

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
MAY 15, 2008
9:00 AM**

AGENDA

INVOCATION AND PLEDGE OF ALLEGIANCE

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

- I. PUBLIC COMMENT**
Three (3) Minutes Are Allowed for Each Speaker
- II. CITIZENS' ENVIRONMENTAL ADVISORY COMMITTEE**
Report from the Vice-Chair -- Dr. Wayne Eckleberger
- III. CONSENT AGENDA**
- | | |
|--|----|
| A. Approval of Minutes: March 20, 2008 | 2 |
| B. Monthly Activity Reports | 8 |
| C. Pollution Recovery Trust Fund Report | 28 |
| D. Gardinier Settlement Trust Fund Report | 29 |
| E. Legal Case Summaries: April & May 2008 | 30 |
| F. Third Quarterly Hybrid Update Report | 41 |
| G. Acceptance of Cashier's Check in Escrow (E-Suites Hotels, LLC) | 47 |
| H. Request for Authority to Take Appropriate Legal Action Against:
D.J.P. Investments, Inc. | 50 |
- IV. SPECIAL RECOGNITION**
Clean Air Month
- | | |
|--|----|
| 1. Proclamation and Review of Clean Air Month Activities | 51 |
| 2. Photo Contest | |
- V. EXECUTIVE DIRECTOR**
- | | |
|--|--|
| A. NAHMMA Awards (Kelly Boatwright and Gerry Javier) | |
| B. Artificial Reef Award and Video (Tom Ash) | |
| C. Water Resource Services re: TECO Crossing (K. Holland and A. Zodrow) | |
| D. Hillsborough Green List (Jeannette Figari, Reggie Sanford and Gerry Javier) | |
- VI. AIR MANAGEMENT DIVISION**
- | | |
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| A. Noise Rule Update | 53 |
| B. Ozone Standard Update | 54 |
- VII. LEGAL DEPARTMENT**
Legislative Update 56
- VIII. WETLANDS MANAGEMENT DIVISION**
Wetland Hybrid Status Update 61

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

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MARCH 20, 2008 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting and Public Hearing, scheduled for Thursday, March 20, 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, Mark Sharpe (arrived at 9:18 a.m.), and Kevin White.

The following member was absent: Commissioner Jim Norman (schedule conflict).

Chairman Higginbotham called the meeting to order at 9:08 a.m. Commissioner Blair led in the pledge of allegiance to the flag and gave the invocation.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, stated there were no changes to the agenda. **Commissioner Blair moved to approve, seconded by Commissioner Hagan and carried five to zero.** (Commissioner Sharpe had not arrived; Commissioner Norman was absent.)

PUBLIC COMMENT

Mr. Joseph Booker, 6560 South West Shore Circle, spoke about the Everett Street right-of-way arsenic contamination, referenced an article regarding a site cleanup project in Westshore Estates, displayed graphics, and noted health issues in the neighborhood. In reply to Chairman Higginbotham, Mr. Booker stated the issue was for informational purposes and had been reported to the Department of Environmental Protection (DEP), noted Dr. Garrity and EPC staff were involved, and he would meet with field representatives to look at the property.

Mr. Hooshang Boostani, Director, EPC Waste Management Division, said DEP was working on the issue and had been contacted for information; he would meet with Mr. Booker at the site to speed up the process.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson reported the February 2008 and March 2008 meetings involved updates on the pollution recovery grant project. The notice for the 2008 grants had been posted on the EPC website, and applications would be accepted until May 1, 2008. CEAC viewed the final report of the consumer fertilizer task force and recommended EPC support the findings of the report along with fertilizer consumer education efforts for improving water quality. A briefing was

THURSDAY, MARCH 20, 2008 - DRAFT MINUTES

received on the current legislative session. CEAC would receive another legislative update at the April 2008 meeting and would advise the EPC Board of any recommendations.

CONSENT AGENDA

- A. Approval of minutes: January 17, 2008, and February 20, 2008.
- B. Monthly activity reports.
- C. Pollution Recovery Fund (PRF) report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summaries: February 2008 and March 2008.
- F. Second quarterly hybrid update report.
- G. Correction of December 13, 2007, minutes.
- H. Request authority to take appropriate legal action against Letty Cueva and Patricia Vaca, Ecoventure New Port I LLC, Site Development and Asphalt Paving Incorporated, and Cee Jay Holdings LLC, doing business as Coquina Blue Bar and Grill.

Commissioner White moved to approve the Consent Agenda. EPC General Counsel Richard Tschantz responded to questions from Commissioner Blair regarding whether the violators were persistent, if penalties were in writing for certain violations, and where the matrix could be found. Commissioner Blair requested a copy of the matrix. Attorney Tschantz would provide that information. **The motion was seconded by Commissioner Hagan and carried six to zero.** (Commissioner Norman was absent.)

SPECIAL RECOGNITION

Proclamation to Dick Eckenrod - Dr. Garrity complimented Mr. Eckenrod for efforts on solving management problems of the Tampa Bay Estuary and noted technical and public outreach efforts. Commissioner Blair presented Mr. Eckenrod with a proclamation in recognition of service on behalf of the environment and the citizens of the Tampa Bay area. Mr. Eckenrod gave appreciative remarks and commented on the recovery of the Tampa Bay Estuary. Board members offered appreciative remarks.

Science Fair Environmental Merit Awards - Ms. Barbara Mott, EPC staff, recognized two students for outstanding environmental science fair projects displayed at the Hillsborough Regional Science and Engineering Fair at the

THURSDAY, MARCH 20, 2008 - DRAFT MINUTES

University of South Florida. Mr. William Harvey, Liberty Middle School, was recognized for "It's not Easy Being Green"; he discussed the project and displayed a *St. Petersburg Times* article of a mutated frog. Board members offered laudatory remarks. Ms. Haley Gonzalez, Bartels Middle School, was recognized for "Composting Chemistry" and discussed the project. Board members offered laudatory remarks.

Ammonia Gas Pipeline First Responders Recognition - Mr. Alain Watson, EPC staff, recognized efforts by Hillsborough County agencies and EPC staff in response to the anhydrous ammonia release on November 12, 2007, that crossed the Alafia River at U.S. Highway 301. Chairman Higginbotham read the proclamation. Mr. Watson presented proclamations to Captain Al Greco, Hillsborough County Sheriff's Office; Chief William Singleton, Hillsborough County Fire Rescue Department, who offered appreciative remarks; Mr. Larry Gispert, Hillsborough County Emergency Management Department, who accepted the proclamation on behalf of the people who staffed the Emergency Operations Center during the incident; and Mr. Alex Roberts, EPC staff. Dr. Garrity thanked first responders and EPC staff. Commissioner Ferlita offered appreciative remarks.

EXECUTIVE DIRECTOR

Dr. Garrity read letters and e-mails complimenting EPC staff for their service and professionalism on air and noise monitoring. He mentioned the EPC laboratory was up and running at the Roger Stewart Center and thanked Mr. Mike Kelly, Director, Real Estate Department. Dr. Garrity said the laboratory handled air, water, and soil analyses for metals, organics, nutrients, and bacteria and the data was used by the Tampa Bay community.

FINANCE AND ADMINISTRATION

Budget Process Discussion - Mr. Tom Koulianos, Director, EPC Finance and Administration, reviewed the recommendation and requested approval. Noting the request was reasonable, **Commissioner Ferlita moved the request, seconded by Commissioner Sharpe, and carried six to zero.** (Commissioner Norman was absent.)

Internal Performance Auditor (IPA) Report - Mr. Koulianos reviewed the report and requested the EPC Board receive the report. **Commissioner Ferlita so moved, seconded by Commissioner White.** Commissioner Blair questioned whether the inconsistencies and lack of data referenced in the report would be met in the hybrid plan. Dr. Garrity complimented Mr. James Barnes, IPA, and staff on helping to find ways to improve the process and on EPC interacting with the

THURSDAY, MARCH 20, 2008 - DRAFT MINUTES

Planning and Growth Management Department. Dr. Garrity noted he was focusing on the recommendations and stated wetlands that were permitted to be impacted and acreage approved for mitigation was measured. As part of the hybrid plan, EPC would try to come up with increased ways to measure performance.

Mr. Robert Stetler, EPC staff, discussed the working relationship of EPC and the IPA, reviewed a chart of the approved impacts over a period of time, noting impacts were minor, and perceived the predictive portion needed work. EPC staff would work on reporting projects that were reviewed with no wetland impact and on wetland acreage that would be impacted. Commissioner Hagan left the meeting at 10:09 a.m. Mr. Stetler responded to queries from Commissioner Blair regarding the number of half-acre wetlands protected, whether there was a wetland application, and how much wetland acreage had been gained.

In reply to Commissioner Blair, Chairman Higginbotham referenced letters and testimonies being received regarding staff, stated the information revealed in the audit that addressed the hybrid program was a work in progress, and perceived quarterly reports would refine rough edges to deliver a good product and good policy. Dr. Garrity verified the hybrid plan would provide an updated modernized rule that would add definition to the terms and additional legal defensibility to the rule. Commissioner Blair stated it was imperative that everybody look at things that needed to be improved and thanked staff for working with the IPA and on the hybrid program. Commissioner Sharpe thanked Mr. Stetler for the hard work, expressed concern with attempts in Tallahassee to weaken and diminish wetland protection locally, noted wetland protection would continue, and expressed sensitivity toward the mitigation program and value of the wetlands that were sitting undamaged. Commissioner Ferlita expressed appreciation to Dr. Garrity for informing the EPC Board of what could and could not be accurately reported and referenced the complimentary letters and e-mails. **The motion carried five to zero.** (Commissioner Hagan had left the meeting; Commissioner Norman was absent.)

Customer Service Program Briefing - Mr. Koulianos reviewed the item, noted a sample card had been distributed, and stated the item was for informational purposes. Commissioner White left the meeting at 10:22 a.m. Commissioner Blair said the name of the employee who helped the customer should be included, offered compliments, and suggested implementing the shop-to-shop system to ensure the customer survey cards were being properly utilized and to avoid accusations of protecting an employee.

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WASTE MANAGEMENT DIVISION

EPC Brownfields Activities Progress Report - Dr. Garrity presented the item. Attorney Frank Hearne, with Mechanik, Nuccio, Hearne, and Wester, discussed EPC Rules 1 through 7, guides for landfill and redevelopment; reported on private projects, which included ad valorem tax benefits, reuse projects, and community benefits; and responded to questions from Commissioner Blair regarding completion for the Brownfields program in Plant City. Commissioner Ferlita commented on having local delegation authority and noted everyone benefited. Dr. Garrity introduced Ms. Mary Yeargan, EPC Brownsfields Coordinator. Attorney Hearne introduced Mr. Roger Register, president, Florida Brownsfields Association and said the 2008 annual meeting would be held in St. Petersburg.

