to challenge the Amended Order. The Jozsis filed an appeal of the Amended Consent Order on Oct. 17, 2006 (see related case LEPC06-031). On October 19, 2006 the EPC filed a Motion to Dismiss the Second DCA appeal. The Court denied the Motion to Dismiss the appeal. The parties have all filed briefs. Appellee James Winterroth filed a Status Report and Suggestion of Mootness. The Court entered an order consolidated this case with the appeal case of the final order referenced above in the administrative cases. (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)

Phillips & Munzel Oil Co., Inc. [LEPC06-034] Authority to take appropriate action including filing a civil lawsuit was granted by the Commission on December 14, 2006. The Respondent is currently not in compliance with underground storage tank regulations. The EPC is attempting to negotiate a settlement in this matter. (AZ)

Bayside Home Builders, Inc [LEPC07-008]: Authority to take appropriate action against the parties was granted by the Commission on February 15, 2007, for failure to comply with a Consent Order payment schedule for asbestos violations. The EPC filed a lawsuit to compel compliance on October 9th. (RM)

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

Petrol Mart, Inc. [LEPC07-018]: Authority to take appropriate action against Petrol Mart, Inc. to seek corrective action, appropriate penalties and recover administrative costs for improperly abandoned underground storage tanks and failure to address petroleum contamination was granted on June 21, 2007. The owner of the property is insolvent and the corporation inactive; however, the Waste Management Division intends on obtaining a judgment and lien on the property for the appropriate corrective actions. The Legal Department filed a civil lawsuit on September 26, 2007. The defendant was served with the lawsuit on October 12, 2007. The Court entered a default on November 9, 2007 for the Defendant's failure to respond. The EPC Legal Department is preparing to set the matter for a trial to obtain a default judgment. (AZ)

South Bay Corporation & Industrial Park, Inc. and The James Group [LEPC07-025]: Authority to take appropriate action against South Bay Corporation and the James Group for operating a wastewater treatment facility without a valid permit was granted on September 20, 2007. The parties are seeking settlement. (RM)

Gas Mart, Inc. [LEP07-029]: Authority to take appropriate action against Gas Mart, Inc. G.W. Partners, Ltd. for failure to properly assess and remediate petroleum contamination at their property was granted on August 16, 2007. The EPC staff is attempting to negotiate an amicable settlement with the parties prior to filing the civil lawsuit. (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)

RECENTLY RESOLVED CIVIL CASES [0]

C. OTHER OPEN CASES [12]

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

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

Agrium U.S., Inc. [LEPC07-012]: On May 3, 2007 Petitioner filed a request for extension of time to file a petition for administrative hearing regarding an Air Operating Permit denial. Subsequently, the Petitioner has been granted additional extensions of time. The fifth request for extension was granted in part and the Petitioner has until February 8, 2008 to file a petition in this matter. The extension of time ran, but the parties resolve the permitting dispute and the case is closed. (RM)

Angelo's Aggregate Materials, Ltd [LEPC07-015]: On May 30, 2007, Petitioner filed a request for an informal conference regarding a Notice of Violation issued by the Air Mgmt. Division regarding dust issues. The parties are negotiating. (RM)

Southern HealthCare Management, LLC d/b/a Bayshore Pointe Nursing & Rehab Center [LEPC07-016]: On May 30, 2007, Petitioner filed a request for a waiver or variance from noise regulations for an emergency power generator. (RM)

Southern HealthCare Management, LLC d/b/a Bayshore Pointe Nursing & Rehab Center [LEPC07-017]: On May 31, 2007, Appellant filed an extension of time to file a Notice of Appeal regarding an Air Mgmt. Division citation issued to the facility for noise violations from its emergency generator. The Petitioner has been granted four prior requests for extensions of time and has filed a fifth request. The Legal Dept. has determined that the request shows good cause for the extension and the Petitioner shall have until April 21, 2008 to file an appeal. (RM)

Bay Hills Village Condominium Association, Inc. [LEPC07-027]: On September 26, 2007 the Petitioner requested an extension of time to file a petition for administrative hearing to challenge a Notice of Violation issued on September 4, 2007. The request was granted and the Petitioner had until November 26, 2007 to file. No extension was filed thus the Notice of Violation will become final. (RM)

Hess Corporation [LEPC07-032]: On November 29, 2007, Petitioner Hess Corporation requested an extension of time to file a petition for administrative hearing to challenge a draft permit. The request was granted and the Petitioner has until January 10, 2008 to file a petition. A subsequent extension request was filed on January 9th but the parties came to a resolution of the matter. The extension request was withdrawn on January 11, 2008. The EPC Legal file is closed. (RM)

Kinder Morgan Port Sutton Terminal LLC [LEPC07-035]: On December 6, 2007 Petitioner Kinder Morgan requested an extension of time to file a petition for an administrative hearing to challenge an Air permit. The request has been granted and the Petitioner has until February 11, 2008 to file a petition. (RM)

Swati, Inc. [LEPC07-036]: On December 21, 2007, the Appellant Swati, Inc. filed a request for an extension of time to file a notice of appeal to challenge a Citation of Violation and Order to Correct issued on December 3, 2007, regarding a petroleum cleanup matter. The Legal Dept. granted the request and the Appellant has until January 31, 2008 to file an appeal in this matter. The Appellant filed a second request for extension of time which has been granted. The Appellant has until March 3, 2008 to file a Notice of Appeal. (AZ)

Mosaic Fertilizer, LLC [LEPC07-037]: On December 21, 2007, the Petitioner Mosaic Fertilizer, LLC filed a request for an extension of time to file a petition for an administrative hearing to challenge a draft air pollution permit. The Legal Dept. granted the request and the Petitioner has until March 31, 2008 to file a petition in this matter. (RM)

Harsco Corporation [LEPC08-002]: On January 11, 2008, the Petitioner Harsco Corporation filed a request for an extension of time to file a notice of appeal to challenge an air operating permit. The Legal Dept. granted the request and the Petitioner has until February 11, 2008 to file a petition in this matter. The Petitioner filed a second request for extension of time which has been granted. The Petitioner has until March 12, 2008 to file a petition. (RM)

Resource Recycling, L.L.C. [LEPC08-003]: On January 22, 2008, the Appellant Resource Recycling, L.L.C. filed a request for an extension of time to file a Notice of Appeal to challenge a permit issued on January 15, 2008. The Legal Dept. has granted the request and the Petitioner has until February 13, 2008 to file an appeal in this matter. (AZ)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Legal Case Summary for March 2008

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

Division: Legal Department

Recommendation: None, informational update.

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

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

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

List of Attachments: March 2008 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
March 2008

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [5]

Carolina Holdings, Inc. v. EPC [LCHP04-008]: A proposed final agency action letter denying an application for authorization to impact wetlands was sent on May 7, 2004. Carolina Holdings, Inc. requested an extension of time to file an appeal. The EPC entered an Order Granting the Request for Extension of Time on June 3, 2004 and the deadline for filing an appeal was July 2, 2004. On July 2, 2004, Carolina Holdings, Inc. filed an appeal challenging the decision denying the proposed wetland impacts. The parties have conducted mediation to attempt to resolve the matter without a hearing. The applicant re-submitted the new final site plan for re-zoning determination. Hillsborough County denied the re-zoning application. The applicant has filed a Chapter 70, F.S. dispute resolution challenge of the County's re-zoning decision. On October 4, 2006 the parties jointly responded to the Hearing Officer that the matter would continue to be held in abeyance until at least January 8, 2007. The parties responded to the Hearing Officer again stating the proposed development is still under dispute with Hillsborough County. A status report was due on December 28, 2007. The parties conducted a status conference on February 27, 2008. The Hearing Officer will enter an order holding the case in abeyance until August 1, 2008 but no later. (AZ)

Irshaid Oil, Inc. [LEPC06-006]: On March 15, 2006, Mr. Nasser Irshaid filed a request for extension of time to file an appeal to challenge a Citation of Violation and Order to Correct issued by EPC on February 28, 2006, regarding waste issues. The Legal Dept. granted the request and provided the Appellant with a deadline of June 19, 2006 in which to file an appeal. On June 8, 2006 Appellant filed a second request for extension of time. It was determined that the request did not show good cause and the request was denied. Mr. Irshaid had until July 19, 2006 to file an appeal. On July 10, 2006 Mr. Irshaid filed an insufficient Notice of Appeal which was dismissed with leave to amend. Mr. Irshaid had until July 28, 2006 to file an amended appeal. Mr. Irshaid filed an appeal on July 18, 2006. A Hearing Officer was appointed on August 14, 2006. The Case Management Conference was held on Sept. 6, 2006. The Case was held in abeyance until May 24, 2007, and a status conference was scheduled for July 31, 2007 but has since been cancelled pending settlement discussions. No final hearing has been set pending possible settlement. (AZ)

Daniel A. and Celina Jozsi [LEPC06-031]: On October 17, 2006, the Jozsis filed a Notice of Appeal and Objection to an Amended Consent Order entered on September 27, 2006. The Legal Department has issued a letter acknowledging the appeal. A mediation was conducted on February 27, 2007. The mediation resulted in an impasse. The parties conducted a final hearing on the week of April 2, 2007. The Hearing Officer's Recommended Order was entered on May 31, 2007. The Jozsis filed exceptions to the Hearing Officer's recommendation and responses were also filed. The matter was transferred back to the Commission for adoption of a Final Order at the September 20, 2007 regular board meeting. On September 20, 2007 a Public Hearing was held before the Commission to consider the Hearing Officer's recommendation and render a Final Order in this case. The Commission upheld the Hearing Officer's recommendation and a Final Order was executed on October 1, 2007. On October 29, 2007, Appellants filed a Notice of Appeal of the Final Order in the Second District Court. (See below civil case) (AZ)

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

He II Cho v. EPC [LEPC07-031]: Appellant filed an extension of time and shortly thereafter an appeal on December 4, 2007, challenging a citation the EPC issued regarding noise violations at the now closed El Chaparro Mexican restaurant (on N. Florida Avenue). The parties are negotiating. (RM)

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES [1]

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 has been set for April 28, 2008 (RM)

EXISTING CIVIL CASES [13]

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

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

Jozsi, Daniel A. and Celina v. EPC and Winterroth [LEPC05-025]: Daniel A. and Celina Jozsi requested an appeal of a Consent Order entered into between James Winterroth and the EPC Executive Director. The appeal was not timely filed and the EPC dismissed the appeal. On December 8, 2005, the Jozsis appealed the order dismissing the appeal to the circuit court. The appeal was transferred to the Second District Court of Appeal (2DCA). The EPC transferred the record to the 2DCA on Aug. 24, 2006. On Sept. 27, 2006 the EPC and James Winterroth entered into an Amended Consent Order. The Jozsis were provided the right to challenge the Amended Order. The Jozsis filed an appeal of the Amended Consent Order on Oct. 17, 2006 (see related case LEPC06-031). On October 19, 2006 the EPC filed a Motion to Dismiss the Second DCA appeal. The Court denied the Motion to Dismiss the appeal. The parties have all filed briefs. Appellee James Winterroth filed a Status Report and Suggestion of Mootness. The Appellants have filed a judicial appeal in the Second District Court of Appeal of the Final Order dismissing the administrative appeal. (See above administrative case) The Court entered an order consolidating this case with the appeal case of the Final Order referenced above in the administrative cases. The Appellants have filed the initial brief and the EPC and property owner have filed the answer briefs. The parties are waiting for the reply brief to be filed. (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)

Phillips & Munzel Oil Co., Inc. [LEPC06-034] Authority to take appropriate action including filing a civil lawsuit was granted by the Commission on December 14, 2006. The Respondent is currently not in compliance with underground storage tank regulations. The EPC is attempting to negotiate a settlement in this matter. (AZ)

Bayside Home Builders, Inc [LEPC07-008]: Authority to take appropriate action against the parties was granted by the Commission on February 15, 2007, for failure to comply with a Consent Order payment schedule for asbestos violations. The EPC filed a lawsuit to compel compliance on October 9th and subsequently filed an amended complaint on February

12, 2008. The Defendant has not timely responded to the amended complaint. (RM)

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

Petrol Mart, Inc. [LEPC07-018]: Authority to take appropriate action against Petrol Mart, Inc. to seek corrective action, appropriate penalties and recover administrative costs for improperly abandoned underground storage tanks and failure to address petroleum contamination was granted on June 21, 2007. The owner of the property is insolvent and the corporation inactive; however, the Waste Management Division intends on obtaining a judgment and lien on the property for the appropriate corrective actions. The Legal Department filed a civil lawsuit on September 26, 2007. The defendant was served with the lawsuit on October 12, 2007. The Court entered a default on November 9, 2007 for the Defendant's failure to respond. The EPC Legal Department is preparing to set the matter for a trial to obtain a default judgment. (AZ)