LEGAL DEPARTMENT

Legislative Update - Attorney Tschantz reviewed the administrative bills, which included House Bill (HB) 723, Hillsborough County; HB 0527, Brownfield site redevelopment; and Senate Bill (SB) 2352, relating to urban/residential environments and water and referred to as the fertilizer bill. Staff was available for questions and to provide research. Attorney Tschantz said no action was required. He would monitor SB 2352; if the bill started to move, staff would request a letter opposing the bill. Commissioner Blair referenced the composting presentation and asked if a public service announcement could be broadcast for educational purposes on Hillsborough Television Channel 22, perceiving that as an opportune time to prevail for education and clean water.

ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION

Fertilizer Task Force Update to Consider Recommendations - Mr. Gordon Leslie, EPC staff, recommended the EPC Board send a letter supporting the Tampa Bay Estuary Program policy board, and authorize staff to facilitate a series of workshops to develop technically based guidelines for residential fertilizer use. **Commissioner Blair moved the item, seconded by Commissioner Sharpe, and carried four to zero.** (Commissioners Hagan and White had left the meeting; Commissioner Norman was absent.)

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There being no further business, the meeting was adjourned at 10:50 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

ssg

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION

March FY 2008

A. Public Outreach/Education Assistance:		
1. Phone Calls:	215	
2. Literature Distributed:	0	
3. Presentations:	1	
4. Media Contacts:	4	
5. Internet:	62	
6. Host/Sponsor Workshops, Meetings, Special Events	0	
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:	6	
b. Construction:	2	
c. Amendments:	0	
d. Transfers/Extensions:	2	
e. General:	23	
f. Title V:	10	
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (Counted by Number of Fees Collected) - (Counted by Number of Emission Units affected by the Review):		
a. Operating ¹ :	6	
b. Construction ¹ :	2	
c. Amendments ¹ :	0	
d. Transfers/Extensions ¹ :	1	
e. Title V Operating ² :	0	
f. Permit Determinations ² :	2	
g. General:	7	
3. Intent to Deny Permit Issued:		0
C. Administrative Enforcement		
1. New cases received:		0
2. On-going administrative cases:		
a. Pending:	3	
b. Active:	23	
c. Legal:	3	
d. Tracking compliance (Administrative):	16	
e. Inactive/Referred cases:	0	
Total		45
3. NOIs issued:		1
4. Citations issued:		1

5.	Consent Orders Signed:	<u>6</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$16,850.00</u>
7.	Cases Closed:	<u>0</u>
D.	Inspections:	
1.	Industrial Facilities:	<u>9</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>7</u>
3.	Asbestos Demolition/Renovation Projects:	<u>14</u>
E.	Open Burning Permits Issued:	<u>1</u>
F.	Number of Division of Forestry Permits Monitored:	<u>280</u>
G.	Total Citizen Complaints Received:	<u>61</u>
H.	Total Citizen Complaints Closed:	<u>63</u>
I.	Noise Sources Monitored:	<u>4</u>
J.	Air Program's Input to Development Regional Impacts:	<u>4</u>
K.	Test Reports Reviewed:	<u>5</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>6</u>
2.	Warning Notices Resolved:	<u>3</u>
3.	Advisory Letters Issued:	<u>9</u>
M.	AOR's Reviewed:	<u>2</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>0</u>
O.	Planning Documents coordinated for Agency review.	<u>2</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
March FY 2008

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>\$3,240.00</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>\$4,240.00</u>
	(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$1,840.00</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>\$3,300.00</u>
	(b) for structure greater than 50,000 sq ft	<u>\$0.00</u>
7.	Notification for asbestos abatement	
	(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$900.00</u>
	(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$1,000.00</u>
8.	Open burning authorization	<u>\$600.00</u>
9.	Enforcement Costs	<u>\$1,936.01</u>

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION

April FY 2008

A. Public Outreach/Education Assistance:		
1. Phone Calls:		175
2. Literature Distributed:		<u>0</u>
3. Presentations:		<u>1</u>
4. Media Contacts:		<u>3</u>
5. Internet:		<u>60</u>
6. Host/Sponsor Workshops, Meetings, Special Events		<u>2</u>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		<u>1</u>
b. Construction:		<u>1</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>1</u>
e. General:		<u>2</u>
f. Title V:		<u>5</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>13</u>
b. Construction ¹ :		<u>0</u>
c. Amendments ¹ :		<u>0</u>
d. Transfers/Extensions ¹ :		<u>1</u>
e. Title V Operating ² :		<u>13</u>
f. Permit Determinations ² :		<u>0</u>
g. General:		<u>24</u>
3. Intent to Deny Permit Issued:		<u>0</u>
C. Administrative Enforcement		
1. New cases received:		<u>0</u>
2. On-going administrative cases:		
a. Pending:		<u>3</u>
b. Active:		<u>22</u>
c. Legal:		<u>3</u>
d. Tracking compliance (Administrative):		<u>14</u>
e. Inactive/Referred cases:		<u>0</u>
	Total	<u>42</u>
3. NOIs issued:		<u>1</u>
4. Citations issued:		<u>0</u>

5.	Consent Orders Signed:	<u>1</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$9,850.00</u>
7.	Cases Closed:	<u>2</u>
D.	Inspections:	
1.	Industrial Facilities:	<u>15</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>0</u>
c.	Major Sources	<u>12</u>
3.	Asbestos Demolition/Renovation Projects:	<u>15</u>
E.	Open Burning Permits Issued:	<u>4</u>
F.	Number of Division of Forestry Permits Monitored:	<u>212</u>
G.	Total Citizen Complaints Received:	<u>51</u>
H.	Total Citizen Complaints Closed:	<u>51</u>
I.	Noise Sources Monitored:	<u>5</u>
J.	Air Program's Input to Development Regional Impacts:	<u>1</u>
K.	Test Reports Reviewed:	<u>127</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>5</u>
2.	Warning Notices Resolved:	<u>2</u>
3.	Advisory Letters Issued:	<u>8</u>
M.	AOR's Reviewed:	<u>0</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>1</u>
O.	Planning Documents coordinated for Agency review.	<u>7</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
April 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)	\$80.00
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	\$5,893.60
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	\$80.00
4. Non-delegated permit revision for an air	\$0.00
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	\$2,800.00
(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	\$300.00
(b) renovation greater than 1000 linear feet or 1000 sq ft	\$1,500.00
8. Open burning authorization	\$2,200.00
9. Enforcement Costs	\$671.00

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



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 Legal 627-2602 Wetlands 627-2630
 Water 627-2670 ERM 627-2650
 Air 627-2660 Lab 272-5157

Executive Director
 Richard D. Garrity, Ph.D.

MEMORANDUM

DATE: May 7, 2008

TO: Tom Koulianos, Director of Finance and Administration

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

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

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	2
2. On-going administrative cases	112
a. Pending	3
b. Active	51
c. Legal	12
d. Tracking Compliance (Administrative)	31
e. Inactive/Referred Cases	15
3. NOI's issued	0
4. Citations issued	0
5. Consent Orders and Settlement Letters Signed	1
6. Civil Contributions to the Pollution Recovery Fund	\$8,317.00
7. Enforcement Costs collected	\$1,405.00
9. Cases Closed	3

B. SOLID AND HAZARDOUS WASTE

1. FDEP Permits (received/reviewed)	01/01
2. EPC Authorization for Facilities NOT requiring DEP permit	01/02
3. Other Permits and Reports	
a. County Permits	02/07
b. Reports	49/38
4. Inspections (Total)	231
a. Complaints	23
b. Compliance/Reinspections	11
c. Facility Compliance	27
d. Small Quantity Generator	167
e. P2 Audits	1
5. Enforcement	
a. Complaints Received/Closed	21/22
b. Warning Notices Issued/Closed	04/01
c. Compliance letters	59
d. Letters of Agreement	0
e. Agency Referrals	2
6. Pamphlets, Rules and Material Distributed	187

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	91
b. Installation	28
c. Closure	13
d. Compliance Re-Inspections	19
2. Installation Plans Received/Reviewed	09/06
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	05/04
b. Closure Reports Received/Reviewed	06/06
4. Enforcement	
a. Non-compliance Letters Issued/Closed	89
b. Warning Notices Issued/Closed	01/01
c. Cases referred to Enforcement	01
d. Complaints Received/Investigated	00/00
e. Complaints Referred	00
5. Discharge Reporting Forms Received	03
6. Incident Notification Forms Received	15
7. Cleanup Notification Letters Issued	01
8. Public Assistance	00

D. STORAGE TANK CLEANUP

1. Inspections	40
2. Reports Received/Reviewed	139/129
a. Site Assessment	10/14
b. Source Removal	03/02
c. Remedial Action Plans (RAP's)	25/15
d. Site Rehabilitation Completion Order/ No Further Action Order	07/08
e. Active Remediation/Monitoring	57/54
f. Others	37/36
3. State Cleanup	
a. Active Sites	NO LONGER
b. Funds Dispersed	ADMINISTERED

E. RECORD REVIEWS - 24

F. PUBLIC INFORMATION PROJECTS - 1

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):
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 Legal 627-2602 Wetlands 627-2630
 Water 627-2670 ERM 627-2650
 Air 627-2660 Lab 272-5157

Executive Director
 Richard D. Garrity, Ph.D.

MEMORANDUM

DATE: April 8, 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 MARCH 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	02/01
3. Other Permits and Reports	
a. County Permits	07/06
b. Reports	40/35
4. Inspections (Total)	223
a. Complaints	26
b. Compliance/Reinspections	19
c. Facility Compliance	12
d. Small Quantity Generator	165
e. P2 Audits	1
5. Enforcement	
a. Complaints Received/Closed	30/24
b. Warning Notices Issued/Closed	06/02
c. Compliance letters	73
d. Letters of Agreement	0
e. Agency Referrals	1
6. Pamphlets, Rules and Material Distributed	146

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	128
b. Installation	17
c. Closure	11
d. Compliance Re-Inspections	20
2. Installation Plans Received/Reviewed	12/17
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	04/08
b. Closure Reports Received/Reviewed	04/09
4. Enforcement	
a. Non-compliance Letters Issued/Closed	96
b. Warning Notices Issued/Closed	04/00
c. Cases referred to Enforcement	00
d. Complaints Received/Investigated	01/01
e. Complaints Referred	00
5. Discharge Reporting Forms Received	05
6. Incident Notification Forms Received	20
7. Cleanup Notification Letters Issued	03
8. Public Assistance	00

D. STORAGE TANK CLEANUP

1. Inspections	26
2. Reports Received/Reviewed	120/119
a. Site Assessment	16/15
b. Source Removal	01/01
c. Remedial Action Plans (RAP's)	12/13
d. Site Rehabilitation Completion Order/ No Further Action Order	03/03
e. Active Remediation/Monitoring	45/43
f. Others	43/44
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

E. RECORD REVIEWS - 23

F. PUBLIC INFORMATION PROJECTS - 0

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

A. ENFORCEMENT

1. New Enforcement Cases Received:	2
2. Enforcement Cases Closed:	4
3. Enforcement Cases Outstanding:	56
4. Enforcement Documents Issued:	5
5. Recovered costs to the General Fund:	\$ 670.00
6. Contributions to the Pollution Recovery Fund:	\$ 3,950.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Camelot MHP WWTP	Modification w/out a permit	\$ 400.00
b. Gomez Ave. Townhomes	Placement of c/s in service w/out acceptance letter	\$ 500.00
c. Bank Atlantic at Dale Mabry & Waters	Placement of c/s in service w/out acceptance letter	\$ 500.00
d. Bay Hills Village	Expired permit	\$ 1,000.00
e. Eastfield Slopes Condo	Expired permit, operation w/out permit	\$ 400.00
f. Neptune Mobile Village	Disposal problems, Improper operation, Failure to maintain	\$ 1,000.00
g. Scott Grantham	Improper operation, Failure to maintain	\$ 150.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	32
a. Facility Permit:	5
(i) Types I and II	0
(ii) Types III	5
b. Collection Systems-General	16
c. Collection Systems-Dry Line/Wet Line:	11
d. Residuals Disposal:	0
2. Permit Applications Approved:	26
a. Facility Permit:	4
b. Collection Systems-General:	10
c. Collection Systems-Dry Line/Wet Line:	12
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:	93
a. Facility Permit:	8
b. Collection Systems-General:	42
c. Collection Systems-Dry Line/Wet Line:	44
d. Residuals Disposal:	0
7. Permit Determination:	1
8. Special Project Reviews:	
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
C. INSPECTIONS - DOMESTIC	102
1. Compliance Evaluation:	14
a. Inspection (CEI):	3
b. Sampling Inspection (CSI):	9
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	2
2. Reconnaissance:	67
a. Inspection (RI):	18
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	37
d. Enforcement Inspection (ERI):	12
3. Engineering Inspections:	21
a. Reconnaissance Inspection (RI):	0
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	7
e. Post Construction Inspection (XCI):	14
f. On-site Engineering Evaluation:	0
g. Enforcement Reconnaissance Inspection (ERI):	0

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL	44
1. Permit Applications Received:	2
a. Facility Permit:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	2
(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:	
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	42
a. Phosphate:	7
b. Industrial Wastewater:	20
c. Others:	15
E. INSPECTIONS - INDUSTRIAL	37
1. Compliance Evaluation:	12
a. Inspection (CEI):	12
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	20
a. Inspection (RI):	9
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	11
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	5
a. Compliance Evaluation (CEI):	5
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:	47
a. Domestic:	38
(i) Received:	22
(ii) Closed:	16
b. Industrial:	9
(i) Received:	5
(ii) Closed:	4
2. Warning Notices:	14
a. Domestic:	10
(i) Received:	5
(ii) Closed:	5
b. Industrial:	4
(i) Received:	4
(ii) Closed:	0
3. Non-Compliance Advisory Letters:	40
4. Environmental Compliance Reviews:	148
a. Industrial:	48
b. Domestic:	100
5. Special Project Reviews:	5
G. RECORD REVIEWS	3
1. Permitting:	3
2. Enforcement:	0
H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:	
1. Air Division:	73
2. Waste Division:	0
3. Water Division:	22
4. Wetlands Division:	2
5. ERM Division:	153
6. Biomonitoring Reports:	3
7. Outside Agency:	42
I. SPECIAL PROJECT REVIEWS:	12
1. DRIs:	2
2. ARs:	6
3. Technical Support:	4
4. Other:	

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

A. ENFORCEMENT

1. New Enforcement Cases Received:	2
2. Enforcement Cases Closed:	5
3. Enforcement Cases Outstanding:	54
4. Enforcement Documents Issued:	
5. Recovered costs to the General Fund:	\$ 1,630.00
6. Contributions to the Pollution Recovery Fund:	\$ 9,950.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Camelot MHP	Modification w/out a permit	\$ 200.00
b. 1001 E. Reynolds St.	Discharging raw sewage	\$ 1,000.00
c. Villas of Palm River Park	Construction w/out a permit	\$ 3,500.00
d. San Jose Mission	Improper Operation/Failure to maintain	\$ 1,000.00
e. GAF Materials Corp.	Violation of permit conds.	\$ 1,250.00
f. Windward Knoll	Improper Operation/Failure to maintain/Violation of permit conds.	\$ 3,000.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	27
a. Facility Permit:	4
(i) Types I and II	0
(ii) Types III	4
b. Collection Systems-General	12
c. Collection Systems-Dry Line/Wet Line:	11
d. Residuals Disposal:	0
2. Permit Applications Approved:	31
a. Facility Permit:	2
b. Collection Systems-General:	15
c. Collection Systems-Dry Line/Wet Line:	9
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	
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):	
a. Recommended for Approval:	0

5. Permits Application Denied or Withdrawn:	1
a. Facility Permit:	0
b. Collection Systems-General:	1
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
6. Permit Applications Outstanding:	30
a. Facility Permit:	8
b. Collection Systems-General:	6
c. Collection Systems-Dry Line/Wet Line:	16
d. Residuals Disposal:	0
7. Permit Determination:	2
8. Special Project Reviews:	1
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	1
C. INSPECTIONS - DOMESTIC	
1. Compliance Evaluation:	12
a. Inspection (CEI):	4
b. Sampling Inspection (CSI):	8
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	72
a. Inspection (RI):	15
b. Sample Inspection (SRI):	1
c. Complaint Inspection (CRI):	53
d. Enforcement Inspection (ERI):	3
3. Engineering Inspections:	40
a. Reconnaissance Inspection (RI):	0
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	4
e. Post Construction Inspection (XCI):	35
f. On-site Engineering Evaluation:	1
g. Enforcement Reconnaissance Inspection (ERI):	0

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL	52
1. Permit Applications Received:	5
a. Facility Permit:	0
(i) Types I and II	2
(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:	3
2. Permits Recommended to DEP for Approval:	0
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	47
a. Phosphate:	16
b. Industrial Wastewater:	22
c. Others:	9
E. INSPECTIONS - INDUSTRIAL	28
1. Compliance Evaluation:	13
a. Inspection (CEI):	13
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	10
a. Inspection (RI):	4
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	6
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	5
a. Compliance Evaluation (CEI):	5
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:	43
a. Domestic:	25
(i) Received:	18
(ii) Closed:	11
b. Industrial:	4
(i) Received:	7
(ii) Closed:	
2. Warning Notices:	16
a. Domestic:	14
(i) Received:	11
(ii) Closed:	3
b. Industrial:	2
(i) Received:	2
(ii) Closed:	0
3. Non-Compliance Advisory Letters:	23
4. Environmental Compliance Reviews:	127
a. Industrial:	21
b. Domestic:	106
5. Special Project Reviews:	4
G. RECORD REVIEWS	
1. Permitting:	3
2. Enforcement:	0
H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:	
1. Air Division:	70
2. Waste Division:	0
3. Water Division:	28
4. Wetlands Division:	2
5. ERM Division:	167
6. Biomonitoring Reports:	7
7. Outside Agency:	26
I. SPECIAL PROJECT REVIEWS:	
1. DRIs:	6
2. ARs:	0
3. Technical Support:	0
4. Other:	6

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 04/30/08**

	<u>As of 4/30/08</u>
Beginning Fund Balance, 10/01/07	\$ 1,112,615
Interest Accrued	59,135
Deposits	318,841
Disbursements	(103,560)
Intrafund Budget Transfers to Project Fund	(531,610)
Pollution Recovery Fund Balance	<u>\$ 855,421</u>
Encumbrances:	
Pollution Prevention/Waste Reduction (101)	\$ 8,002
Artificial Reef Program	84,719
PRF Project Monitoring	29,175
Total Encumbrances	<u>\$ 121,896</u>
Minimum Balance (Reserves)	\$ 120,000
Balance Available, 04/30/08	<u><u>\$ 613,525</u></u>

PROJECT FUND

	<u>Project Amount</u>	<u>Project Balance</u>
Open Projects		
FY 06 Projects		
COT Parks Dept/Cypress Point (97)	100,000	\$ 100,000
Bahia Beach Restoration (contract 04-03)	150,000	118,455
Tampa Shoreline Restoration	30,000	1,746
Field Measurement for Wave Energy	125,000	27,884
Port of Tampa Stormwater Improvement	45,000	45,000
	<u>\$450,000</u>	<u>\$393,085</u>
FY 07 Projects		
Agr Pesticide Collection & Education Day	24,000	\$ 2,075
Tank Removal	25,000	7,593
Industrial Facility Stormwater Inspection Prg	28,885	28,885
Agriculture Best Management Practice Impl	150,000	150,000
Lake Thonotosassa Assessment	75,000	75,000
Natures Classroom Cap, PH III	188,000	188,000
Pollution Monitoring Appl Pilot Project	45,150	45,150
Exper Land-Based Seagrass Nursery	20,000	1,316
Seagrass & Longshore Bar Recovery	75,000	15,613
Seawall Removal Cotanchobee Ft Brooke Park	100,000	100,000
Analysis of Bacteria & Beach Closures	125,000	125,000
Knights Preserve	35,235	30,002
Oyster Reef Shore/Stab & Enhance	30,000	10,040
Nitrogen Emission/Deposition Ratios, Air Pollution	40,906	17,240
Erosion Control/Oyster Bar Habitat Creation	75,000	75,000
Remediation of Illegally Dumped Asbestos	4,486	4,486
	<u>\$1,041,662</u>	<u>\$875,400</u>
FY 08 Projects		
Australian Pine Removal E.G. Simmons Park	80,000	80,000
Restoration of MOSI	125,000	125,000
Invasive Plant Removal Egmont Key	133,000	72,707
Lake Magdalene's Management Plan	66,954	66,954
Testing Reduction of TMDL in Surface Water Flow	19,694	17,728
Assessing Bacteria Lake Carroll	101,962	101,962
Tampa Bay Nitrogen Consortium	5,000	200
	<u>\$531,610</u>	<u>\$464,551</u>

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



Roger P. Stewart Center
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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 APRIL 30, 2008

Fund Balance as of 10/01/07	\$248,370
Interest Accrued	5,828
Disbursements FY08	(14,854)

Fund Balance \$239,344

Encumbrances Against Fund Balance:		Start Date	Expiration Date
SP627 Tampa Bay Scallop Restoration	\$ 113	08/29/03	12/31/07
SP636 Fantasy Island	8	01/20/05	12/31/07
SP634 Cockroach Bay ELAPP Restoration	239,223	03/10/05	01/31/08
Total of Encumbrances	\$239,344		

Fund Balance Available 04/30/08 \$ - 0 -



EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: Legal Case Summary for April 2008

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

Division: Legal Department

Recommendation: None, informational update.