South Bay Corporation & Industrial Park, Inc. and The James Group [LEPC07-025]: Authority to take appropriate action against South Bay Corporation and the James Group for operating a wastewater treatment facility without a valid permit was granted on September 20, 2007. The parties are seeking settlement. (RM)

Gas Mart, Inc. [LEPC07-029]: Authority to take appropriate action against Gas Mart, Inc. G.W. Partners, Ltd. for failure to properly assess and remediate petroleum contamination at their property was granted on August 16, 2007. The EPC staff is attempting to negotiate an amicable settlement with the parties prior to filing the civil lawsuit. (AZ)

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

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

RECENTLY RESOLVED CIVIL CASES [0]

C. OTHER OPEN CASES [10]

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

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

Angelo's Aggregate Materials, Ltd [LEPC07-015]: On May 30, 2007, Petitioner filed a request for an informal conference regarding a Notice of Violation issued by the Air Mgmt. Division regarding dust issues. The parties are negotiating. (RM)

Southern HealthCare Management, LLC d/b/a Bayshore Pointe Nursing & Rehab Center [LEPC07-016]: On May 30, 2007, Petitioner filed a request for a waiver or variance from noise regulations for an emergency power generator. (RM)

Southern HealthCare Management, LLC d/b/a Bayshore Pointe Nursing & Rehab Center [LEPC07-017]: On May

31, 2007, Appellant filed an extension of time to file a Notice of Appeal regarding an Air Mgmt. Division citation issued to the facility for noise violations from its emergency generator. The Petitioner has been granted four prior requests for extensions of time and has filed a fifth request. The Legal Dept. has determined that the request shows good cause for the extension and the Petitioner shall have until April 21, 2008 to file an appeal. (RM)

Bay Hills Village Condominium Association, Inc. [LEPC07-027]: On September 26, 2007 the Petitioner requested an extension of time to file a petition for administrative hearing to challenge a Notice of Violation issued on September 4, 2007. The request was granted and the Petitioner had until November 26, 2007 to file. No extension was filed thus the Notice of Violation will become final. (RM)

Kinder Morgan Port Sutton Terminal LLC [LEPC07-035]: On December 6, 2007 Petitioner Kinder Morgan requested an extension of time to file a petition for an administrative hearing to challenge an Air permit. The request has been granted and the Petitioner has until February 11, 2008 to file a petition. (RM)

Swati, Inc. [LEPC07-036]: On December 21, 2007, the Appellant Swati, Inc. filed a request for an extension of time to file a notice of appeal to challenge a Citation of Violation and Order to Correct issued on December 3, 2007, regarding a petroleum cleanup matter. The Legal Dept. granted the request and the Appellant has until January 31, 2008 to file an appeal in this matter. The Appellant filed a second request for extension of time which has been granted. The Appellant has until March 3, 2008 to file a Notice of Appeal. (AZ)

Mosaic Fertilizer, LLC [LEPC07-037]: On December 21, 2007, the Petitioner Mosaic Fertilizer, LLC filed a request for an extension of time to file a petition for an administrative hearing to challenge a draft air pollution permit. The Legal Dept. granted the request and the Petitioner has until March 31, 2008 to file a petition in this matter. (RM)

Harsco Corporation [LEPC08-002]: On January 11, 2008, the Petitioner Harsco Corporation filed a request for an extension of time to file a notice of appeal to challenge an air operating permit. The Legal Dept. granted the request and the Petitioner has until February 11, 2008 to file a petition in this matter. The Petitioner filed a third request for extension of time which has been granted. The Petitioner has until April 14, 2008 to file a petition. (RM)

Resource Recycling, L.L.C. [LEPC08-003]: On January 22, 2008, the Appellant Resource Recycling, L.L.C. filed a request for an extension of time to file a Notice of Appeal to challenge a permit issued on January 15, 2008. The Legal Dept. has granted the request and the Petitioner has until February 13, 2008 to file an appeal in this matter. (AZ)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2007

Subject: Wetland Hybrid Quarterly Report

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

Division: Executive Director

Recommendation: Informational Report

Brief Summary: Attached is the second quarterly report of the Wetlands Hybrid Plan which covers the progress the EPC staff has made in implementing the Plan from November 16, 2007 – February 15, 2007. The Wetlands Hybrid Project Timeline is also attached for the Commission's review. Staff will update the Commission on the Hybrid Plan progress with a written report on a quarterly basis.

Financial Impact: No Financial Impact

Background: In order to keep the Commission and the public informed, EPC staff will make quarterly reports to the Commission regarding the progress of the Wetlands Hybrid Plan. Each task of the approved Wetlands Hybrid has been assigned to staff and work groups have been assembled and tasked with specific requirements and deadlines. The overall implementation master time frame is included with the quarterly report and is updated on a regular basis. This second quarterly report includes items that have been accomplished and the status of items still in process. A member of the staff has been assigned to oversee the master time frame and insure that all work groups are moving forward in a way that will allow them to meet their deadlines.

List of Attachments: EPC Wetlands Hybrid Implementation Quarterly Report
Wetlands Hybrid Project Timeline

EPC Wetlands Hybrid Implementation
2nd Quarterly Report
November 16, 2007 - February 15, 2008

Amendment to Chapter 1-11, Wetlands Rule

Effective August 16, 2007, Chapter 1-11 was amended to provide for exemptions from selected activities.

Technical Advisory Group

Twenty members have been selected and the first meeting was held 10/19/07. A list of agenda topics to be covered in upcoming meetings was discussed. The members were assigned to subcommittees based upon their topic interests. The subcommittees are:

- Process - Basis of Review, Applicant's Handbook, reasonable use, review process, timeframes and deadlines, project prioritization, internal consistency, consistency with other agencies, revised fee schedule, checklists for incoming projects.
- Mitigation Banking - Consider taking steps to encourage the development of private and/or public banks, net environmental benefit, pros and cons of encouraging banks.
- Wetland Classification - Develop a wetland classification system that would aid in the planning, siting and designing of land development projects, systems used by Federal, State or other local agencies that would serve as a model, net environmental benefit, pros and cons of creating such a system.
- Agricultural Exemptions - Review draft amendment to Chapter 1-11 regarding agricultural exemptions from reasonable use and mitigation and make recommendations. A "white paper" was produced with recommendations and this subcommittee has been discontinued.

The TAG has a webpage via the Tampa Bay Estuary Atlas website where reports and documents can be posted for review. This group will meet once a month on the third Friday from 9am to 12pm.

Tampa Port Authority Delegation

The delegation agreement between the Tampa Port Authority and EPC was executed November 15, 2007. The agreement covers minor work activities such as docks, rip rap, and maintenance dredging. EPC staff is currently assigned at the TPA for cross training.

Basis of Review

Staff is drafting a definition and a set of guidelines for reasonable use and has developed a basic outline for the Basis of Review document which will be presented to the TAG at its February monthly meeting. This group will continue to meet once a week.

Applicant's Handbook

Staff has obtained a copy of the DEP Applicants Handbook and is currently reviewing it for applicability. A draft outline is being prepared. The materials that have been produced by the "On-line Application Forms" workgroup will be incorporated into this document. The handbook will incorporate the agency's current "Standard Operating Procedures" in a more "user friendly" format.

Bona Fide Agricultural Activities

Select exemptions from "Reasonable Use" and Mitigation, for bona fide agricultural activities have been proposed for Chapter 1-11, Wetlands Rule. Two public workshops have been held to discuss the proposed rule changes. A Public Hearing was held at the November 15, 2007 EPC Board meeting. Recommendations from TAG, CEAC and the Stakeholders group were presented. The Board voted to accept the rule amendment language. The staff has formed a workgroup to develop tracking system for the wetland impacts approved under the newly adopted agricultural exemptions, to allow for routine reporting to the Board. EPC and SWFWMD staff will conduct pre-application meetings, known as "pre-screens", for all proposed agricultural land conversions in order to guide applicants through the regulatory process.

Wetlands Advisory Committee/Stakeholders

Each Commissioner has appointed two people to represent them on the Wetlands Advisory Committee. With the exception of two people, the membership of this committee is the same as the CEAC. The current CEAC chair was also elected to chair this committee. Meetings will be scheduled as needed.

Ombudsman

Engineering Specialist, Christina Bryant was selected as ombudsman to serve as a neutral liaison between the citizens and staff of the Wetlands Division in order to provide an amenable solution to various types of conflicts or issues

encountered, assist applicants in obtaining appropriate agriculture as well as miscellaneous activities permits. An electronic tracking system has been developed and implemented and approximately twelve have been handled already.

On-line Application Forms

Two online forms have been created and posted to the web site and are ready for public use. "Notice of Exempt Activities in Wetlands", and "Application for Nuisance Vegetation Removal in Wetlands" can both be filled out and submitted electronically. The "Mangrove Trimming Application" and "Professional Mangrove Trimmer Registration" forms are now on the web site and electronic submission of those forms should be available soon. The next forms to be converted for on-line use will be "Wetlands Delineation Request" and "Application for Wetland Impacts." Detailed instructions for filling out these forms are being drafted by this workgroup for inclusion in the Applicant's Handbook.

DEP Delegation

The petition for partial regulatory delegation of the Environmental Resource Program was signed by Dr. Garrity and sent to DEP Tallahassee on January 10, 2008. It included a draft delegation agreement. This starts a time clock that allows DEP time to review the petition for completeness and request additional information. Once they have received all necessary information, DEP has 180 days to either grant or deny the petition. EPC staff is in direct contact with the DEP Tallahassee staff reviewing the petition. DEP Tallahassee has completed their initial review and submitted a request for additional information which EPC staff is in the process of responding to.

Process Audit

The Office of the Internal Performance Auditor has completed the process audit. A beneficial two day workshop with EPC and PGMD staff was held on November 19 and 20, 2007 to identify and prioritize issues and recommended actions for positive change. A draft report has been reviewed and revised and the final report is scheduled to be delivered to the board at the March 2008 EPC Board meeting.

Public Works Agreement

An agreement entitled "Wetland Impact Authorization for Hillsborough County Department of Public Works" was sent to Robert Gordon on November 29, 2007. The agreement authorizes Public Works and Roads and Streets Maintenance to conduct certain cleaning and maintenance activities within wetlands without having to obtain approvals for each individual project.

SWFWMD MOU Review

An internal study of the EPC/SWFWMD MOU was conducted by EPC and SWFWMD staff. The MOU was reviewed to look at the activities covered, to determine if both agencies were complying with the terms and if any changes needed to be made. A study report with recommendations was prepared and will be delivered to the Board at the March 2008 EPC meeting.

On Going SWFWMD Coordination

Staff is now attending monthly Tampa Service Office supervisory staff meetings. Currently, the main topics of discussion at these meetings include: staff coordination, cross training, policy issues, coordination and consistency on UMAM and wetland delineations. Staff is also attending all monthly coordination meetings on AGSWM.

ACOE Contract

Staff is preparing an application for a "Programmatic General Permit SAJ-96" from the Army Corps of Engineers and an Operating Agreement regarding the regulation of private single family piers and appurtenances, shoreline stabilization, minor structures and maintenance dredging at single family docks in waters of the U.S. located in Hillsborough County.