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

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

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

List of Attachments: April 2008 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT

April 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. The Appellant entered into a Consent Order with the EPC on March 26, 2008 and the case has been closed. (RM)

RECENTLY RESOLVED ADMINISTRATIVE CASES [0]

B. CIVIL CASES

NEW CIVIL CASES [4]

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

Ecoventure New Port I, LLC [LEPC08-006]: Authority to take appropriate legal action against Ecoventure New Port I, LLC for failure to assess petroleum contamination in accordance with EPC and State regulations was granted on March 20, 2008. The property owner is required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. (AZ)

Site Development & Asphalt Paving, Inc. [LEPC08-007]: Authority to take appropriate legal action against Site Development & Asphalt Paving, Inc. for failure to comply with the terms of Consent Order #2005-2223E which the Defendant entered into to resolve a violation of EPC Wetland Rule Chapter 1-11 was granted on March 20, 2008... The Respondent failed to make the agreed upon payment of \$1,500 in penalties and \$982 in costs to the EPC. The EPC is attempting to recover the money. (AZ)

Cee Jay Holdings, LLC d/b/a/ Coquina Blue Bar & Grill [LEPC08-008]: Authority to take appropriate legal action against Cee Jay Holdings, LLC for violations of the EPC Noise Rule, Chapter 1-10 was granted on March 20, 2008. On January 28, 2008 the EPC issued the Defendant a Citation to Cease and Order to Correct Violation. The Defendant failed to respond to the Citation and therefore it has become a Final Order of the EPC enforceable in Circuit Court.

EXISTING CIVIL CASES [12]

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

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

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 reply brief and the EPC and property owner have filed the answer briefs. The

parties are waiting for decision of the court. (AZ)

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

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

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

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

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. and G.W. Partners, Ltd. 2 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)

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)

RECENTLY RESOLVED CIVIL CASES [1]

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 entered into a settlement in the form of a consent order and the matter has been resolved. (AZ)

C. OTHER OPEN CASES [11]

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

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

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 was adopted into a Final Order on January 11, 2008. The parties executed a Short Form Consent Order on March 27, 2008. The Legal case will be 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 and a second request was granted through April 11, 2008. (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 had until January 31, 2008 to file an appeal in this matter. The Appellant filed two subsequent requests for extensions of time which were granted and the current deadline for the Appellant to file a notice of appeal is May 5, 2008. (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 had until March 31, 2008 to file a petition in this matter. On March 27, 2008 the Petitioner filed a request for a second extension of time. The request was granted and the Petitioner has until April 30, 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. The parties negotiated an acceptable permit and the extension of time was withdrawn on April 8, 2008. (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. The permit was issued on February 15, 2008 and the case has been closed. (AZ)

Anthony Barretto and Mini Barreto [LEPC08-009]: On March 13, 2008 the Appellants filed a request for an extension of time to file a Notice of Appeal to challenge a Citation of Violation and Order to Correct issued on March 5, 2008 regarding a petroleum cleanup matter. The Legal Dept. granted the request and the Appellants have until July 25, 2008 to file a Notice of Appeal in this matter. (AZ)

Melnico Corporation [LEPC08-010]: On March 13, 2008 the Appellant filed a request for an extension of time to file a Notice of Appeal to challenge a Citation of Violation and Order to Correct issued on March 5, 2008 regarding a petroleum cleanup matter. The Legal Dept. granted the request and the Appellants have until July 25, 2008 to file a Notice of Appeal in this matter. (AZ)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: Legal Case Summary for May 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: May 2008 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
May 2008

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [1]

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 had until January 31, 2008 to file an appeal in this matter. The Appellant filed two subsequent requests for extensions of time which were granted and the Appellant had until May 5, 2008 to file an appeal. On May 5, 2008 Appellant SWATI, Inc. filed a Notice of Appeal challenging the Citation of Violation and Order to Correct. The Legal Dept. will set the matter for hearing. (AZ)

EXISTING ADMINISTRATIVE CASES [4]

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 entered 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)

RECENTLY RESOLVED ADMINISTRATIVE CASES [1]

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. The Appellant entered into a Consent Order with the EPC on March 26, 2008 and the case has been closed. (RM)

B. CIVIL CASES

NEW CIVIL CASES [0]

EXISTING CIVIL CASES [16]

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

Ecoventure New Port I, LLC [LEPC08-006]: Authority to take appropriate legal action against Ecoventure New Port I, LLC for failure to assess petroleum contamination in accordance with EPC and State regulations was granted on March 20, 2008. The property owner is required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. (AZ)

Site Development & Asphalt Paving, Inc. [LEPC08-007]: Authority to take appropriate legal action against Site Development & Asphalt Paving, Inc. for failure to comply with the terms of Consent Order #2005-2223E which the Defendant entered into to resolve a violation of EPC Wetland Rule Chapter 1-11 was granted on March 20, 2008... The Respondent failed to make the agreed upon payment of \$1,500 in penalties and \$982 in costs to the EPC. The EPC is attempting to recover the money. (AZ)

Cee Jay Holdings, LLC d/b/a/ Coquina Blue Bar & Grill [LEPC08-008]: Authority to take appropriate legal action against Cee Jay Holdings, LLC for violations of the EPC Noise Rule, Chapter 1-10 was granted on March 20, 2008. On January 28, 2008 the EPC issued the Defendant a Citation to Cease and Order to Correct Violation. The Defendant failed to respond to the Citation and therefore it has become a Final Order of the EPC enforceable in Circuit Court.

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

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

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 reply brief and the EPC and property owner have filed the answer briefs. The parties are waiting for decision of the court. (AZ)

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

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

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

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

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. and G.W. Partners, Ltd. 2 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. The Defendant's failure to respond to staff's repeated attempts to negotiate a settlement resulted in the Legal Dept. filing a Complaint/Petition for Enforcement with the Court on April 9, 2008. (AZ)

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

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

Tranzparts, Inc. and Scott Yaslow [LEPC06-012]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Tranzparts, Inc., Scott Yaslow, and Ernesto and Judith Baizan to enforce the agency requirement that various corrective actions and a Preliminary Contamination Assessment Plan be conducted on the property for discharges of oil/transmission fluid to the environment. The EPC entered a judicial settlement (consent final judgment [CFJ]) with

Tranzparts and Yaslow only on February 16, 2007. The Defendants have only partially complied with the CFJ, thus the case has been re-opened in the Circuit Court in order to enforce the CFJ and hold the Defendants in contempt. A hearing was held on April 28, 2008, wherein the judge awarded the EPC additional penalties. The Legal Dept. has filed a proposed Supplemental Judgment with the Court and is awaiting issuance of the Order. (RM)

RECENTLY RESOLVED CIVIL CASES [0]

C. OTHER OPEN CASES [8]

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. The parties entered into a Consent Order on April 15, 2008 and the case has been closed. (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. The parties entered into a Consent Order on April 15, 2008 and the case has been 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 and a second request was granted through April 11, 2008. The EPC issued a revised draft permit to the facility on April 11, 2008. No further extension of time has been requested. The EPC Legal Department shall close its file in this matter. (RM)

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 had until March 31, 2008 to file a petition in this matter. On March 27, 2008 the Petitioner filed a request for a second extension of time. The request was granted and the Petitioner has until April 30, 2008 to file a petition in this matter. The parties negotiated acceptable permit conditions; Mosaic agreed to waive its right to challenge; and the revised draft permit will issue on or about April 22, 2008. This legal matter is closed. (RM)

Anthony Barretto and Mini Barreto [LEPC08-009]: On March 13, 2008 the Appellants filed a request for an extension of time to file a Notice of Appeal to challenge a Citation of Violation and Order to Correct issued on March 5, 2008 regarding a petroleum cleanup matter. The Legal Dept. granted the request and the Appellants have until July 25, 2008 to file a Notice of Appeal in this matter. (AZ)

Melnico Corporation [LEPC08-010]: On March 13, 2008 the Appellant filed a request for an extension of time to file a Notice of Appeal to challenge a Citation of Violation and Order to Correct issued on March 5, 2008 regarding a petroleum cleanup matter. The Legal Dept. granted the request and the Appellants have until July 25, 2008 to file a Notice of Appeal in this matter. (AZ)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: Wetland Hybrid Quarterly Report

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

Division: Executive Director

Recommendation: Informational Report

Brief Summary: Attached is the third quarterly report of the Wetlands Hybrid Plan which covers the progress the EPC staff has made in implementing the Plan from February 16, 2008 – May 15, 2008. A final annual report will be provided at the August 2008 EPC Meeting.

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. This third quarterly report includes items that have been completed 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

EPC Wetlands Hybrid Implementation
3rd Quarterly Report
February 16, 2008 - May 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

The staff has completed a draft of the Basis of Review which explains how wetland lines are established; the criteria used to determine if a requested wetland impact will be approved or denied, including guidelines for determining "reasonable use" and engineering criteria; how proposed mitigation is evaluated; and what constitutes a Miscellaneous Activity in wetlands.

Applicant's Handbook

The staff has completed a draft of the Applicant's Handbook. This manual has been created to assist applicants in all phases of the Wetland Management Division's review process. The first section explains the Division's responsibilities and EPC's relationship with other governmental entities. All statutes and rules used by the agency are listed and included for the applicant's convenience. The second section covers definitions from the EPC rules and other applicable statutes. Section three describes the pre-application process. Field delineations are covered in the fourth section. This includes EPC and Southwest Florida Water Management District (SWFWMD) delineations, scaled site plans, informal and aerial determinations, timeframes and disputes. Section five covers all aspects of the wetland impact and mitigation review. Miscellaneous Activities in Wetlands permitting is covered in section six. Exemptions to Chapters 1-11, the Wetland Rule and 1-14, the Mangrove Rule are covered in section seven. Section eight covers bona fide agricultural activities. In section nine, reviews for agencies other than the EPC are discussed. This includes the Tampa Port Authority (IPA), the Florida Department of Environmental Protection (FDEP), the Regional Planning Council (RPC) and Hillsborough County's Planning and Growth Management Department (PGMD). Finally, the role of the Wetland Management Division Ombudsman is described in section ten. Application forms and detailed instructions for filling them out are included in each appropriate section, along with the review process and criteria used to evaluate each application.

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 twenty 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 as no fee is required for these reviews. The "Mangrove Trimming Application", "Professional Mangrove Trimmer Registration", "Application To Perform Miscellaneous Activities In Wetlands", "Wetlands Delineation Request", and "Mitigation Agreement" forms are available on the website however, electronic submission of these forms will require a system upgrade to allow applicants to pay review fees online. Detailed instructions for filling out these forms are in the Applicant's Handbook.

DEP Delegation

The petition for partial regulatory delegation of the Environmental Resource Program (ERP) 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. EPC staff has responded to this request and submitted additional information.

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. The final report was delivered to the board at the March 2008 EPC Board meeting and implementation of the action plans is scheduled to be completed by May 31, 2008.

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 delivered to the Board at the March 2008 EPC meeting. The senior management at SWFWMD is currently reviewing the report to determine if changes to the MOU are necessary.

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

The "Programmatic General Permit SAJ-96" from the Army Corps of Engineers will be included in the DEP ERP delegation. Activities addressed by this permit include 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.

Phosphate Mining Coordination

EPC staff continues to improve coordination with both applicants and County and State regulatory staffs regarding application review and compliance for phosphate operations. Electronic submittal of mitigation plans by the applicant and management of electronic reviews through PGMD will streamline the process. The ability to utilize GIS data for project boundaries, wetland lines and wetland mitigation areas will soon be available. Staffs of EPC, the Bureau of Mine Reclamation and PGMD are working more closely on site inspections and review comments.

Remaining Hybrid Implementation Timeline

<u>May 15th</u>	EPC Meeting - Hybrid Third Quarterly Report
<u>May 31st</u>	Completion of Action Plans for implementation of the recommendations developed as a result of the Internal Audit
<u>June 2nd</u>	CEAC/WAC Meeting - Technical Advisory Group to present work product and give briefings on mitigation, classification and process
<u>June 19th</u>	EPC Meeting - request authority for a Public Hearing on changes to Ch. 1-11, Wetlands Rule (addition of "other surface water" language) and required adoptions to Ch. 1-13, Delegation Rule
<u>June/July</u>	Public Workshop on changes to Ch. 1-11 and 1-13
<u>July 7th</u>	CEAC/WAC Meeting - discussion of TAG work product and development of recommendations to the Board
<u>July 17th</u>	EPC Meeting - Public Hearing on Ch. 1-11 and 1-13; request authority for a Public Hearing on the adoption of the Basis of Review into Ch. 1-11; CEAC/WAC presentation of recommendations to the Board
<u>July/August</u>	Public Workshop on adoption of the Basis of Review into Ch. 1-11
<u>August 4th</u>	CEAC/WAC Meeting - discussion and further input on Basis of Review
<u>August 21st</u>	EPC Meeting - Public Hearing on adoption of the Basis of Review into Ch. 1-11; presentation of Annual Hybrid Report



EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: E-Suites Hotels, LLC - Acceptance of Cashier's Check in escrow

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

Division: Legal Department


Recommendation: Authorize acceptance of a Cashier's Check from E-Suites Hotels, LLC in the amount of \$50,000 as financial assurance pursuant to the terms and conditions of EPC Director's Authorization EPC/DA-OLC-120407. Authorize the release of said funds upon proper completion of the conditions of the Director's authorization and approval of all required documentation based upon written confirmation by EPC Waste Management staff.

Brief Summary: EPC Waste Management staff issued a Director's Authorization to E-Suites Hotels, LLC. Rule 1-7.202 (4)(1)(2), Rules of the EPC, requires the submittal of financial assurance to provide the Commission with assurance that the Director's Authorization terms and conditions will be complied with and the site will be properly constructed or closed. E-Suites submitted a \$50,000 cashier's check to the EPC on February 22, 2008. On approximately March 6, 2008, the cash bond was placed in escrow pending completion of the terms and conditions of the EPC Director's Authorization. Upon written confirmation by the EPC Waste Management Division that E-Suites has satisfactorily completed the terms and conditions of the Director's Authorization, the funds shall be released to E-Suites Hotels, LLC.

List of Attachments: Cashier's Check No. 5942093
Hillsborough County Board of County Comm.
Document Entry Form (3/6/08)

Account	Serial Number	Date	Amount
1641002054	5942093	02/25/2008	\$50,000.00

Front Image

Bank of America  **Cashier's Check** No. **5942093**

Make no payment on this check if the check is lost, destroyed, stolen, forged, altered, or if the check is not cashed within 90 days of the date of issue. If the check is not cashed within 90 days, the check should be reissued within 90 days.

Date: **FEBRUARY 22, 2008**

Banking Center: **HILLSBOROUGH AND WEBB**

Routing Number: **0821538** Account Number: **08542093** Remitter (Print Name & Address): **ESMITES HOTELS, LLC**

Pay ****FIFTY THOUSAND DOLLARS AND 00 CENTS**** \$ **50000.00**

To The Order Of ****HILLSBOROUGH COUNTY BOCC****

Bank of America, N.A. **VOID AFTER 90 DAYS** *[Signature]*
San Antonio, Texas

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HILLSBOROUGH COUNTY BOCC
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EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: Request for authority to take appropriate legal action against D.J.P. Investments, Inc.

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

Division: Waste Management Division

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

rief Summary: On April 28, 2005, a discharge of petroleum product was discovered during a Closure Assessment Report at property located at 11305 East U.S. Highway 92, Seffner, Hillsborough County, Florida. Site cleanup activities have not been initiated or completed. Site clean-up activities, at a minimum, include a Site Assessment and the submittal of a Site Assessment Report 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: In April 2005 the regular unleaded gasoline sump was replaced at C Mart #699, a retail vehicular refueling station (Facility) located at 11305 East U.S. Highway 92, Seffner, Hillsborough County, Florida. The regular unleaded gasoline sump closure assessment report was submitted to EPC on May 23, 2005. The report identified petroleum contaminant concentration exceeding soil cleanup target levels. The property and the Facility are owned and operated by D.J.P. Investments, Inc. EPC made telephone calls and sent letters to D.J.P. Investments, Inc. on June 30, 2005, March 20, 2006, March 27, 2006, July 12, 2006, July 21, 2006 and March 20, 2007 advising that a Site Assessment Report must be submitted within 270 days of discovery of the discharge. No satisfactory responses were received.

On April 26, 2006, EPC staff issued Citations of Violation and Orders to Correct to D.J.P. Investments, Inc. for failing to initiate and complete site rehabilitation activities in accordance with Chapter 62-770, Florida Administrative Code (F.A.C.). No positive response was received and the contamination remains unresolved.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: Clean Air Month

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

Division: Air Management

Recommendation: Read the Clean Air Month Proclamation and present copies to representatives from Hillsborough County Parks, Recreation and Conservation Department and EPC staff.

Brief Summary: For the past 36 years the EPC has promoted May as Clean Air Month in Hillsborough County. With the Board's approval, the staff would like to continue with this annual tradition for 2008.

The proposed proclamation would be presented to representatives from Hillsborough County Parks, Recreation and Conservation Department and to an EPC representative. The theme for Clean Air Month 2008 will be "*Celebrating Our Natural Treasures*" to promote awareness of air quality and to encourage the public to participate in special community outdoor events planned for May.

In addition, staff will announce the finalists of the 7th annual Clean Air Month photography contest and provide a brief overview of additional Clean Air Month community activities.

Financial Impact: Financial impact to Tag Fee is \$512.50 to be paid out of existing budget.

Background: List of Finalists

Jessica Ramos – 11th Grade
Blake High School
Teacher: Linda Galgani
Busy Bee

Andrea Espina – 12th Grade
Wharton High School
Teacher: Dana Warner
Air and Life

Hanna LeHeup – 12th Grade
Blake High School
Teacher: Linda Galgani
On the Line

Jennifer Adcock – 12th Grade
Alonso High School
Teacher: Yvette Lowe
Untitled

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



Proclamation

WHEREAS, the Environmental Protection Commission of Hillsborough County is responsible for the purity of the air we breathe and attempts to achieve this in part by educating the public; and

WHEREAS, the Environmental Protection Commission has been designating the month of May as Clean Air Month for the past 36 years to promote new efforts towards clean air; and

WHEREAS, the theme this year will be "Celebrating Our Natural Treasures" to promote awareness of the importance of our air quality and to encourage the public to enjoy the many natural treasures of our community by participating in special outdoor events planned for May.

NOW, THEREFORE, BE IT PROCLAIMED that the Environmental Protection Commission of Hillsborough County, Florida, does hereby set aside the month of May, 2008, as "Clean Air Month" in Hillsborough County, and does hereby encourage all citizens to support us in this worthy cause.

Executed this 15th day of May, 2008.

Chairman

Vice Chairman



EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: Noise Rule Update

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

Division: Air Management Division

Recommendation: Informational Report

Brief Summary: After receiving Board approval to revise the EPC noise rule in December 2007, EPC staff is drafting a rule. We have consulted with a group of technical experts, and still must complete the work with the contracted technical expert to establish the appropriate measurement criteria ("metric"). We intend to conduct workshops for the technical experts, the public, and the regulated community this summer, and present the final rule to the Board in September.

Financial Impact: No Financial Impact

Background: Since December 2007 when EPC staff received Board approval to proceed with revisions to the noise rule, we have met with a group of technical experts who volunteered their time to assist, conducted substantive analysis of various model rules and rules from other jurisdictions, and continue to meet with our contracted technical consultant who is studying EPC data to assist in developing an appropriate measurement criteria, also referred to as a "metric." Our goal is to conduct rule workshops for the technical experts, the public, and the regulated community this summer, and present the final rule to the Board in September.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: EPA's Ozone Air Quality Standard Update

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

Division: Air Management Division

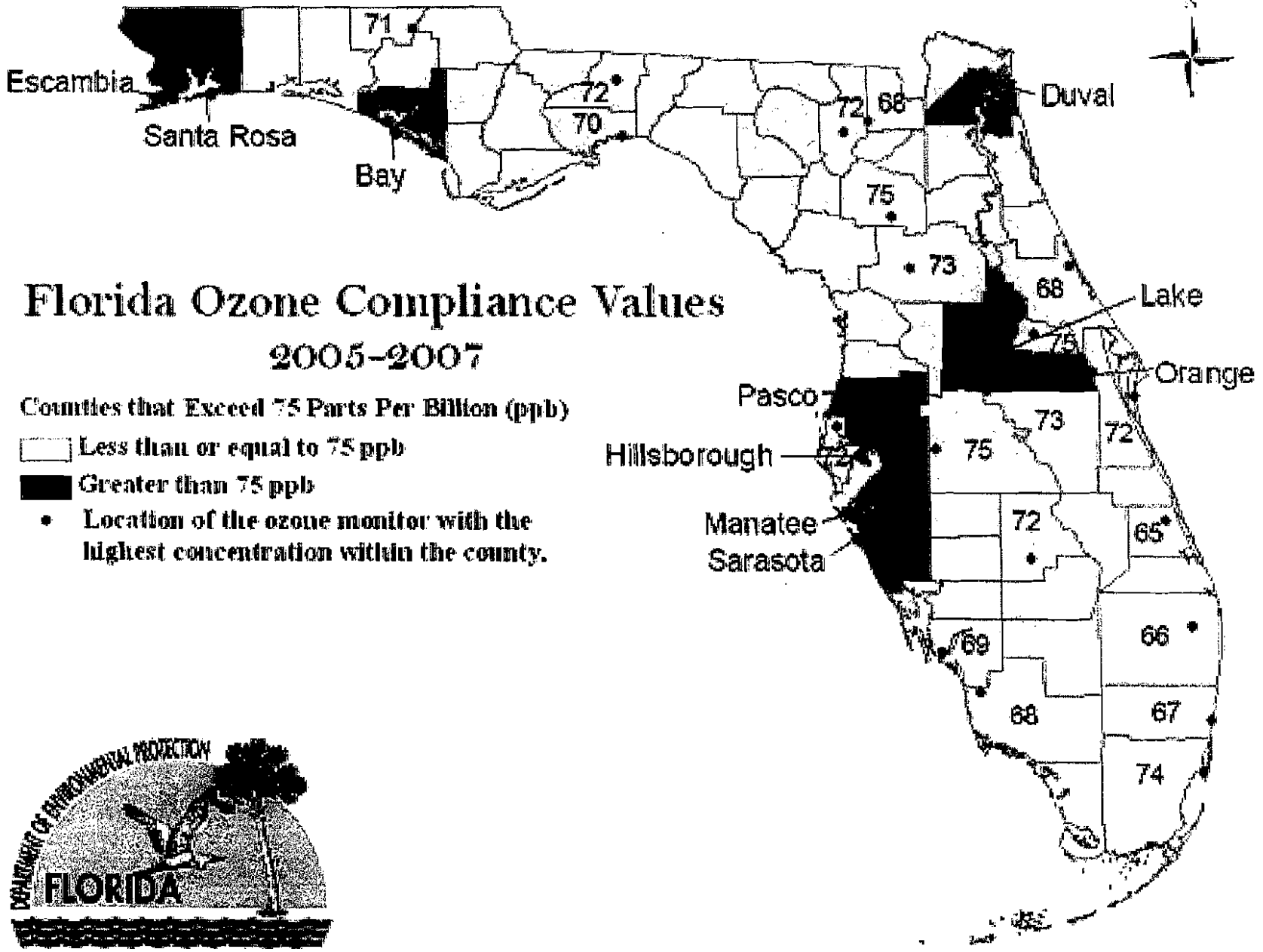
Recommendation: Informational Report.