Wetlands Hybrid Project Timeline

Project Start Date: 8/16/2007
 Today's Date: 3/13/2008

Project Name	Responsible Party	Estimated Finish	Days Left until Completion	Description
1 Board gives direction	Garrity	26-Jul-07	Completed	Sets public hearing for August 16th to amend Ch 1-11
2 Designate Wetlands Ombudsman	Garrity	27-Jul-07	Completed	Christine Bryant selected as Ombudsman
3 Budget submitted - FTE cuts	Koulianos	27-Jul-07	Completed	5 FTEs cut in Wetlands Division
4 Request assistance from Auditor	Garrity	30-Jul-07	Completed	Request assistance from Internal Performance Auditor
5 Host technical rule workshops	Garrity	10-Aug-07	Completed	Meet w/ CEAC & Stakeholders
6 Revised Ch. 1-11 presented to Board	Garrity	16-Aug-07	Completed	Bring revised Ch 1-11 to EPC Board for Approval
7 First meeting with Int. Auditor	Team	24-Aug-07	Completed	
8 WMD MOU Review	Tschantz	24-Aug-07	Completed	Draft letter re WMD audit help
9 Technical Advisory Group	Stetler	30-Aug-07	Completed	Compile Initial TAC
10 Ombudsman Desc	Stetler	30-Aug-07	Completed	Ombudsman Job Description
11 Tampa Port Authority Delegation	Zodrow	20-Sep-07	Completed	Accept TPA delegation; target date
12 Process Review w/ Auditor (update)	Koulianos	20-Sep-07	Completed	
13 Stakeholders Advisory Group	Tschantz	20-Sep-07	Completed	
14 Milestones for year	Zodrow	20-Sep-07	Completed	
15 Request auth. to conduct fee study	Koulianos	20-Sep-07	Completed	
16 Agriculture Draft Rule	Zodrow	20-Sep-07	Completed	
17 Online Application Forms	DeLeeuw	30-Sep-07	Completed	Forms - Mangrove, Exemption, Misc./Post Online
18 Online Application Committee	DeLeeuw/Stetler	30-Sep-07	Completed	Form Committee w/ Stetler, Sinko, Nassar, Schipfer
19 New Wetlands Measurements	Stetler	18-Oct-07	Completed	
20 Agriculture rule public hearing	Zodrow	15-Nov-07	Completed	
21 Quarterly Report to Board	Garrity	15-Nov-07	Completed	Presented to Board at Nov EPC Meeting
22 Public Works Agreement Draft	Stetler	15-Nov-07	Completed	Draft under review for finalization
23 Staff Review of EPC/WMD MOU	Stetler	13-Dec-07	Completed	
24 DEP Delegation Petition	Stetler	13-Dec-07	Completed	Bring update and delegation submittal to EPC Board
25 Agricultural Wetland Record Keeping	Stetler	31-Jan-08	Completed	
26 Quarterly Report to Board	Garrity	20-Mar-08	Completed	
27 Process Review Update to Board	Koulianos	20-Mar-08	Completed	
28 Fee Study	Koulianos	17-Apr-08	35	
29 Quarterly Report to Board	Garrity	15-May-08	63	
30 ACOE Agreement Application	Stetler	15-May-08	63	ACOE Agreement target date

Wetlands Hybrid Project Timeline

Project Start Date: 8/16/2007

Today's Date: 3/13/2008

Project Name	Responsible Party	Estimated Finish	Days Left until		Description
			Completion	Completion	
31 Basis of Review; Reasonable Use Guidelines	Stetler	15-May-08	63	<input checked="" type="checkbox"/>	Classification/Enhanced Mitigation (NEB)
32 Tech Advisory Group-Final Recommendations	Stetler	15-May-08	63		
33 Wetland Review Timeframes	Tschantz	15-May-08	63		
34 Modify Wetland Record Keeping	Stetler	15-May-08	63		
35 Applicant's Handbook	Stetler	15-May-08	63		
36 Action Plans for Internal Auditor	Stetler	31-May-08	79		Plans for Auditor recommendations
37 Annual Report to Board	Garrity	21-Aug-08	161		



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Amended December 13, 2007 EPC Meeting Minutes

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

Division: Legal Department

Recommendation: Adopt the attached revised December 13, 2007 EPC draft meeting minutes. These minutes will supersede those adopted at the January 17, 2008 EPC meeting.

Brief Summary: Textual changes were made to the draft December 13, 2007 EPC meeting minutes in order to more accurately describe the rule amendments to Chapter 1-3, Air Pollution Rule and Chapter 1-2, Administrative Procedures Rule that were proposed and adopted during the public hearings. The original draft minutes without the revisions were adopted at the January 17, 2008 meeting. Adoption of the revised minutes will serve to correct the record and provide more accurate summation of the meeting.

Financial Impact: No Financial Impact

Background:

Staff's review of the original draft December 13, 2007 EPC meeting minutes identified inaccuracies in the summation of the amendments to Chapter 1-3 Air Pollution Rule and Chapter 1-2 Administrative Procedures Rule that were proposed and adopted during the public hearings. In accordance with procedure, language drafted by EPC legal counsel was submitted to the BOCC Clerk for review and revision. The BOCC Clerk accepted the language and revised the minutes. Inadvertently, the revised minutes were not included in the January 17, 2008 agenda back up and the original draft minutes, without the revisions, were adopted by the Board.

Staff recommends that the Board adopt the revised December 13, 2007 draft EPC meeting minutes in order to correct the record and to provide a more accurate summary of the meeting.

List of Attachments: Revised - December 13, 2007 Environmental Protection Commission Draft Minutes

DECEMBER 13, 2007 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting and Public Hearing, scheduled for Thursday, December 13, 2007, 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 Brian Blair, Rose Ferlita (arrived at 9:14 a.m.), Ken Hagan (arrived at 9:49 a.m., schedule conflict), Jim Norman, Mark Sharpe, and Kevin White.

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

PUBLIC COMMENT

Chairman Higginbotham called for public comment; there was no response.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson stated the December 3, 2007, CEAC meeting was on the rules scheduled for public hearing. He would present the CEAC recommendation when those issues were discussed. The wetlands advisory committee convened for introductions following the CEAC meeting, since most of the wetlands advisory committee members also served on CEAC. The next wetlands advisory committee meeting would coincide with the next CEAC meeting.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, stated there were no changes to the agenda. **Commissioner Blair moved the Consent Agenda, seconded by Commissioner White, and carried five to zero.** (Commissioners Ferlita and Hagan had not arrived.)

CONSENT AGENDA

- A. Approval of minutes: November 15, 2007.
- B. Monthly activity reports.
- C. Pollution Recovery Fund report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary.

THURSDAY, DECEMBER 13, 2007 - DRAFT MINUTES

F. Request authority to take appropriate legal action against Medallion Convenience Store.

Commissioner Norman moved the Consent Agenda, seconded by Commissioner Sharpe, and carried five to zero. (Commissioners Ferlita and Hagan had not arrived.)

EXECUTIVE DIRECTOR'S REPORT

Dr. Garrity introduced Mr. Alain Watson, EPC staff, who reported on the Trademark Metals Recycling LLC (Trademark Metals) fire at the port two weeks ago, as provided in distributed material. EPC was reviewing the air permit issued by EPC and the stormwater permit issued by the State to ensure conditions were met. EPC had requested information regarding the emergency response plan to see how Trademark Metals handled fires and other emergencies and if EPC could offer recommendations. Water quality samples indicated the presence of metals and plastics; results would be presented to the EPC, Tampa Port Authority, and Trademark Metals. Dr. Garrity stated facilities such as Trademark Metals were not otherwise regulated for materials on site. EPC goals and objectives included an idea to develop a compliance assistance program for scrap yard facilities to minimize environmental impacts. Staff had presented the concept of the green flags program, which was a voluntary program with automotive recyclers, and the green star program for automotive repair shops, where a voluntary, incentive-based approach was developed for those types of industries.

Commissioner Norman did not want to create so many regulations that people could not do business; requested more explanation, with feedback from other people doing similar things in other communities before he would support that; and opined the approach needed to be reasonable. Dr. Garrity said staff would research what was occurring around the State, explained the programs would be patterned after the State Green Yards program, and clarified the suggestion was for a voluntary program to institute best management practices.

Dr. Garrity reported the Department of Environmental Protection (DEP) had published their notice of proposed rulemaking for delegation of the environmental resource permitting program to EPC. By the end of the month, EPC would submit its delegation package to DEP. The Environmental Protection Agency had issued a favorable audit about the EPC air toxics program. The EPC laboratory would be the last section to move to Sabal Park. The move had already begun. Once the move was completed, Dr. Garrity invited EPC members to tour the facility.

THURSDAY, DECEMBER 13, 2007 - DRAFT MINUTES

EPC General Counsel Richard Tschantz acknowledged a recent law school graduate from Vermont Law School who was volunteering legal work at EPC while seeking permanent employment.

ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION

Mr. Gordon Leslie, EPC staff, provided an update on State efforts to educate people on the better use of fertilizer, as provided in agenda material. The goal was to lessen the potential threat improper fertilizer use might have on water quality. Commissioner Sharpe asked if there was an alternative to Saint Augustine grass. Commissioner Blair suggested Bahia grass. Mr. Leslie said the three grasses included in the study were Saint Augustine, Bahia, and Bermuda, but he did not know if one was better. However, proper fertilization would provide a better lawn for the environment. Commissioner Ferlita explained fertilizer products were not being recalled. Mr. Leslie confirmed the rule was effective earlier in December 2007; however, existing stock could be sold through July 2009.

Commissioner Norman pointed out planned developments required Saint Augustine lawns, suggested classes to show proper fertilization techniques, and opined people wanted to be environmentally correct. Mr. Leslie explained homeowners associations were not experts and did not keep a close watch on what lawn services were doing. As part of the Institute of Food and Agricultural Sciences program, a model fertilizer use contract was being developed to stipulate how much fertilizer a lawn service should use. Staff would proceed with the educational program in cooperation with the University of South Florida, primarily in the spring. Commissioner Norman perceived emphasis should be placed on properties closest to water bodies and then move inland.

AIR MANAGEMENT DIVISION

Authorize Staff to Conduct Public Workshops to Amend Chapter 1-10, Noise Rule
- Dr. Garrity said the rule had not been updated in 30 years. Mr. Reginald Sanford, EPC staff, provided a brief presentation on Chapter 1-10 and asked for authorization to request a complete review of Chapter 1-10, using existing funds to contract an expert to assist staff. Mr. Sanford replied to queries from Commissioner Blair regarding complaints, noise, and enforcement. Dr. Garrity said \$15,000 had been budgeted to work with the University of Central Florida acting as a consultant to help write the rule and provide technical expertise. The rule used standards in place 30 years ago and had not kept up with instruments used to measure noise. The purpose was to make the program

THURSDAY, DECEMBER 13, 2007 - DRAFT MINUTES

consistent with the latest scientific measurements for noise, not to make the rule either more or less strict.

Perceiving the update was overdue, **Commissioner Ferlita moved to authorize staff to start the process.** Commissioner Norman did not object to bringing EPC into the present and providing abilities to do what they were supposed to do; however, he did not want to create many new rules as a result of one incident. **Commissioner Norman seconded the motion.** Dr. Garrity confirmed that was the intent. Commissioner Blair asked if staff could study what other governments were doing. Mr. Sanford explained staff began that over one year ago and needed authorization to proceed with the review of the entire rule. Commissioner Ferlita perceived updating the rule would provide more definition. Chairman Higginbotham agreed the rules should be reviewed and perceived sunseting should be a future discussion, so there would be a periodic review. **The motion carried six to zero.** (Commissioner Hagan had not arrived.) Mr. Jerry Campbell, Director, EPC Air Management Division, replied to queries from Commissioner Blair about the person who worked in the noise program and complaints.

WASTE MANAGEMENT DIVISION

Direct Inspection Program (DIP) Presentation - Ms. Kelley Boatwright, EPC staff, reported on the DIP pilot program, as provided in agenda material. The pilot project demonstrated a 43 percent increase in inspections performed.

Historic Landfills Report - Dr. Garrity recalled EPC direction for staff to look at the large number of historic landfills in place before rules were established to see if those landfills were problems and what should be done. Mr. Ronald Cope, EPC staff, presented the report, as provided in agenda material; showed photographs of the sites when they were used as landfills and the current use; and highlighted goals, public information, and mapping. Commissioner White referenced a historic landfill site at 26th Street and Dr. Martin Luther King Jr. Boulevard, noted current homeowners were never told those homes were built on a landfill, and asked if a builder or anyone was required to disclose that information. Mr. Cope understood that would be a land transaction disclosure issue for private residences if the landfill was known. DEP investigated the Dr. Martin Luther King Jr. Village issue and concluded that was not the site of a historic landfill.

PUBLIC HEARINGS - 10:00 A.M. TIME CERTAIN

Consider Amendments to Chapter 1-3, Air Pollution Rule - Attorney Tschantz outlined the process. Mr. Campbell distributed an overhead presentation on

THURSDAY, DECEMBER 13, 2007 - DRAFT MINUTES

amendments regarding crematory provisions and adoption of State standards by reference, reviewed the recommendations listed in agenda material, and thanked citizens, crematory operators, and manufacturers for attending the meetings and assisting staff. Staff recommended EPC approve amendments to Section 1-3.53 for human and animal crematories and Section 1-3.26, re-adoption of DEP regulations, as proposed by staff. Mr. Jellerson said CEAC unanimously supported the proposed changes.

Chairman Higginbotham called for public comment. Ms. Rebecca Yebba, Cremation Center of Tampa Bay LLC, commented on interaction between the public and crematories and perceived everyone was pleased with the results.

Commissioner White said the recommendations were not cost prohibitive and were reasonable, prudent, and sound. Commissioner Ferlita asked the cost to replace the cap. Mr. Campbell said the estimate was \$300. Commissioner Norman said staff had developed a good ordinance. **Commissioner Blair moved the item, seconded by Commissioner White, and carried seven to zero.**

Consider Amendments to Chapter 1-2, Administrative Procedures Rule - Attorney Tschantz outlined the process. Mr. Campbell stated Section 1-2.051 allowed for enhanced public noticing of a project that seemed to be of particular interest to the public. Staff wanted to make the existing rule apply to general permits also. Staff recommended Section 1-2.051(b) to include noticing of heightened concern air general permits.