Brief Summary: Effective May 27, 2008, the US EPA is revising the outdoor air quality standard for the pollutant ozone. Based on health studies from scientists and medical experts, the EPA is tightening the standard from a not to exceed level of 0.08 PPM to 0.075 PPM for an eight hour average. The air quality data currently being collected in Tampa and some 300 other communities across the country indicates they will not meet the new standard. This means the Tampa Bay area could be declared to be nonattainment as early as 2010.

Financial Impact: There is no direct impact to the general fund as a result of this briefing.

Background: The EPA is required by the Clean Air Act to periodically review their outdoor health based standards for adequacy. More recently they reviewed the ozone standard and have promulgated a revised mark which is approximately 10% more stringent than the figure they set in 1997. While the Tampa Bay area was meeting the 1997 standard, current data suggests we will not meet the new one. Tampa is one of several areas around the state and across the country which have been identified by the EPA. As a result, the EPC will have to work with the State to draft a compliance strategy to bring the area back into compliance. The strategy has to be approved by the EPA and is due in their office by 2013.

List of Attachments: Map of Florida showing areas and their projected status under the new ozone standard.





EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: 2008 EPC End of Session Legislative Update

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

Division: Legal Department

Recommendation: Informational Report Only

Brief Summary: The EPC staff tracked numerous environmental and administrative bills during the legislative session and provided analysis and comments to the County's Public Affairs Office and the Florida Association of Counties staff. The 2008 Florida Legislative Session ended at 6:02 p.m. May 2, 2008. There were a multitude of waste (landfills, brownfields, etc.), water (TMDL, fertilizer, etc.), wetland and administrative bills of interest that the EPC reviewed. Few of the environmental bills passed in the 2008 session. House Bill 723 that proposed to revise the membership of the EPC Board to include municipal representation died in Committee. Some of the more important environmental bills will be briefed.

Financial Impact: No financial impact

Background: The 2008 Florida Legislative Session commenced on March 4, 2008 and closed on May 2, 2008. During that time, the EPC staff tracked dozens of environmental and administrative bills and additionally provided comments and analysis to the County's Public Affairs Office and the Florida Association of Counties staff. There were a multitude of waste, water, wetland and administrative bills of interest that the EPC tracked (see attachment). The following are just a handful of key bills that the EPC will highlight:

- 1) **HB 723 - Hillsborough County** (aka Local Bill 1). This bill proposed to revise the membership of the EPC Board to include municipal representation. The bill also included restructuring of the Sports Authority and the Planning Commission. **FAILED**
- 2) **SB 1376/2060 and HB 761/197.** These bills retroactively prohibited the enforcement of county regulatory measures as they apply to agricultural operations. They also prohibited the imposition of impact fees, occupational license taxes and stormwater fees or assessments on some or all agricultural lands. **FAILED**

3) **SB 542 – Successor to Florida Forever.** The House and Senate each unanimously approved the successor bill to the Florida Forever Program through 2020 at \$300 million per year. **PASSED**

4) **HB 0527 - Brownfield Site Redevelopment.** This was an omnibus bill that amended 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 encourage local governments to monitor and assess the health benefits of brownfield sites. **PASSED**

5) **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 be initiated for the pilot area by September 1, 2008. Currently it only authorizes trading in the Lower St. Johns basin by point and non-point sources. **PASSED**

6) **SB 2352 - Relating to Urban/Residential Environments & Water.** This legislation stemmed from the recommendations of the Legislature’s Florida Consumer Fertilizer Task Force. The bill proposed creating the “Protection of Urban and Residential Environments and Water Act.” The bill initially required 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 would have been if the local government has a rule or ordinance in place prior to July 1, 2008. Additionally, local governments could add more stringent provisions to the model code or create an entirely more stringent rule, but only if they could 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 would have adopted the model ordinance could receive State funding to educate the citizens about fertilizer issues. The bill also amended and strengthened the certification process needed for commercial fertilizer application on urban turf. The bill evolved to change many of the above-described concepts, but ultimately died in Committee. **FAILED**

7) **HB 147 and SB 402 - Target Industry Businesses/Expedited Permitting.** The Department of Environmental Protection (DEP) and the water management districts (WMDs) would 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). **FAILED**

8) **SB 730 - Class I Landfills/Permits.** The bill would prohibit 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 protects Class I waters. It required 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. **FAILED**

9) **SB 1634 and HB 1503 - Wastewater Management.** This bill provided 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. The second section of this bill proposed that within 5 days of discovering that Part 1 Ch. 403, F.S. has been violated by any wastewater facility, the DEP must notify each county and municipality within 5 miles of the facility. **FAILED**

10) **SB 1294 – DEP.** This bill allows the DEP to increase many of its permit fees via rulemaking, thus the EPC's delegated programs would be positively impacted. The bill also allows a minor reorganization of the DEP and continues to fund cleanup efforts at Piney Point and Mulberry. Finally the bill prohibits the permitting of a Class I landfill next to a Class III landfill in the SWUCA region only. **PASSED**

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	PASSED	FAILED
HB 147 & SB 402	Target Industry Businesses, Expedited ERP Permitting	amended	N	Y,Y	Y,Y		X
HB 199 and SB 708	Desalination Technology Study		N	Y,Y	Y,Y		X
SB 326	Vessels/Clean Ocean Act	Combined with SB 1094	N	Y	Y		X - but see SB 1094
SB 432 and HB 179	Artificial Reefs/Placement of Vessels		N	Y,Y	Y (432),N (179)	X (SB 432)	
HB 433	FWCC Rulemaking		N	Y	Y		X
HB 0527 & SB 2594	Brownfield Site Redevelopment	amended	Y,Y	Y,Y	Y	X (HB 527)	
HB 547 and SB 1208 identical	Water Pollution Control (TMDL)	amended	Y	Y,Y	Y,Y	X (HB 547)	
HB 567 and SB 1318 (identical)	Onsite Sewage Treatment and Disposal Systems (local rep)		N	Y,Y	Y,Y	X (SB 1318)	
SB 660	Seagrass Beds/Protection and Restoration		N	Y	Y		X
SB 666, HB 1091, SB 2018 (identical)	Abandoned Petroleum Storage/Financial Assistance	SB 2018 combined with HB 0527	N	Y, Y,Y	Y,Y,Y		X – but see HB 527
HB 723	Hillsborough County (EPC membership reorg – Local Bill 1)		Y	Y	Yes via Board vote		X
SB 730	Class I Landfills/Permits	amended	N	Y,Y	Y,Y		X
HB 761, SB 2060, & HB 197	Agriculture	Amended - pre-emption of local regs on Ag land	Y	Y	Y		X
HB 865	Soil & Water Conservation / Watershed Improvement		N	Y	Y		X
HB 881	Bert J Harris		Y	Y	Y		X
HB 975, SB 1482 (similar)	Onsite Sewage Treatment and Disposal Systems (study)	amended	N	Y,Y	Y,Y		X
SB 1094, HB 897	Gambling Vessels/Clean Ocean Act		N	Y,Y	Y,Y	X (SB 1094)	

SB 1178	Renewable Energy Technologies & Energy Efficiency		N	Y	Y		X
SB 1294	DEP – fee increase/sunset/etc.	amended	Y	Y	Y	X (SB 1294)	
SB 1298	State Submerged Lands		N	Y	Y		X
SB 1302	Maintenance Dredge/Division of Beaches and Shores	amended	N	Y	Y	X (SB 1302)	
SB 1312	Petroleum Cleanup		N	Y	Y		X
SB 1376	Relating to Agriculture – local preemption		Y	Y	Y		X
HB 1415, SB 2580	West-Central FL Water Restoration Action Plan (SWUCA)		N	Y			X
SB 1432	Renewable Energy Generation and Net Metering		N	Y	Y		X
SB 1634	Wastewater Management		Y	Y	Y		X
SB 1672, 1427	Relating to Beach Management		N	Y,Y	Y,Y	X (SB 1427)	
SB 1982, HB 961 (similar)	Cleanup of Contaminated Petroleum Sites		Y	Y,Y	Y,Y	X (HB 961)	
SB 2088	Water Supply		N	Y			X
SB 2230	Mangrove Protection		Y	Y	Y		X
SB 2226	Water Restrictions		N	Y	Y		X
SB 2284	Homeowners' Associations		N	Y	Y		X
SB 2352	Relating to Urban/Residential Environments & Water (Fertilizer)	amended	Y	Y	Y		X
SB 2602	Alt. Water Supply		N	Y			X
SB 2624	Relating to Commercial Citrus Groves		N	Y	Y		X
SB 2764	Reclaimed Water Development		N	Y	Y		X
TOTAL = 50						9 bills passed that EPC was tracking	



EPC Agenda Item Cover Sheet

Date of EPC Meeting: May 15, 2008

Subject: Wetland Hybrid Status Update

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

Division: Wetland Management

Recommendation: Informational Report

Brief Summary: The Director of the Wetland Management Division will give a presentation of the status of implementation of the Wetland Hybrid Plan

Financial Impact: No Financial Impact

Background: In order to keep the Commission and the public informed, EPC staff will make a presentation on the status of the implementation of the various elements of the Wetland Hybrid Plan. This will include project specific information, handouts regarding deliverable documents completed to date and an updated timeline for completion of remaining items.