Chairman Higginbotham called for public comment. Mr. Jellerson said CEAC recommended approval. **Commissioner White moved the recommendation, seconded by Commissioner Blair, and carried six to zero.** (Commissioner Sharpe was out of the room.)

ADMINISTRATION

Update on Internal Audit Review of EPC/Planning and Growth Management Department Process - Mr. Tom Koulianos, Director, EPC Finance and Administration, stated no action was required and explained the internal performance auditor would present the draft report to EPC staff on December 30, 2007. The report and comments would be presented to EPC at the January 2008 meeting.

Request Authority to Change Start Time of EPC Meetings to 9:00 a.m. - Mr. Koulianos requested action to change the start time to 9:00 a.m., noting that would allow additional time to deal with complex issues. **Commissioner Blair moved the item, seconded by Commissioner Sharpe, and carried seven to zero.**

THURSDAY, DECEMBER 13, 2007 - DRAFT MINUTES

OFF-THE-AGENDA ITEM - STATE INVESTMENT FUNDS

Chairman Higginbotham said the Board of County Commissioners (BOCC) special meeting was scheduled for 11:00 a.m. Commissioner Norman perceived the BOCC should submit a letter from the Clerk of the Circuit Court to the County Attorney regarding State investment funds. Commissioner Blair moved to send that to the County Attorney that day, marked urgent priority. The motion died for lack of a second. Commissioner Ferlita expressed concern regarding procedure. Chairman Higginbotham said that matter would be discussed at the 11:00 a.m. BOCC meeting.

There being no further business, the meeting was adjourned at 10:38 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

sd



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Request for authority to take appropriate legal action against Letty Cueva and Patricia Vaca.

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

Division: Waste Management Division

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

Brief Summary: On November 22, 1996, a discharge of petroleum product was discovered during a Closure Assessment Report at property located at 7511 Causeway Boulevard, Tampa, in Hillsborough County, Florida (Property). Site cleanup activities have not been completed and the Property remains in violation with the EPC rules. Site clean-up activities at a minimum include either a Post Active Remediation Monitoring Plan (PARMP) or to submit and complete a Remedial Action Plan (RAP) to EPC per Chapter 62-770, Florida Administrative Code and Chapter 1-7, Rules of the EPC.

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

Background: Letty Cueva owns the property and Patricia Vaca operates the facility located at 7511 Causeway Boulevard, Tampa, in Hillsborough County, Florida. In 1996, five storage tank systems on the property were closed. The Closure Report for the removal of the tank systems, received on November 22, 1996 indicated petroleum contaminant concentrations exceeding site rehabilitation levels pursuant to Chapter 62-770, Florida Administrative Code (F.A.C.).

On December 18, 1998, Letty Cueva entered into a Settlement Letter with the EPC, agreeing that a Limited Contamination Assessment Report (LCAR) be submitted by November 23, 1998, and if further assessment, corrective actions, or cleanup activities were required, Letty Cueva would complete these activities within the timelines of Chapter 62-770, F.A.C. On February 8, 1999, EPC staff received the LCAR. On July 13, 1999, EPC staff received a Site Assessment Report (SAR). The SAR identified various groundwater and soil contaminant concentrations in excess of Chapter 62-770, F.A.C., cleanup target levels, requiring that a Remedial Action Plan (RAP) be submitted within 90 days.

On December 21, 2004, Letty Cueva and Patricia Vaca entered into a Consent Order with the EPC as settlement of pending legal actions. Letty Cueva and Patricia Vaca agreed to either submit and complete a Post Active Remediation Monitoring Plan (PARMP) or to submit and complete a RAP and to submit a \$500.00 penalty. The terms of the Consent Order have not been met and EPC staff requests that authority be granted from the EPC Board to compel compliance with the Consent Order.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Request for authority to take appropriate legal action against Ecoventure New Port I, LLC.

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

Division: Waste Management Division

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

Brief Summary: On December 1, 2005, a discharge of petroleum product was discovered during a Closure Assessment that was being conducted at a property for the removal of two underground storage tank systems. The Responsible Party has failed to properly assess the petroleum contamination in accordance with EPC and state regulations.

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

Background: On December 1, 2005, a discharge of petroleum product was discovered during a Closure Assessment that was being conducted for the removal of two underground storage tank systems. The discharge was also documented in the January 26, 2006 Closure Assessment Report. The discovery of the petroleum discharge occurred at property located at 5000 West Gandy Boulevard (formerly known as Imperial Yacht Basin), Tampa, Hillsborough County, Florida. A Limited Site Assessment Report was submitted but it was incomplete. Despite numerous letters to the Responsible Party the assessment remains uncompleted. On June 5, 2007 EPC staff issued a Citation of Violation and Order to Correct to Ecoventure New Port I, LLC (ENP), the property owner. On December 7, 2007, EPC staff received a letter from ENP's legal counsel advising that ENP received notice from the first mortgage holder that foreclosure proceedings have been initiated. The property continues to be in violation of state and local Petroleum Contamination Rules, Chapter 62-770, Florida Administrative Code and Chapter 1-7, Rules of the EPC.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Request for authority to take appropriate legal action against Site Development & Asphalt Paving, Inc.

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

Division: Wetlands Management Division

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

Brief Summary: Site Development & Asphalt Paving, Inc. was the general contractor of "The Preserve at Carrollwood Village" f/k/a "The Enclave" construction site located east of Carrollwood Village Drive and south of Stall Road in Carrollwood. The company violated the EPC Wetland Rule Chapter 1-11 and subsequently entered into a consent order to resolve the violation. Site Development & Asphalt Paving, Inc. has failed to comply with the terms of Consent Order #2005-2223E and that violation constitutes a violation of Chapter 84-446, as amended, Laws of Florida (EPC Act).

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

Background: The Executive Director issued a Citation of Violation and Order to Correct (Citation) on February 27, 2008, against Site Development & Asphalt Paving, Inc., for violations of the EPC Wetland Rule Chapter 1-11 and the EPC Act. No party filed an appeal to the Citation and it became a Final Order of the Commission. On August 21, 2006, Site Development & Asphalt Paving, inc. subsequently entered into a Consent Order with the Environmental Protection Commission (EPC) that replaced and superseded the Final Order. The Consent Order provided for corrective actions as well as payment of penalties and administrative costs. To date, EPC has not received reimbursement for administrative costs or the agreed upon settlement. Therefore, EPC staff is requesting authority to take appropriated legal action to compel compliance with the consent order and the EPC Act.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Request for authority to take appropriate legal action against Cee Jay Holdings, LLC, d/b/a Coquina Blue Bar & Grill

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

Division: Air Management Division

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

Brief Summary: Respondent, Cee Jay Holdings, LLC, owns and operates the Coquina Blue Bar & Grill located at 12836 Henderson Road. Coquina Blue Bar & Grill's activities include playing amplified music, including live bands, recorded music and karaoke, both indoors and on an outdoor patio. EPC staff has received numerous noise complaints and recorded several violations of its Noise Rule, Chapter 1-10, Rules of the EPC. Due to the Respondent's noncompliance with the environmental regulations, EPC staff requests authorization to take appropriate legal action and for settlement authority.

Financial Impact: Litigation costs can vary depending on the length and complexity of the litigation. This litigation will be handled by EPC counsel and EPC's existing budget. Any change will be reported.

Background: On June 7, 2007, in response to noise complaints from nearby residents, staff monitored sound levels from Coquina Blue Bar & Grill after 10:00 p.m. and recorded violations of the noise standards. A majority of the readings taken during the monitoring event were above the noise standards. On July 16, 2007, staff issued the Respondent a *Warning Notice* for the noise violations. On October 30, 2007, staff met with the owners of Coquina Blue Bar & Grill, at which time they committed to hiring a noise consultant to develop a corrective action plan to ensure the business would achieve and maintain compliance with EPC's noise rule. On November 15, 2007, Coquina Blue Bar & Grill managers informed EPC staff that an acoustical consultant would not be hired. From November 16, 2007 to January 28, 2008, staff received 15 additional noise complaints regarding the business. On January 21, 2008, staff issued the Respondent a *Citation To Cease And Order To Correct Violation*. On February 1, 2008, staff monitored sound levels from the business and recorded additional violations of the noise standards. Again, a majority of the readings taken during the monitoring event were above the noise standards. As of March 7, 2008, staff has received a total of 35 complaints from nearby residents since the business has been under the control of the Respondent. Coquina Blue Bar & Grill did not respond to the Citation, thus pursuant to the EPC Act it is a final order of the Commission which can be enforced in circuit court. EPC staff requests authority to file a civil suit and also authorization for the Executive Director to enter into any appropriate settlement.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Proclamation Honoring Mr. Dick Eckenrod, Executive Director TBEP (Retired)

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

Division: Environmental Resources Management

Recommendation: Recommend Approval of Proclamation for Dick Eckenrod

Brief Summary: Mr. Dick Eckenrod served as the Executive Director of the Tampa Bay Estuary Program for 17 years and has recently retired. Staff would like to honor Mr. Eckenrod's achievements and contributions to the Tampa Bay estuary and to the citizens of Hillsborough County.

Financial Impact: No Financial Impact

Background: In his capacity as the Executive Director of the Tampa Bay National Estuary Program, later renamed the Tampa Bay Estuary Program, Mr. Dick Eckenrod has been an exemplary environmental steward and resource manager. He has overseen countless environmental initiatives that have directly influenced the recovery of Tampa Bay and its watershed. For his dedication and contributions to all manner of environmental issues both in and around Hillsborough County for the last 17 years, we wish to honor his achievements and wish him good luck in his retirement.

List of Attachments: No Attachments



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: EPC Environmental Merit Award

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

Division: N/A

Recommendation: Present students with Environmental Merit Award certificates.

Brief Summary: Staff of the EPC awarded two middle-school students the Annual EPC Environmental Merit Award for their outstanding environmental science fair project at the Hillsborough Regional Science and Engineering Fair. The fair was held on February 20 and 21 at the University of South Florida's Sundome in Tampa, Florida.

William Harvey from Liberty Middle School was recognized for "It's not Easy Being Green" and Haley Gonzalez from Bartels Middle School for her project, "Composting Chemistry."

Financial Impact: \$100 for student savings bonds absorbed in current year budget.

Background: N/A

List of Attachments: N/A



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Proclamation for the Responding Agencies to the Anhydrous Ammonia Release

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

Division: N/A Special Recognition

Recommendation:

Present a proclamation to the Sheriff's Office, Fire Rescue, Emergency Management, and EPC staff.

Brief Summary:

The EPC Board recognizes the efforts of the following Hillsborough County agencies in response to the anhydrous ammonia release over the Alafia River on November 12, 2007: the Sheriff's Office, Fire Rescue, Emergency Management, and EPC Staff.

Background:

On November 12, 2007, vandals punctured the anhydrous ammonia pipeline that crosses over the Alafia River at US Hwy 301. The escaping cloud of hazardous material posed an immediate threat to public health and the environment; it continued to leak from the pipeline until November 14th. The quick response of the Hillsborough County Sheriff's Office and the Hillsborough County Fire Rescue prevented serious injury and mitigated the potential for greater environmental damage. Hillsborough County Emergency Management and the EPC staff provided the public regular updates throughout the duration of the incident, and as EPC assessed the environmental impact of the event.

List of Attachments:

*The Board of the Environmental Protection Commission
of Hillsborough County*



Proclamation

WHEREAS, the Environmental Protection Commission of Hillsborough County recognizes the dangers associated with the release of anhydrous ammonia from the pipeline at the Alafia River bridge on November 12th through the 14th of 2007; and

WHEREAS, the Hillsborough County Sheriff's Office acted promptly to secure the incident site and evacuate neighboring businesses and residents in the path of the drifting ammonia cloud; and

WHEREAS, the Hillsborough County Fire Rescue rapidly deployed water sprays to control the ammonia cloud and established an on-scene Unified Command bringing together responding agencies to safely control the leaking toxic gas, protect the public, and limit the environmental damage; and

WHEREAS, the Hillsborough County Emergency Management activated the Emergency Operations Center to coordinate effective communications with the Unified Command post and provide information to affected organizations which included the Hillsborough County School Board, the American Red Cross, the Citizen's Action Center, and the media; and

WHEREAS, the staff of the Environmental Protection Commission responded to address the public's concerns and media inquiries regarding air and water quality impacts to the Alafia River Basin downstream of the release.

NOW, THEREFORE, BE IT PROCLAIMED that the Environmental Protection Commission of Hillsborough County, Florida, does hereby recognize the outstanding efforts of these agencies in response to the anhydrous ammonia release to protect the citizens and the natural environment of Hillsborough County.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: FY09 Budget Submittal Process

Consent Agenda _____ **Regular Agenda** ___X___ **Public Hearing** _____

Division: Finance and Administration

Recommendation: Approve Budget Process Recommended by Staff

Brief Summary: Due to the significant budget reductions in the FY 08-09 budget process, EPC has amended the FY 09 decision units. Staff requests that prior to adoption of the Administrator's Recommended Budget, that EPC staff have the opportunity to revise its submission based on the most current information. We anticipate there may be vacancies from now to adoption that may be substituted for positions that are currently in our Updated FY 09 submission. We will present to the EPC Board any impact resulting from recommended modifications to EPC's budget.

Financial Impact: No Financial Impact

List of Attachments: Process Audit Final Report



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Internal Performance Auditor's Process Audit Report

Consent Agenda _____ **Regular Agenda** ___X___ **Public Hearing** _____

Division: Finance and Administration

Recommendation: Receive and Accept Process Audit Report

Brief Summary: The Wetland's Hybrid Plan, recommended by staff and adopted by the Board last year, included a request for a Process Review of the EPC/PGM process. The Internal Performance Auditor has submitted the Final Report along with EPC's response. The report and response are included with this agenda item. Both the Internal Performance Auditor and EPC staff are available to respond to any questions the Board may have.

Financial Impact: No Financial Impact

List of Attachments: Process Audit Final Report

**Office of the
Internal Performance Auditor**

*Promoting Government Accountability While Providing Fair and
Objective Oversight, Insight, and Foresight into County Operations*



**Hillsborough County Board of
County Commissioners**

TO: Dr. Richard D. Garrity Ph.D., Director Environmental Protection
Commission

DATE: February 29, 2008

FROM:  Jim Barnes, Director Office of the Internal Performance Audit

SUBJECT: Process Audit FINAL Report

Please find enclosed a copy of the FINAL Report of the Process Audit of the Environmental Protection Commission Wetlands Division. The report contains a copy of your response. We would like to thank you and all of your staff in making this entire process a success. We want to provide you a copy and will be forwarding a copy to the Board of County Commissioners in the next few days as required by Board policy.

We are also attaching an Audit Customer Service survey for you to fill it out and provide feedback to us so we can continue to improve.

Thanks again for all of your cooperation.

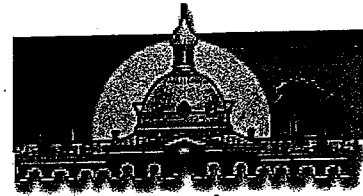
If you have any questions please do not hesitate to contact Ken Gentile at (813) 274-6722.

RECEIVED

FEB 29 2008

EPC Legal Dept.

**Office of the
Internal Performance Auditor**



**Hillsborough County Board of
County Commissioners**

February 2008

Report No. 08-01

***Opportunities for Streamlining and Improving the
Wetlands Development Review Process***

Report in Brief

This report comprises the results of our agreed upon procedures review of the wetlands development review process. For the purposes of this report, this process is defined as the Environmental Protection Commission's (EPC) involvement in reviewing development applications originating from the Planning and Growth Management Department (PGMD) to ensure that development projects proposed and built in unincorporated Hillsborough County comply with the County's wetlands rules and standards in the Land Development Code. This is just one of several processes administered by EPC for the purpose of protecting the County's wetlands. EPC estimated that the costs associated with administering this process was about \$730,000 in FY 2007, which was almost entirely recovered through user fees.

The objective of our review was to identify opportunities for streamlining this process without undermining EPC's ability to effectively protect the County's wetlands. To accomplish this objective, we addressed two questions:

- 1) How effective has the process been in protecting the County's wetlands?**
- 2) What steps can be taken to streamline the process without undermining EPC's ability to effectively protect the County's wetlands?**

In addressing the first question, data collected by EPC indicates that its performance in meeting timeframes for reviewing development applications improved significantly from previous years during fiscal year (FY) 2007. However, due to inconsistencies found in the data, we were unable to validate this improvement. In addition, we were also unable to determine how effective the process and its individual components have been in protecting the County's wetlands. This is due to the absence of applicable performance information and data (e.g. acres of proposed wetland impacts that were avoided), which is an impairment to identifying opportunities for streamlining the process. Moreover, EPC was unable to provide evidence demonstrating the frequency in which its reviews were conducted in accordance with applicable policies, procedures and/or standards. Not having this information inhibits management and policy-makers from accurately assessing the effectiveness of their strategy. Finally, our analysis of

staffing, workload, and performance data suggests that unless improvements are made to the process, such as those identified in this report and others outlined in the Hybrid Plan,¹ timeliness and/or quality of service may diminish in the future. This underscores the need to identify and successfully implement solutions for improving the process.

To help address the second question, and compensate for the lack of available performance information, we facilitated a 2-day workshop consisting of pertinent stakeholders. This group included EPC staff, members of the Wetland's Technical Advisory Group, and PGMD staff. The group identified the following opportunities for streamlining and improving the process:

- Automating processes to the fullest extent possible.
- Eliminating preliminary reviews of subdivision and commercial projects where no wetlands are found on the property.
- Improving communication between EPC and PGMD.
- Exploring the feasibility of consolidating certain activities.
- Substituting EPC's attendance at pre-submittal conferences with a packet containing pertinent information, unless attendance is specifically requested.

In addition to the improvements identified by the workshop group, we conclude that EPC could improve the process by:

- Developing and reporting outcome-based goals, performance measures and indicators that show the extent the process has achieved its purpose (e.g. acres of wetland impacts avoided).
- Enhancing its current quality assurance program to ensure and document the extent quality reviews are consistently conducted.
- Working with PGMD and the development community to identify ways to reduce the amount of applications requiring resubmittal.

Objective and Scope

By the EPC Board's adoption of the Wetlands Hybrid Plan on August 17, 2007, and by the Hillsborough County Board of County Commissioners (BOCC) adoption of Resolution R07-154 on September 6, 2007, the Internal Performance Auditor (we) were authorized and directed to conduct an audit of the wetlands development review process. The objective of this audit, as described in the Hybrid Plan and in agreement with EPC executives, was to identify ways to streamline the wetlands development review process. The scope of our review was limited to those activities associated with this process, defined on page 1 of this report.

¹ In August 2007, EPC's Director presented and the EPC Board adopted a proposal called the Hybrid Plan. The goal of the Plan was to improve EPC's provision of wetlands services while maintaining local oversight over the County's wetlands. This would be achieved through the successful implementation of various rule, process, and personnel changes.

Methodology

We performed the following tasks in order to accomplish our objective:

- Interviewed EPC staff, PGMD staff, other County staff, EPC customers, and EPC interest groups;
- Reviewed applicable laws, codes, rules, policies and procedures;
- Observed EPC staff performing wetlands development review activities;
- Collected and analyzed financial, workload, staffing and other performance data;
- Facilitated a workshop consisting of process stakeholders;
- Assessed relevant internal controls; and
- Researched other jurisdictions that perform a similar service.

Background

EPC is the County's environmental regulatory agency. It was created in 1967 by a Special Act of the Florida Legislature.² The intent of the Act was to

“provide and maintain for the citizens and visitors of [Hillsborough County] standards which will insure the purity of all waters and soils consistent with public health and public enjoyment thereof, the propagation and protection of wildlife, birds, game, fish, and other aquatic life, atmospheric purity and freedom of the air from contaminants or synergistic agents injurious to human, plant, or animal life, and freedom from excessive and unnecessary noise which unreasonably interferes with the comfortable enjoyment of life or property or the conduct of business.”³

EPC is governed by a Board comprised of the same seven members who serve on the BOCC. EPC is empowered to establish rules and regulations necessary for the effective administration and enforcement of the provisions of its enabling legislation.⁴ Rules associated with the regulation of Hillsborough County's wetlands are found in Chapter 1-11 of EPC's Rules. The intent of these rules is to “preserve the essential character of wetland property,” “avoid the disturbance of wetlands in the County,” and “encourage their use only for purposes which are compatible with their natural functions and environmental benefits.”⁵

EPC employs 162 full-time equivalent (FTE) employees and performs its own administrative functions, including personnel, accounting, and information technology activities. EPC is organized into five operating divisions: Air; Environmental Resources Management; Waste; Water; and Wetlands Management. The subject matter of this

² A Special Act is a bill that applies to an area or group that is less than the total area or population of the state. The EPC was created by a Special Act that was applied to Hillsborough County.

³ Chapter 84-446, Section 2, Laws of Florida

⁴ Chapter 84-446, Section 5(2), Laws of Florida

⁵ Chapter 1-11.01, Rules of the Environmental Protection Commission of Hillsborough County.

report, the wetlands development review process, is administered directly by the Wetlands Management Division (Division). The Division was budgeted 25 FTE positions for FY 2008, down from 29 in FY 2007. The reduction in staff is the result of the implementation of the Hybrid Plan. The composition of the Division's staff from FY 2004 to FY 2008 is shown in Exhibit 1.

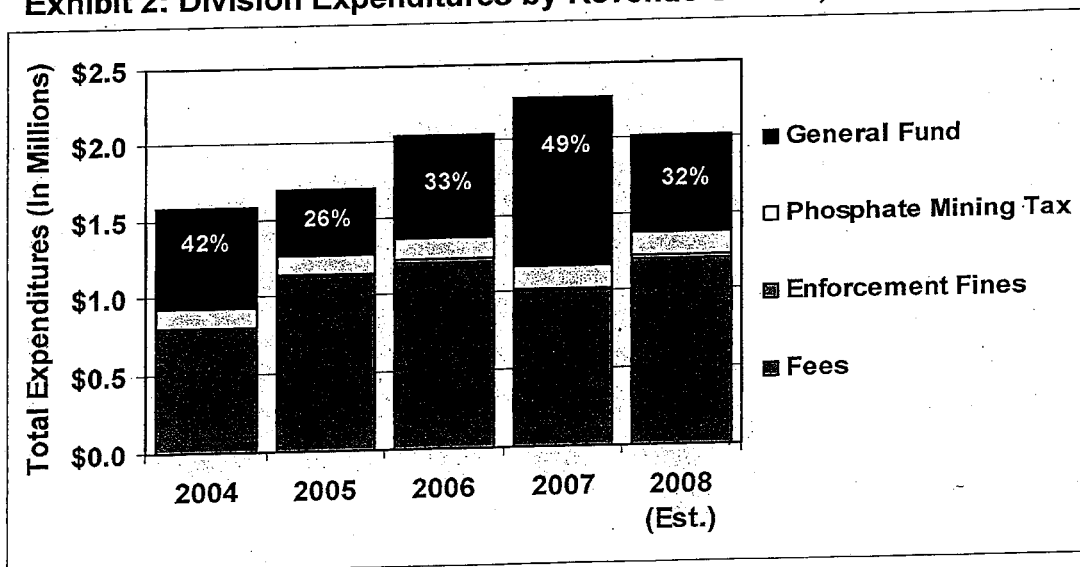
Exhibit 1: Division FTE Positions by Function, FY '04 – FY '08

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008 (Budgeted)
Wetlands Assessment/ Scientists	6.5	6.5	9.5	9.5	8.5
Compliance/ Enforcement	7.5	7.5	8.5	8.5	7.5
Engineering	3	3	3	3	3
Support/ Administration	5	5	5	5	4
Management	2	2	3	3	2
Total	24	24	29	29	25

Source: EPC

Exhibit 2 shows the Division's expenditures by revenue source from FY 2004 to FY 2008. Annual increases in expenditures are attributed to rising inflation and increases in staffing levels. The reduction in expenditures estimated to occur during FY 2008 is primarily due to the staffing reduction resulting from implementation of the Hybrid Plan. The red portion of each bar, and the percentage values therein, reflect the proportion of the Division's total expenditures paid for using General Fund monies, which primarily consists of Ad Valorem tax revenue. However, the subject matter of this report, the wetlands development review process, is almost entirely self-supporting. Opportunities for reducing General Fund subsidies into the Division may be available in other services provided by the Division.

Exhibit 2: Division Expenditures by Revenue Source, FY '04 – FY '08



Source: EPC and FAMIS

EPC performs a variety of services for the purpose of protecting the County's wetlands. They include:

- Wetland delineation;⁶
- Wetland permitting;⁷
- Compliance monitoring;⁸
- Investigating unauthorized activities affecting wetlands;
- Performing wetlands assessments for the Tampa Bay Port Authority;
- Reviewing proposed comprehensive plan amendments; and
- Providing wetlands advisory services to customers and the public.

In addition to these services, EPC also administers the wetlands development review process, which is the subject matter of this report.