List of Attachments: Deliverable Documents
Updated Hybrid Timeline

Wetlands Hybrid Project Timeline

Project Start Date: 8/16/2007

Today's Date: 5/5/2008

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

Wetlands Hybrid Project Timeline

Project Start Date: 8/16/2007

Today's Date: 5/5/2008

	Project Name	Responsible Party	Estimated Finish	Days Left until Completion	<input checked="" type="checkbox"/>	Description
31	Modify Wetland Record Keeping	Stetler	15-May-08	Completed	x	
32	Action Plans for Internal Auditor	Stetler	31-May-08	26		Plans for Auditor recommendations
33	TAG Briefing to CEAC/WAC	Stetler	2-Jun-08	28		Briefings on Mitigation, classification and Process
34	Tech Advisory Group-Final Recommendation	Stetler	2-June-08	33		"White Papers" to be completed
35	Applicant's Handbook	Stetler	19-Jun-08	45		Draft completed May 1, 2008
36	Request Public Hearing on Ch. 1-11 & 1-13	Zodrow	19-Jun-08	45		Delegation language and add "other surface waters"
37	Workshop Changes to Ch. 1-11 & 1-13	Zodrow	1-Jul-08	57		
38	CEAC/WAC to Develop Recommendations	Stetler	7-Jul-08	63		
39	Public Hearing on Ch. 1-11 & 1-13	Zodrow	17-Jul-08	73		
40	Request Public Hearing on Ch. 1-11, BOR	Zodrow	17-Jul-08	73		
41	CEAC/WAC Recommendations to the Board	Stetler	17-Jul-08	73		
42	Workshop Basis of Review	Zodrow	1-Aug-08	88		
43	CEAC/WAC Meeting	Stetler	4-Aug-08	91		Additional input prior to public hearing
44	Basis of Review; Reasonable Use Guidelines	Stetler	21-Aug-08	108		Draft completed May 1, 2008
45	Annual Report to Board	Garrity	21-Aug-08	108		
46	Public Hearing on Ch. 1-11, BOR	Zodrow	21-Aug-08	108		

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Deliverable	Status	Next Step	Comments
Basis of Review *** See attachments	Completed Draft	Consider TAG and WAG input and conduct Rule Adoption Workshop	The Basis of Review is a compliment to the Wetlands rule 1-11 and provides greater definition of terms such as "Reasonable Use" and criteria for issuance or denial of permits. It includes information on mitigation banking criteria as listed in the Hybrid.
Applicants Handbook *** See attachments	Complete	Implement	The Applicants Handbook provides a detailed listing of all the information a person or entity would need to provide EPC in order to get permits. It embodies permit application forms (including on-line), how to fill them out, how to file them. It also provides criteria that is used by EPC staff in determining permissibility and is meant to give the public a full understanding of the Wetland permitting requirements. It is a large document and will be available on-line
Dept. of Environmental Protection/Corp of Engineers Delegation *** See attachments	Ongoing	Scheduling of Public Workshops	The petition to DEP was reviewed and generated questions. EPC has answered DEP's questions and we await direction from the Department on the next steps on the pursuit of the final delegation adoption
Technical Advisory Group *** See attachments	Ongoing	Complete on June 2, 2008	The group has been facilitated by EPC staff and has worked on recommendations regarding Rules and Policies. Discussions have centered on agency process, mitigation banks and classification of wetlands.

Hybrid Deliverables

Performance Tracking

*** See attachments

Complete

Completed on
April 1, 2008

Provides information on the protection of all wetlands in Hillsborough County including small wetlands not protected by state law. Includes data on permitting, compliance, enforcement and mitigation

Exemptions in Rule 1-11

*** See attachments

Complete

Implemented on
8-20-07

Provides permitting relief from artificially created ditches and ponds and defines Miscellaneous Activity

**Water Management District
Memo of Understanding
Update**

*** See attachments

Complete

Revised on
August 2007

The MOU was checked to be sure of agency compliance and revised to be more efficient

Internal Process Audit ***

See attachments

Complete

Implementation in
June 2008

Actions listed in the Internal Auditor's Report recommends several program improvement actions. The schedule for implementation of these improvements will be compiled in May this year.

**Tampa Port Authority
Delegation**

*** See attachments

Complete

Complete on
November, 2007

This delegation for minor works permits allows EPC to be a one-stop agency for TPA-MW permits.

Ombudsman

Appointed

Appointed on
August 30, 2007

The appointee has helped numerous applicants, concerned citizens and farmers by supplying information and assistance.

Public Works Agreement

*** See attachments

Complete

Complete on
November, 2007

This agreement provides direct guidance to Public Works for maintenance activities by establishing management practices that if followed shorten or eliminate permitting requirements.

Hybrid Deliverables

Agricultural Rule
*** See attachments

Complete

Completed on
January 18, 2008

Provides relief to bonafide agricultural activities for impacts to small wetlands.

Fee Study

Data Complete

Analysis complete in
April 2008

Will provide data on costs for permitting

On-Line Applications
*** See attachments

Complete

Completed on
February 2008

Provides easy, direct application process for internet applications on a 24 hour, 7 day a week basis. Applications not requiring a permit fee are on-line now, those that require a fee will be uploaded when a payment system is secured. *numerous citizens have used this access.

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

BASIS OF REVIEW

**AUTHORIZATION OF ACTIVITIES PURSUANT TO
CHAPTER 1-11 - WETLANDS**

DRAFT

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I. CHAPTER I - INTRODUCTION

1.1 Intent and History:

The objective of this document is to identify the usual procedures and information used by the EPC wetland staff in permit application review. The objective of the review is to ensure that any authorization for activities in wetlands will authorize development or conditions which are not harmful to the wetland resources of the County or inconsistent with Chapter 84-446, Laws of Florida or the relevant EPC rules as listed below.

The Environmental Protection Commission of Hillsborough County (EPC) was created in 1967 by a special act of the Florida Legislature (Chapter 67-1504, Laws of Florida). The current enabling act, the Environmental Protection Act of Hillsborough County Chapter 84-446, Laws of Florida, as amended, (EPC Act) authorizes the EPC to adopt appropriate rules and regulations reasonably necessary to provide for the effective and continuing control and regulation of water pollution in Hillsborough County. The EPC enabling act further defines water pollution in Section 3(15) as any contamination, destruction, or other alteration, or any activity which contributes to such contamination, destruction, or other alteration, of any physical, chemical, or biological feature or property of any waters of Hillsborough County. It is the purpose of this Basis of Review to provide guidelines and standards for the Executive Director's issuance or denial of an authorization to impact wetlands or other surface waters subject to jurisdiction under Section 1-11.04 of the EPC Wetland Rule.

The EPC recognizes the environmental benefits provided by wetlands and other surface waters in Hillsborough County. Pursuant to the EPC Rule Section 1-11.05, development within wetlands and other waters of Hillsborough County which destroys, reduces or impairs the wetland or other waters or which contributes to the present or potential future destruction, reduction or impairment of the environmental benefits provided by the wetland or other waters, constitutes pollution as defined by Chapter 84-446, Laws of Florida, as amended, and is prohibited except to the extent as may be specifically authorized in writing by the Executive Director or authorized agent. Development is defined under Section 1-11.02(2)(b) as "any manmade change to real property, including but not limited to dredging, filling, grading, paving, excavating, clearing, timbering, ditching or draining." Any activity interfering with the integrity of a wetland or other surface water, such as clearing, excavating, draining or filling, without written authorization from the Executive Director of the EPC or authorized agent, pursuant to Sections 1-11.06 and 1-11.07, Rules of the EPC, would be a violation of Section 17 of the enabling act and Chapter 1-11, Rules of the EPC.

1.2 Application and Review Process

The EPC Wetlands staff comments on different types of land development activities by reviewing applications submitted to other governmental agencies such as Hillsborough County, the Tampa Port Authority, and the municipalities; which are then forwarded to the EPC for comment. The applications include, but are not limited to, rezonings, subdivisions, land alteration and landscaping, land excavation and phosphate mining,

and site development reviews for commercial sites and residential subdivisions. On occasion, the EPC is requested to comment on other County or municipal permits. These include building permits for single family homes, the siting of septic tanks and septic systems, and right-of-way use permits. The EPC has entered into agreements with other agencies to perform some reviews on behalf of those agencies.

Independently the EPC reviews wetland or surface water impact proposals through noticed exemptions, Miscellaneous Activities in Wetlands applications, or standard applications for wetland impacts through mitigation agreements. This Basis of Review is intended to clarify and further define the standards provided in the EPC Wetland Rule Chapter 1-11, for these reviews.

Chapter II - JURISDICTIONAL DELINEATIONS / BOUNDARY DETERMINATIONS

2.1 Purpose:

Pursuant to Section 1-11.04, the EPC has adopted the statewide methodology used for determining the landward extent of wetlands and other surface waters to establish the applicable EPC jurisdiction for impacts prohibited under Section 1-11.05. This methodology is used to identify the interface between surface waters, including wetlands, and uplands to review and verify the avoidance of direct and secondary impacts to wetlands or other surface waters.

2.2 Description:

Wetland delineations are often referred to as wetland jurisdictional determinations. In Hillsborough County wetlands and other surface waters are regulated by the EPC, pursuant to Chapter 1-11 Rules of the EPC. Wetlands are specifically identified in the state and EPC rules as a subset of surface waters. Wetland delineations are performed in accordance with the unified wetland delineation methodology described in Chapter 62-340 F.A.C., *Delineation of the Landward Extent of Wetlands and Surface Waters*.

Wetland delineations are conducted during a field assessment of the property at the request of the property owner or authorized agent. Using the delineation methodology described in Chapter 62-340 F.A.C., an EPC staff Environmental Scientist establishes points in the field or reviews the points established by the applicant, at the landward extent of the wetland. These points are established by using consecutively numbered flagging, staking, or other similar means of marking. After the EPC staff delineates the wetland line it is the responsibility of the applicant to have the line surveyed.

2.3 Formal Determinations:

To obtain a formal binding wetland determination an applicant must provide a certified survey of the wetland limits to be reviewed and approved by the EPC staff. This survey must meet the requirements of Chapter 61G17-6, F.A.C., pursuant to Chapter 472.027, Florida Statutes. The Specific Purpose Wetland Survey shall include the surveyed property boundaries with the surveyed wetland points identified thereon. The surveys

must depict the appropriate State Plane Coordinates or bearings and distances, the wetland points labeled as flagged in the field, wetland line labeled as "wetland line", wetland labeled as "Wetland Area" or "Wetland." The EPC staff formal approval of a certified survey shall be binding for a period of 5 years from the date of approval provided physical conditions on the property do not change.

2.4 Informal Determinations:

Pursuant to Section 1-11.04(2), Rules of the EPC, an approximate delineation as reflected on a scaled site plan may be accepted as to the existence and extent of any wetlands, upon any lands within Hillsborough County. An informal wetland determination is only valid for the purpose of reviewing a specific project and is not binding on the parties. This is generally only to be used when no impact to wetlands or other surface waters on the property is proposed.