The wetlands development review process is one element of a much larger process called the land development review process which is administered in accordance with the Hillsborough County Land Development Code (LDC). Per the LDC, all development in unincorporated Hillsborough County must undergo a review process in order to "foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the unincorporated areas of Hillsborough County..."⁹ The land development review process consists of activities performed by up to 21 different reviewing entities¹⁰ (including EPC) to ensure that development is "conceived, designed, and built in accordance with good planning and design practices" and minimum LDC standards.¹¹ The land development review process is coordinated by PGMD. The wetlands development review process is a term that refers to EPC's role and participation in this larger process.

The land development review process is initiated when an applicant submits multiple copies of an application to PGMD's Intake Section. Once received, PGMD staff performs a completeness review of the application to ensure all required materials are present. If any are found to be absent, the applicant is notified that s/he must submit missing materials. Once the application is found to be complete, PGMD staff distributes a copy of the application to each participating reviewing entity. Participating reviewing entities are determined in a number of ways. In some cases an entity's participation is

⁶ A wetland delineation study is the application of a scientific methodology established by state rule for determining the landward extent of wetlands.

⁷ EPC refers to wetlands permitting as its internal review process. It includes authorizing or denying impacts to wetlands and developing mitigation agreements with the applicant.

⁸ Consists of inspecting wetland mitigation sites to determine compliance with mitigation agreements.

⁹ Section 1.02.03(A), Hillsborough County Land Development Code

¹⁰ Reviewing entities include PGMD Zoning, Stormwater, Utilities, Natural Resources, Concurrence, and Transportation teams; Hillsborough County Streets and Addresses, Fire and Rescue, Health Department, Traffic, Lighting Plans, Real Estate, and Parks and Recreation departments; the Planning Commission; Hartline; the Florida Department of Transportation; Hillsborough County School Board; and EPC.

¹¹ Section 1.02.03(B), Hillsborough County Land Development Code

required by the LDC or the Development Review Procedures Manual (DRPM).¹² In other cases the LDC and the DRPM state that an entity "may" participate if it is determined appropriate during a pre-submittal meeting. Although EPC's participation in the land development review process is required for some review types, its participation falls into the "may" category in many cases. In November 2006, EPC requested to PGMD that it participate in reviewing most applications that are submitted to PGMD.

Because not all reviewing entities are physically located at PGMD's Intake Section, applications are distributed to the reviewing entities through various means, including interoffice mail and courier. EPC is located off-site and receives applications by courier, a process that may take as long as 2 days.

Once EPC is in receipt of an application, staff performs a review. The nature and scope of the review depends upon the type of development activity proposed (e.g., a subdivision or a phosphate mine), the stage of the development process (e.g., preliminary or construction), and the information provided by the applicant. However, EPC's review generally consist of an examination of a site plan, development application, and aerial map compared with criteria found in EPC's standard operating procedures, rules, and standards in the LDC. Sometimes a site inspection is performed as part of the review. Finally, comments based on the review are prepared by EPC staff and distributed to the applicant and back to PGMD. Reviews at the construction review phase are conducted by engineers who examine, among other things, impacts to wetlands which may be located off-site.

EPC staff noted that their participation in the land development review process (i.e. their administration of the wetlands development review process) helps them protect the County's wetlands in a number of significant ways. In general, EPC staff noted that the central purpose of the wetlands development review process is to help steer developers away from impacting wetlands early in the development process. For example, EPC is able to communicate and document its concerns regarding impacts to wetlands early in the development review process. Also, EPC asserted that its review comments help to educate developers who are unfamiliar with the County's wetlands rules.

How effective has the process been in protecting the County's wetlands?

Data collected by EPC indicates that its performance in meeting timeframes for reviewing development applications improved significantly from previous years during FY 2007. However, due to inconsistencies found in the data, we were unable to validate this improvement. In addition, we were also unable to determine how effective the process and its individual components have been in protecting the County's wetlands. This is due to the absence of applicable performance information and data (e.g. acres of proposed wetland impacts that were avoided), which is an impairment to identifying opportunities for streamlining the process. Moreover, EPC was unable to

¹² The DRPM is a publication consisting of the procedures for administering the LDC and technical design manuals.

provide evidence demonstrating the frequency in which its reviews were conducted in accordance with applicable policies, procedures and/or standards, which inhibits management and policy-makers from assessing the effectiveness of their strategy. Finally, workload projections made by EPC suggest that unless improvements are made to the process, such as those provided in this report and others outlined in the Hybrid Plan, timeliness and/or quality of service are likely to diminish in the future. This underscores the need to identify and successfully implement solutions for improving this process.

EPC data indicates that its performance in meeting timeframes for reviewing development applications improved significantly from previous years during FY 2007. However, due to inconsistencies found in the data, we were unable to validate this improvement.

Literature on conducting process evaluations suggest that the methodology for streamlining a process involves an in-depth analysis of how effective the process and its individual components have been in achieving the purpose of the process. Components of a process should be examined based on the value they add towards achieving the purpose of the process, which, in this case, is to protect the County's wetlands. Those components found to add little or no value to the purpose of a process should be considered for elimination.

To this end we sought to analyze available performance information related to this process and its individual components. We found the performance information developed and reported by EPC to be useful for many purposes. However, because it was inclusive of activities that were not within the scope of our review, we could not use it for drawing conclusions specific to the wetlands development review process. For example, the workload measure: "number of land development permits processed" included activities associated with the wetlands development review process and activities not associated with the process (e.g., wetland delineation studies and mitigation studies). Thus, we could not isolate EPC's performance in administering the wetlands development review process using available performance information.

With EPC's assistance, we developed measures and indicators of EPC's performance in administering the wetlands development review process. The results of our combined efforts are shown in Exhibit 3. It is important to note that the indicators presented in the Exhibit represent estimates that were derived by collecting and analyzing the best information available. The definition, methodology and origin of each indicator are provided in footnotes. The Exhibit presents measures and indicators at input, output, efficiency, and effectiveness levels. Inputs refer to the resources in terms of staff and money that go into a program. Outputs refer to the number of activities performed or services provided, such as number of applications reviewed. Efficiency refers to the relationship between inputs and outputs, such as output per staff or cost per unit. Effectiveness refers to the quality of service provided, such as timeliness of service, customer satisfaction, and the extent the purpose of the program was achieved.

Exhibit 3: Wetlands Development Review Process Performance Information, FY '04 – FY '08

Measurement Type	Measures	Indicators				
		FY 2004	FY 2005	FY 2006	FY 2007	FY 2008 (Estimated)
Input	Cost ¹³	\$610,000	\$630,000	\$660,000	\$730,000	\$690,000
	FTE's ¹⁴	7	7	9	9	8
Output	Workload ¹⁵	2656	2924	2978	2770	2795
Efficiency	Workload per FTE ¹⁶	379	418	331	308	349
Effectiveness	Frequency Mandated Timeframes Were Met	69%	58%	58%	84%	Unknown
	Acres of wetland impacts avoided	No data	No data	No data	No data	To be determined

Source: IPA analysis of information and data provided by EPC. It is important to note that the indicators presented in this Exhibit represent estimates derived by collecting and analyzing the best information available. They should not be considered as absolute.

Exhibit 3 shows a number of trends related to performance that have occurred since FY 2004. Inputs increased from FY 2004 to FY 2007, then decreased in FY 2008 as a result of implementing the Hybrid Plan. Output increased between FY 2004 and FY 2006, declined in FY 2007, and was projected by EPC to slightly increase during FY 2008. According to EPC, workload levels are integrally tied to conditions in the building industry, which makes projecting future workload difficult due to the myriad of factors that influence the building industry. Workload per FTE declined between FY 2005 and FY 2007, which can be explained by the addition of 2 FTE positions in FY 2006 and the reduction in workload that occurred during FY 2007. Workload per FTE is an important measure for EPC to monitor because it is reflective of staff productivity. If staff sustains excessive levels of workload over a prolonged period, quality of service and employee morale typically will suffer. On the other hand, idle staff is an inefficient use of

¹³ FY 2006 and FY 2007 indicators were produced by EPC by estimating the percentage of time staff spent performing wetlands development review process activities and then multiplying this percentage with appropriate personnel, operating and capital costs. FY's 2004, 2005, and 2008 are estimates made by us using EPC estimates for FY 2006 and FY 2007 as leading indicators.

¹⁴ Indicators for FY's 2006 and 2007 were produced by EPC by estimating the percentage of time staff spent performing wetlands development review process activities. FY's 2004, 2005, and 2008 are estimates made by us using EPC estimates for FY 2006 and FY 2007 as leading indicators.

¹⁵ Represents the total number of reviews of development applications originating from PGMD and the County's municipalities. Includes reviews of subdivision projects, commercial projects, land excavation projects, land alteration projects, and phosphate mining projects. Also includes setback encroachment reviews and pre-submittal meetings. Estimated figure for 2008 was produced using the projected workload figure reported by EPC in the FY 2008 and FY 2009 Recommended County Budget.

¹⁶ Represents the ratio of workload and FTE positions

resources. EPC should establish goals for workload per FTE that reflect an appropriate balance between these factors so that it can more effectively manage its staffing levels and maximize productivity.

The first effectiveness measure in Exhibit 3 indicates EPC's performance in meeting timeframes for reviewing applications associated with the wetlands development review process. EPC, like all other participating reviewing entities, is required to complete their reviews within mandated timeframes which are found in the LDC and DRPM. Adherence to these timeframes is important to developers because it helps them make best use of their resources and adequately plan their projects and assess associated risks. The timeframes vary depending upon the type of development activity proposed, the stage in the development process, and whether the submittal is an initial submittal or a resubmittal.

EPC's performance in meeting timeframes was weak from FY 2004 to FY 2006. EPC attributed its weak performance in meeting timeframes during these years to understaffing, turnover in experienced staff,¹⁷ sustained periods of extremely high workload levels, and the high frequency of applications requiring resubmittal. According to EPC, the added workload burden caused by resubmitted applications is a particular problem. EPC attributed the high quantity of resubmittals to applicants submitting incomplete applications and applications that severely deviate from the requirements. Timeframes for reviewing these applications are shorter, thus they are given priority over initial submittals. EPC's performance improved significantly during FY 2007. This improvement was attributed to the reduction in workload that occurred in the same year and the maturing of new staff. However, inconsistencies found in the data prevented us from validating this improvement. For example, we found several instances in which due dates in EPC's database were in excess of those prescribed in the DRPM.

Due to the absence of applicable performance information and data, we could not determine how effective the process or its individual components have been in protecting the County's wetlands. This impaired our ability to identify opportunities for streamlining the process, and impairs EPC's as well.

BOCC Policy 03.02.02.15 and Hillsborough County budget procedures require all County organizations to develop and report measures of effectiveness. Effectiveness measures indicate how well a service is being provided. With regard to its wetlands services, EPC reports the percentage of reviews conducted within review timeframes and two other measures related to mitigation compliance (mitigation compliance is not within the scope of this review) as measures of effectiveness. These are meaningful measures for both managers and policy-makers to monitor; however, they do not indicate EPC's effectiveness in achieving its central purpose, which is to protect the County's wetlands.

¹⁷ Between July 2004 and August 2006, the Division lost 5 staff with a combined 30 years of experience in conducting wetlands development reviews.

We attempted to collect and analyze data and other evidence to determine the extent the wetlands development review process contributed to protecting the County's wetlands. EPC reported approving 27 acres of wetland impacts in FY 2007, and requiring 337 acres of mitigation as compensation for those impacts. Again, this is valuable information, but it does not relate to the essential purpose of EPC's wetlands rules, which is to avoid impacts to wetlands. A possible measure of this would be the number of acres of proposed wetland impacts that were avoided due to EPC's administration of the wetlands development review process. Because no information was available to determine this, the benefit realized through EPC's administration of the process is largely unknown (see the second effectiveness measure in Exhibit 3). EPC staff told us that they have recognized this need and have begun to collect data that will allow them to report this in the future.

EPC was unable to provide evidence demonstrating the frequency in which its reviews were conducted in accordance with applicable policies, procedures and/or standards. Not knowing this information inhibits management and policy-makers from accurately assessing the effectiveness of their strategy.

As previously stated, EPC reports its performance in meeting timeframes for reviewing applications as a measure of effectiveness. Effectiveness measures are to indicate the quality of service provided. Timeliness of service, however, is only one aspect of quality, as EPC could review applications within any given timeframe if it were to discontinue its focus on conducting quality reviews. A possible measure of quality for wetlands development review process activities would be the frequency in which reviews were conducted in accordance with applicable standards, policies and procedures. EPC reported that its quality assurance program consists of protocols for training staff and ensuring they are fully qualified to effectively perform their job duties. Supervisors monitor employee performance by holding regular staff meetings, reviewing and editing all written correspondence, and providing training. In addition, EPC uses an electronic database to track the status of applications and supervisors routinely generate reports to help them ensure deadlines are being met.

However, EPC was unable to provide data or other kinds of evidence demonstrating the results of its quality assurance efforts (i.e. the extent quality reviews were consistently conducted). Thus, we are not able to report the extent EPC consistently conducts quality reviews. EPC could address this need by enhancing its quality assurance program, possibly by instituting a formalized external or internal peer review process, to help ensure and provide evidence that quality reviews are consistently conducted in accordance with applicable standards, policies and procedures. For example, EPC supervisors could draw a sample of all completed reviews and assess them to determine the percentage meeting all applicable policies, procedures and standards. The results of this exercise could be reported as an additional measure of effectiveness. Instituting such a program would enable EPC to identify root causes in the case where they were not meeting defined outcome goals.

Unless improvements are made to the process, timeliness and/or quality of service may diminish in the future.

EPC data indicates that its performance in meeting timeframes was strongest during FY 2007. Not surprisingly, this occurred in the year where workload per FTE was the lightest in comparison with previous years (see Exhibit 3). EPC estimated a slight reduction in workload for FY 2008 as compared with FY 2007 levels. At first glance, this suggests that EPC's performance in meeting timeframes will further improve during FY 2008. However, the estimated reduction in workload will be offset by the reduction in staff, resulting in an increase in workload per FTE for FY 2008. If actual workload mirrors projected workload, workload per FTE during FY 2008 will be closer to workload per FTE levels in previous years in which performance in meeting timeframes was weakest. Therefore, it appears that unless improvements such as those identified in this report and others outlined in the Hybrid Plan are successfully implemented, timeliness and/or quality of service is likely to diminish in FY 2008.

We identified three broad options for making such improvements. One is to increase staffing levels. This, however, is not a viable option given current budget constraints and EPC's commitment to implementing the Hybrid Plan. Another option is to increase timeframes for reviewing applications. This is not an attractive option because the timeframes are the same for all reviewing entities who participate in the land development review process. Thus, increasing timeframes for EPC's reviews would slow down the entire land development review process. The third option is for EPC to streamline and improve the process. This was the option proposed by EPC in the Hybrid Plan, and, given the above constraints, it appears that this is the only feasible option available.

What steps can be taken to streamline and improve the process?

Streamlining and improving any process involves an in-depth analysis of the value added by each individual component of a process to the overall purpose of the process. Those components found to add little or no value to the overall purpose of the process should be considered for elimination. Our ability to perform this kind of analysis was greatly impaired because performance information and data related to the process and its individual components was lacking. To compensate for the lack of quantitative performance information, we facilitated a 2-day workshop consisting of pertinent stakeholders to identify opportunities for streamlining and improving the process. The group included EPC staff, members of the Wetland's Technical Advisory Group, and PGMD staff. The group identified the following opportunities for streamlining and improving the process:

- **Automating processes to the fullest extent possible.** The group identified automation as the area where the most significant improvement could be made. Opportunities for doing so include but may not be limited to:
 - forwarding review comments to PGMD by email instead of fax;

- acquiring access to PGMD's Permits Plus system and receiving appropriate training and technical support necessary to use it so that EPC can confirm fees have been secured and project review delays can be avoided;
- providing EPC access to PGMD's other systems including Optix, Access, GIS Viewer and any others in order to maximize use of electronic document transfer and electronic plans reviews; and
- incorporating EPC into any new PGMD automation projects.

These opportunities should be explored fully by managers and information technology staff from both the EPC and PGMD. An action plan to further automate processes should be prepared and submitted to the EPC Board for its review by its May 2008 meeting.

- **Eliminating certain reviews of projects where no wetlands are found.** EPC currently reviews most all applications that are submitted to PGMD, regardless of whether wetlands are located on the property. According to EPC, the value realized through EPC's review of preliminary plan applications where no wetlands are located on the property is minimal. The consensus of the group was that no significant adverse impacts will result if EPC ceases reviewing preliminary plans for subdivision and commercial projects if a no wetland determination has been obtained. Doing so will free up staff time to devote to projects affecting wetlands. EPC reviews impacts to off-site wetland areas during the construction review phase, which would not be changed. Documentation of a no wetland determination should be added to PGMD's Site and Subdivision Review Intake customer checklist.
- **Improving communication between EPC and PGMD.** The group agreed that ongoing communication between EPC and PGMD is essential for continuing to refine, streamline, and improve processes. Staff from both agencies should meet on a regular basis to keep each other abreast of issues and discuss ways to continually improve processes. For example, PGMD is planning to facilitate process improvement workshops with the development community in the near future. It would be beneficial for EPC to participate in these and other similar workshops.
- **Exploring the feasibility of consolidating certain activities.** Workshop participants stressed that opportunities for efficiencies may be gained by consolidating engineering reviews and inspections. For example, PGMD's stormwater engineers, who review water flows and flood levels, and EPC's wetlands engineers, who review water volume retention to ensure adequate hydration and wetland functionality, may be able to consolidate certain activities associated with their reviews. Details about the extent such opportunities are available and feasible need to be explored further. Appropriate representatives from EPC and PGMD should meet to explore such opportunities further by May 2008.

- **Substituting EPC's attendance at pre-submittal conferences with a packet containing pertinent information unless attendance is specifically requested.**

In addition to the improvements identified by the workshop group, we conclude that the process could also be improved by

- **Developing and reporting outcome-based goals, performance measures, and indicators that show how effective the process and its individual components have been in protecting the County's wetlands.** EPC has recognized this need and has begun collecting data that will allow it to measure and report the acreage of proposed wetland impacts that were avoided due to each of its processes.
- **Enhancing the current quality assurance program, possibly by instituting a formalized external or internal peer review process, in order to help ensure that reviews are consistently conducted in accordance with applicable standards, policies and procedures.** The results of this program could be used by managers and policy-makers as a powerful tool for improving EPC's effectiveness and identifying and addressing root causes for why outcomes are not achieved.
- **Identifying ways to reduce the amount of applications requiring resubmittal.** Resubmitted applications account for a significant portion of wetland development review process workload. To reduce the amount of resubmitted applications, EPC should work with the development community and PGMD to identify solutions that address the root causes for resubmittals.

Acknowledgements

We express our appreciation and thanks to the staff of EPC and PGMD for the courtesies extended to us and for their assistance and cooperation.

Contact Information

This report was produced by Ken Gentile (gentilek@Hillsboroughcounty.org), Billy Poulos (poulosb@Hillsboroughcounty.org) and Chad Lallemand (lallemandc@hillsboroughcounty.org). Questions or comments should be directed to these e-mail addresses or to our office at 813-272-5331.

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Executive Director
Richard D. Garrity, Ph.D.

February 22, 2008

Mr. James Barnes
County Internal Performance Auditor
County Center, 2nd Floor
601 E. Kennedy Blvd
Tampa, FL 33602

SUBJECT: Opportunities for Streamlining and Improving the Wetlands Development Review Process, Report No. 08-01, January 2007

J.M.
Dear Mr. Barnes:

We would like to take this opportunity to thank you and your staff for performing in an extremely helpful and professional manner. We find the report to be very thorough and helpful in moving forward with the Wetlands Hybrid Plan. The recommendations of your staff to modify our data collection efforts are meaningful and are being incorporated into our database. Many of the recommended steps and procedures for streamlining and automating the process have already been implemented. Our MIS staff has been meeting with PGM to follow up on procuring equipment and software to further improve the process.

The recommendation to improve communications between EPC and PGM staff is a very valid step in improving the overall process and has already been initiated. This process improvement will include identifying ways to reduce the amount of applications requiring re-submittal. Regarding improved performance measures, Sr. Staff has undertaken the process of identifying and improving our performance measures on an agency-wide basis. It has been made a part of our Agency Goals and Objectives.

Although the workload measures in the report do not reflect activities outside the development review process, such as wetland delineations and impact/mitigation reviews, these are important activities that support the development review process and need to be considered. Our Technical Advisory Group is, in fact, considering correlating these activities more closely to the land development review process.

EPC staff will develop and implement action plans to meet the 2008 time frames of your recommended improvements.

We look forward to your final report incorporating our comments. We will present the report at the March 20, 2008 EPC Board meeting. Your attendance will be appreciated.

Sincerely,

Richard D. Garrity, Ph.D.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Customer Service Program

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

Division: Finance and Administration

Recommendation: No Board Action Required (Informational Only)

Brief Summary: EPC is in the process of developing a comprehensive Customer Service Program. The purpose of the program is twofold. The first part is to develop Customer Service Survey Cards, a method for distributing and retrieving them to and from our customers, and analyzing the results. They will be available in each division of the agency as well as the lobby area, on our internet site with a link that can be attached to e-mail correspondence. We intend to summarize the results and include them in our consent agenda on a quarterly basis. A data base will be created for analysis and report to the Executive Director with all comments submitted that should be addressed by Sr. Management. The second and equally important aspect of the program will be to develop a comprehensive training program to spotlight the significance of providing excellent customer service. We have been in discussions with the County's HR Department so that we may utilize the training tools that are currently available. We will report back to the Board in June as to the progress of this effort. A sample copy of the Customer Survey Card that we have developed is attached.

Financial Impact: The cost of printing the survey cards will be paid from existing funds. No additional funds are required.

List of Attachments: Sample Customer Survey Card

Environmental Protection Commission
of Hillsborough County
Phone (813) 627-2600



HOW ARE WE DOING?

We are committed to providing quality customer service. We would appreciate a moment of your time to rate our ability to meet your needs. You may mail the survey, drop in a survey box located throughout the agency or complete it on-line at www.epchc.org/survey.htm.

On a scale of one to five, where 5 is Excellent and 1 is Poor, please rate your satisfaction with the service you received. Circle the appropriate number:

	Excellent			Poor		
Prompt/responsive service	5	4	3	2	1	N/A
Professional/courteous service	5	4	3	2	1	N/A
Specific concerns were addressed	5	4	3	2	1	N/A
Easy to find the right person	5	4	3	2	1	N/A
EPC Rules easy to understand	5	4	3	2	1	N/A
EPC Website user friendly	5	4	3	2	1	N/A
Overall satisfaction with service	5	4	3	2	1	N/A

Date of visit: _____

Purpose of contact with EPC: _____

Division you contacted (if known): _____

Comments: _____

Would you like to be contacted? (circle) Yes No

Would you like to receive updates by e-mail? Yes No

(Optional)
Last name: _____ First Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ E-mail: _____

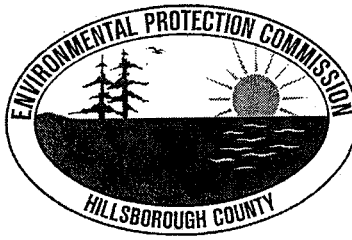
Thank You For Your Input



Official Use Only:



ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
ATTN: ADMINISTRATION
3629 QUEEN PALM DRIVE
TAMPA FL 33619



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Progress Report - EPC Brownfields Activities

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

Division: Waste Management Division

Recommendation:

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

Brief Summary:

Staff and a representative of the private sector are providing a brief summary of activities and accomplishments related to the EPC's administration of the Brownfields Redevelopment Program in Hillsborough County.

Background:

Since the EPC's delegation of the State's Brownfields program in the summer of 2004, the redevelopment of a number of sites have been completed. Through the redevelopment of these sites as part of the Brownfield program, previously under-utilized and/or non-utilized properties have been returned to productive, beneficial uses.

This presentation is brief progress report on BF/old landfill programs in Hillsborough County, reported from two perspectives: regulatory and private sector redevelopment.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: 2008 EPC Legislative Update

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

Division: Legal Department

Recommendation: Status Report Only

Brief Summary: The EPC staff tracks dozens of environmental and administrative bills during the Legislative session and additionally provides comments and assistance to the County's Public Affairs Office and the Florida Association of County staff. The 2008 Florida Legislative Session runs from March 4 through May 2, 2008. There are a multitude of waste (landfills, brownfields, etc.), water (TMDL, fertilizer, etc.), and administrative bills of interest that the EPC will be tracking. House Bill 723 is the bill that proposes to revise the membership of the EPC Board to include municipal representation.

Financial Impact: No financial impact

Background: The 2008 Florida Legislative Session commenced on March 4, 2008 and will close on May 2, 2008. During that time, the EPC staff tracks dozens of environmental and administrative bills and additionally provides comments and assistance to the County's Public Affairs Office and the Florida Association of County staff. There is a multitude of waste, water, and administrative bills of interest that the EPC will be tracking (see attachment). The following are just a handful of key bills that the EPC intends to analyze and track closely:

- 1) **HB 723 - Hillsborough County** (aka Local Bill 1). This bill proposes to revise the membership of the EPC Board to include municipal representation. The bill also includes restructuring of the Sports Authority and the Planning Commission.
- 2) **HB 147 and SB 402 - Target Industry Businesses/Expedited Permitting.** The Department of Environmental Protection (DEP) and the water management districts (WMDs) will be required to expedite the processing of wetland and environmental permits for economic development projects submitted by "target industry business." The DEP and WMD must approve or deny within 30 days (as opposed to the typical 90 days).

3) **HB 0547 and SB 1208 - Water Pollution Control.** The bills amend the DEP-administered Total Maximum Daily Loads (TMDLs) program creating a pilot program for the voluntary trading of water quality credits as a means to achieve reductions in pollutants loads via the Basin Management Action Plans (BMAPs) process. Pollutant trading is currently an allowable but unused tool in the TMDL program. This bill would rename it "trading of water quality credits" and better define the process and require rulemaking for the pilot areas by July 1, 2008. It authorizes trading in the Lower St. Johns, Pensacola Bay, and Tampa Bay basins by point and non-point sources.

4) **SB 730 - Class I Landfills/Permits.** The bill prohibits the DEP from permitting the construction or expansion of Class I landfills (all non-hazardous waste) within one mile of Class III surface waters meeting certain criteria. The existing law only protected Class I waters. It requires the DEP to consider impacts on certain surface waters when evaluating applications for permits for Class I landfills and to deny a permit for applicants who have violated certain environmental laws within the past three years.

5) **SB 2352 - Relating to Urban/Residential Environments & Water.** This legislation stems from the recommendations of the Legislature's Florida Consumer Fertilizer Task Force. The bill proposes creating the "Protection of Urban and Residential Environments and Water Act." The bill requires all local governments to adopt the "Florida Friendly Fertilizer Use on Urban Landscapes Model Ordinance" (found in the task force final report) by October 1, 2008. The only exception is if the local government has a rule or ordinance in place prior to July 1, 2008, then they are grandfathered. Additionally, local governments can add more stringent provisions to the model code or create an entirely more stringent rule, but only if they can show they have an impaired water, they already have a more stringent ordinance adopted as part of a BMAP initiative, or if the Environmental Regulatory Commission deems that the more stringent provision is based on sound science. As an incentive, only local governments that have adopted the model ordinance can receive State funding to educate the citizens about fertilizer issues. The bill also amends and strengthens the certification process needed for commercial fertilizer application on urban turf.

6) **HB 0527 - Brownfield Site Redevelopment.** This is an omnibus bill that amends multiple portions of the brownfields laws to among other things: expand eligibility for site rehabilitation tax credits, provide additional tax incentives for the construction and operation of new health care facilities, provides for claiming of partial cost of solid waste removal, deletes unnecessary and costly contractor insurance requirements, and encourages local governments to monitor and assess the health benefits of brownfield sites. DEP will administer up to \$5 Million in tax credits per year, up from \$2M.

7) **SB 1634 - Wastewater Management.** The bill provides that whenever a health advisory is issued for bacteriological water quality problems at a beach, requiring swimming to be prohibited, the DEP's Wastewater Compliance Evaluation Section must identify the source of the sewage contaminants. This is a good concept, but it is not easy to always find the source of beach contamination nor is it always sewage related. The second section of this bill proposes that within 5 days of discovering that Part 1 Chp. 403, F.S. has been violated by any wastewater facility, the DEP must notify each county and municipality within 5 miles of the facility. Thus, local governments will get expedited notification of a wastewater violation, but in regions where there are multiple cities within close range, this could become burdensome. It should be noted that Chapter 403, F.S. and the permits authorized thereunder also encompass record keeping

violations and other “paper” violations, which do not merit expedited notification of local governments. While the first beach closure section may not apply to the EPC, this notification section most likely would apply as the EPC is a delegated wastewater program of the DEP.

EPC staff typically provides comments to the County Office of Public Affairs in an effort to analyze, support, and/or oppose bills. When there is a bill of major concern, the EPC staff seeks authorization from the full EPC Board to issue a position letter regarding the bill to our local legislative delegation and other elected officials. When possible the EPC staff will continue to ask the full Board to authorize position letters issued by the Chairman on specific bills, but with the basic legislative strategy approved by the EPC Board on March 15, 2007, the EPC staff and County Office of Public Affairs have initial guidance and flexibility on how to react to many bills, especially during the last few days of the session when bills are amended quickly and often.

List of Attachments: Legislative Tracking Sheet

2008 FLORIDA LEGISLATIVE TRACKING SHEET FOR THE EPC

BILL NUMBER	BILL TITLE OR DESCRIPTION	BILL STATUS	PRIORITY BILL	REVIEWED BY EPC	COMMENTED TO COUNTY PUBLIC AFFAIRS	SENT LETTER TO LEGISLATOR(S)	LETTER TO GOVERNOR
HB 147 & SB 402	Target Industry Businesses, Expedited ERP Permitting		N	Y,Y	Y,Y		
HB 199 and SB 708	Desalination Technology Study		N	Y,Y	Y,Y		
SB 326	Vessels/Clean Ocean Act		N	Y	Y		
SB 432 and HB 179	Artificial Reefs/Placement of Vessels		N	Y,Y	Y (432),N (179)		
HB 433	FWCC Rulemaking		N	Y	Y		
HB 0527	Brownfield Site Redevelopment		Y	partial			
HB 547 and SB 1208 identical	Water Pollution Control (TMDL)		Y	Y,Y	Y,Y		
HB 567 and SB 1318 identical	Onsite Sewage Treatment and Disposal Systems (local rep)		N	Y,Y	Y,Y		
SB 660	Seagrass Beds/Protection and Restoration		N	Y	Y		
SB 666, HB 1091, SB 2018 (identical)	Abandoned Petroleum Storage/Financial Assistance		N	Y, Y,Y	Y,Y,Y		
HB 723	Hillsborough County (EPC membership reorg - Local Bill 1)		Y	Y	No, but asked Ms. Stewart to track and EPC Bd. voted to support bill		
SB 730	Class I Landfills/Permits		N	Y	Y		
HB 761	Agriculture		Y	Y	Y		
HB 865	Soil & Water Conservation / Watershed Improvement		N	Y	Y		
HB 881	Bert J Harris		Y	Y	Y		
HB 975, SB 1482 (similar)	Onsite Sewage Treatment and Disposal Systems (study)		N	Y,Y	Y,Y		
SB 1094, HB 897	Gambling Vessels/Clean Ocean Act		N	Y,Y	Y,Y		

SB 1178	Renewable Energy Technologies & Energy Efficiency		N	Y	Y		
SB 1294	DEP		N	Y	Y		
SB 1298	State Submerged Lands		N	Y	Y		
SB 1302	Maintenance Dredge/Division of Beaches and Shores		N	Y	Y		
SB 1312	Petroleum Cleanup		N	Y	Y		
SB 1432	Renewable Energy Generation and Net Metering		N	Y	Y		
SB 1634	Wastewater Management		Y	Y	Y		
SB 1672	Relating to Beach Management		N	Y	Y		
SB 1982, HB 961 (similar)	Cleanup of Contaminated Petroleum Sites		Y	Y,Y	Y,Y		
SB 2088	Water Supply		N	partial			
SB 2230	Mangrove Protection		Y	Y	Y		
SB 2226	Water Restrictions		N	Y	Y		
SB 2284	Homeowners' Associations		N	Y	Y		
SB 2352	Relating to Urban/Residential Environments & Water (Fertilizer)		Y	Y	Y		
SB 2602	Alt. Water Supply		N	partial			
SB 2624	Relating to Commercial Citrus Groves		N	Y	Y		
SB 2764	Reclaimed Water Development		N	partial			
TOTAL = 44 (on 3/11/08)							



EPC Agenda Item Cover Sheet

Date of EPC Meeting: March 20, 2008

Subject: Florida Consumer Fertilizer Task Force Update

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

Division: Environmental Resources Management

Recommendation: Approve letters of support to both the Tampa Bay Estuary Program and the local Legislative Delegation. (To be attached as supplemental agenda items)

Brief Summary: Staff will provide an update on recent developments concerning urban fertilizer use including the final report of the Florida Consumer Fertilizer Task Force; proposed activity by the Tampa Bay Estuary Program; recent action in the Legislature, and a status update on the EPC outreach program.

Financial Impact: No Financial Impact at present time.

Background: The application of fertilizers on lawns and their impact on water quality are a pressing issue for all local governments as they comply with Total Maximum Daily Load and other water quality regulations. The following is summary of how the matter is being addressed at the State and local level.

FDACS Labeling/Rulemaking. At the direction of the Governor's office, the Florida Department of Agriculture and Consumer Services (FDACS) has taken action to revise fertilizer content standards (reduce nitrogen and phosphorus) for use in "consumer/urban turf" settings. These new rules were developed in cooperation with manufacturers and the Institute of Food and Agricultural Science (IFAS). The Urban Turf Fertilizer Rule was promulgated by FDACS on August 30, 2007, with an effective date of December 31, 2007. The purpose of the new fertilizer rules, mainly through improved labeling, is to lessen the threat for fertilizer as a potential source for water pollution on a state-wide scale.

Fertilizer Task Force. Concurrent with the above rulemaking, on July 1, 2007, the Florida Legislature created the Florida Consumer Fertilizer Task Force. The Task Force was comprised of thirteen appointed members representing local governments, fertilizer industry, water management districts, FDACS, IFAS, and the environmental community. The Task Force held a series of six open workshops around the state, and has completed its work by presenting a final report to the Legislature on January 15, 2008. Among a series of other recommendations (see attachment), the final report recommends the creation of a model ordinance for local governments to use regarding fertilizer application, but that local governments maintain their authority to adopt local ordinances for fertilizer use that are stricter than the state model ordinance, if justified by local water quality conditions.

Tampa Bay Estuary Program. With the Legislative session now underway, the Tampa Bay Estuary Program (TBEP) is proposing to take the lead in this matter in our region. The TBEP is proposing all the regional Tampa Bay governments consider a series of guidelines that they may all adopt into their specific model ordinance, so that the Tampa Bay area will be consistent in its regulations, thus aiding in water quality improvements, while also giving fertilizer applicators a consistent regulation as they travel among jurisdictions around the Bay. In the near future, EPC staff plans to participate in a series of workshops to address fertilizer issues and water quality on a regional scale. Attached to this agenda item is a letter of support from the EPC Board to the TBEP, encouraging the TBEP to coordinate with all local governments in the region to adopt a similar fertilizer rule. The letter will be copied to the County's Legislative delegation.

Legislative Session. Additionally, many of the Florida Consumer Fertilizer Task Force's recommendations have been memorialized with changes in Senate Bill 2352. The bill proposes to create the "Protection of Urban and Residential Environments and Water Act." The bill requires all local governments to adopt the "Florida Friendly Fertilizer Use on Urban Landscapes Model Ordinance" (found in the task force final report) by October 1, 2008. The only exception is that if the local government has a rule in place prior to July 1, 2008, they are grandfathered. Additionally, local governments can add more stringent provisions to the model code or create an entirely more stringent rule, but only if they can show they have an impaired water, they already have an more stringent ordinance adopted as part of a BMAP initiative, or if the Environmental Regulatory Commission deems that the more stringent provision is based on sound science. As an incentive, only local governments that have adopted the model ordinance can receive State funding to educate the citizens about fertilizer issues.

The bill also amends and strengthens the certification process needed for commercial fertilizer application on urban turf. The bill also establishes a limited certification category for commercial fertilizer application under the FDACS that requires one to be educated on fertilizer application, turf types, water quality issues, irrigation issues, pesticides, and local ordinance compliance. There are provisions for fees and disciplinary action. EPC staff will monitor this bill to ensure it is not modified to pre-empt local governments from being more restrictive as needed. The bill differs from the Task Force report, in that the bill mandates adoption of the model ordinance, as opposed to the Task Force proposal to require the use of the model rule only if a local government chooses to adopt any fertilizer rules. While the bill should result in improved water quality and consistency in regulations, this bill could prove costly for counties and cities, as it appears it is a mandate to adopt and enforce the model code.

EPC Outreach Program. In accordance with previous EPC Board discussions, most recently December 13, 2007, the EPC has initiated a public education effort with plans to focus on educating consumers at local home improvement stores to encourage sound fertilizer application practices. EPC staff are working with marketing students at the University of South Florida to develop a strategy to place education materials in these stores. The EPC staff anticipate that the project will be implemented as a pilot project shortly after their strategy is produced at the end of USF's Spring 2008 semester.

Conclusion. The EPC staff will continue to monitor the Legislation, will continue to develop the outreach program, and will participate in the TBEP local workshops. As a supplement to this agenda item, the EPC will prepare a draft letter of support to the Tampa Bay Estuary Program and a position letter to the Legislative Delegation for consideration by the EPC Board during the regular meeting on March 20, 2008.

List of Attachments: Executive Summary of Task Force's Six Recommendations

KEY RECOMMENDATIONS ADOPTED BY THE LEGISLATURE'S TASK FORCE (JANUARY 15, 2008)

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