CHAPTER III - CONDITIONS FOR ISSUANCE OR DENIAL

3.1 Criteria for issuance of approval or denial of Executive Director Authorization to impact wetlands or other surface waters:

3.1.1 Reasonable Use - Pursuant to Section 1-11.07, a wetland or other surface water shall not be authorized to be impacted if the impact to the wetland or surface water is not necessary for the reasonable use of a parcel of property. Any impacts authorized under this rule shall be reduced to the minimum amount necessary. Reasonable use is further addressed and defined in Section 3.2 below.

3.1.2 Adequate Protection - Pursuant to Section 1-11.07, a wetland or other surface water shall not be authorized to be impacted if the environmental benefits provided by the affected wetland are not adequately protected by specified conditions which would be imposed upon approval of the impact. Conditions for adequate protection of environmental benefits are addressed in Section 1-11.09 and are further addressed and defined in Section 3.3 below.

3.2 Guidelines for determining reasonable use pursuant to Section 1-11.07:

3.2.1 "Reasonable use of the land." For purposes of this Basis of Review and the EPC Wetland Rule, "reasonable use" shall mean an actual, present use or activity on a parcel of real property or such reasonably foreseeable, nonspeculative land uses which are suitable for the subject parcel of property, and which are compatible with adjacent land uses. Reasonable use of the property does not mean the highest and best use of the property. In determining whether the impact is necessary for reasonable use of a parcel of property each of the following factors may be considered:

- a.) The current or reasonably foreseeable zoning of the parcel of property on which the wetland or other surface water is located;
 - b.) Whether the denial of the impact would result in a loss of all or substantially all economic value of the property;
 - c.) Existing development on or use of the property (including the applicable zoning, permitting and subdivision history of that parcel);
-

- d.) The buildable area of a parcel as shown by a survey or drawing of the parcel of property (to scale) accurately depicting the location of the wetland or other surface water including the minimum setbacks required by any applicable municipal or Hillsborough County codes, or homeowners' association or deed restrictions adopted prior to the adoption of the EPC Wetland Rule;
- e.) Whether the impact is for the purpose of accessing available buildable uplands where no alternative legal means of access is available and reasonable use of the entire property would otherwise be unattainable;
- f.) Documented efforts by the applicant to design or redesign the proposed development, structure or use in a manner that retains or preserves the wetland or other surface water;
- g.) The wetland or other surface water regulations in effect at the time the property owner acquired title to the parcel of property;
- h.) Whether the impacts are solely for the purpose of environmental restoration projects;
- i.) Documented efforts by the applicant to seek waivers or variances from any other development restrictions that would result in or necessitate impacts;
- j.) Whether the impacts are necessary for the protection of public health and safety; and
- k.) Any other pertinent information or special circumstances affecting the development of the parcel of property, including but not limited to, any unusual topography and fill requirements, or unique engineering requirements.

The EPC recognizes that each property in Hillsborough County is unique and that any one or more of these factors in itself will not necessarily constitute reasonable use.

3.2.2 Definition of the "Land." Determination of what constitutes the "land" as provided in Section 1-11.07 for purposes of this Basis of Review and the EPC Wetland Rule is a question involving the consideration of three factors: physical contiguity; unity of ownership; and unity of use. The land shall be defined as the entire parcel or property under common ownership. In the event a portion of the property is subdivided or separated from the parent tract after the effective date of this rule and a denial of reasonable use is caused by a self imposed hardship, then authorization to impact wetlands will be denied under this rule.

3.3 Adequate Protection: For purposes of Chapter 1-11, adequate protection shall be determined using the provisions available under Section 1-11.09. Adequate protection is the review of the proposed adverse impacts to the environmental benefits provided by the wetland or other surface water and how those adverse impacts will be addressed. Typically adverse impacts will be addressed through mitigation as provided in Section 1-11.08. However, the rule also allows consideration of temporary impacts and nominal wetland impacts which do not require the same mitigation. Temporary impacts are addressed in Section 1-11.09(1)(a). Wetland or other surface water impacts that are of nominal consequence are addressed in Section 1-11.10 as "Miscellaneous Activities in Wetlands" and are addressed under Chapter V below.

Pursuant to Section 1-11.09(2), adequate protection also requires a review of cumulative impacts. A cumulative impacts review is done by considering other developments or activities which have been or may be proposed in the same drainage basin.

CHAPTER IV - MITIGATION

4.1 Mitigation: Unless otherwise noted, pursuant to Sections 1-11.09(1), adequate protection of the environmental benefits provided by wetlands or other surface water will be addressed through mitigation of an approved impact as provided in Section 1-11.08. Section 1-11.08 adopts by reference Rule 62-345.200 -.900, F.A.C., the Unified Mitigation Assessment Method (UMAM). The UMAM is designed to assess any type of impact and the proposed mitigation, including the preservation, enhancement, restoration, and creation of wetlands and preservation and enhancement of uplands, as well as the evaluation and use of mitigation banks, and provides a framework for statewide standardized wetland assessment.

The assessment area is evaluated based on two main parts, a qualitative and quantification description. For the quantification description, sites are evaluated in three categories and scored numerically on a scale from 0 to 10. The first category, Location and Landscape Support, examines the ecological context within which the system operates. The second examines the Water Environment, including hydrologic alteration and water quality impairment. The third focuses on Community Structure and more specifically, vegetation and structural habitat for areas with plant cover.

For some projects, off-site mitigation areas may be preferable to on-site mitigation areas. The applicant is encouraged to explore all mitigation options available on the project site and within the County, such as mitigation banks, offsite regional mitigation areas, and other areas that could utilize the UMAM to offset approved wetland impacts.

CHAPTER V - MISCELLANEOUS ACTIVITIES IN WETLANDS

5.1 Introduction

Pursuant to Section 1-11.09(1)(c), Rules of the EPC, Miscellaneous Activities in Wetlands (MAIW) are those activities that constitute development under Section 1-11.02(2)(b) yet are considered to have minor impact on wetland or other surface water functions. Applications for authorization of these types of impacts will be reviewed pursuant to Section 1-11.10, Rules of the EPC. Applicants do not need to demonstrate that the impact is necessary for reasonable use of a property but the impacts must be minimized to the greatest extent practicable and shall be conducted, located, designed and/or constructed so that they cause the least environmentally adverse impact possible. Mitigation pursuant to Section 1-11.08 is not necessary for activities that qualify but the approval may include conditions to offset adverse impacts, such as replanting to ensure erosion control or ensure the area is properly re-vegetated. Eligible MAIW impacts include but are not limited to the following activities:

5.2 Non-Construction Related Activities

The EPC Wetland Rule identifies development in wetlands or other surface waters as "any manmade change to real property, including but not limited to dredging, filling, grading, paving, excavating, clearing, timbering, ditching or draining." Several types of development are characterized as non-construction related activities. The following non-construction related activities will be reviewed under MAIW eligibility. A site drawing must accompany the application for each of the following:

5.2.1 Nuisance Vegetation Control

The EPC encourages property owners to remove or control nuisance and exotic plant species from wetlands and other surface waters on their property. An application listing the proposed activities must be submitted for review and approval by the EPC staff. The application must list the plant species proposed for removal or control and the method to be used.

5.2.2 Swimming Access

A maximum 25 foot wide vegetation clearing zone may be maintained from the shoreline to open water for swimming access. This 25 foot area is considered the encumbered area of the shoreline and locating all facilities such as docks and boat ramps in this area is encouraged. If the facilities cannot be located in this area, the widths of any docks or boat ramps must be subtracted from the 25 foot encumbered area.

5.2.3 Mulched Paths

Mulched paths of no more than four feet wide and six inches deep may be allowed through wetlands. The paths must be located to avoid impacts to existing trees and to minimize impacts to existing native herbaceous wetland vegetation. Slope and path design shall be taken into consideration as part of the review.

5.2.4 Mowing

Wetland mowing may only be conducted in those areas dominated by nuisance herbaceous species and only in areas where the activity will not cause harm to native tree and shrub species. No mowing or cutting of vegetation growing in standing water or wet soils shall take place.

5.3 Construction Related Activities

The following MAIW eligible impacts are construction related activities and may be authorized in accordance with the guidelines described for each activity. A site drawing must accompany the application for each of the following. Fences, docks, boat ramps, rip-rap, and boardwalks located along floodways may require a Federal Emergency Management Agency "No-Rise Study." Any activity subject to the regulatory authority

of the Tampa Port Authority (TPA) shall not qualify for a MAIW authorization. These proposed activities will require a separate TPA permit.

5.3.1 Boat Ramps

Single family residential boat ramps deemed eligible under the MAIW provisions shall be limited to a width of no greater than 10 feet and shall also be minimized to the greatest extent practicable. The above water portion of the ramp must be located landward of the mean or ordinary high water line. Excavation shall be limited to that amount of material necessary to construct the ramp. The ramp must be situated on the property so as avoid impacts to trees and to cause the least environmental impact. The installation and maintenance of appropriate erosion controls will be required. The width of the ramp will be subtracted from the maximum 25 foot encumbered area allowed per property.

5.3.2 Fences

All proposals to construct fences within wetlands will be evaluated on a case-by-case basis. Fences shall be minimized to any extent practicable. Several types of fence, including hog wire, wrought iron slats, split rail, 3-5 strand wire, wood privacy and chain link fence with the bottom elevated off the substrate at least four inches may be considered appropriate for construction within wetlands and other surface waters. Fences shall not be constructed to confine livestock or other animals solely within the wetland and shall not unreasonably impede the movement of wildlife. Fences shall not block navigation, create a navigational hazard, or impede the natural flow of water by itself or through the accumulation of debris.

5.3.3 Elevated Boardwalks

Boardwalks shall be elevated above the surface water substrate at least three and a half feet and must be routed to avoid impacts to existing trees. Boardwalks approved under this section shall be limited to a width no greater than four feet for single family residences, five feet where the applicant requires ADA access, and six feet for commercial facilities. No excavation is permitted within the wetland or surface water except for the placement of the support posts. Temporary disturbance to wetland vegetation during installation is limited to an area of two feet on either side of the boardwalk.

5.3.4 Docks

Proposals to construct docks are reviewed under the same standards as elevated boardwalks referenced above and shall be reviewed under the following additional criteria and conditions: A dock review will entail a detailed assessment of existing wetland and aquatic vegetation at the proposed site. If the proposed location results in wetland impacts, the site shall be assessed for alternate locations which would minimize wetland impacts. Construction of the structure shall attempt to avoid the removal of

any trees and shall be located to minimize vegetation disturbance or removal. All proposed vessel mooring slips or areas, including boatlifts, boathouses, and davits, must be located so that a minimum of two feet of water depth exists under the slip area during Mean Low, Ordinary Low or Low Guidance Level elevation water conditions, whichever is appropriate. The structure's terminal platform must be located waterward of or beyond the vegetative littoral fringe. No part of the structure shall be enclosed by walls or doors. No dredging, filling, clearing or scouring shall be allowed except for the setting of pilings. During construction activities, the area of temporary disturbance to vegetation shall be limited to two feet on either side of the structure. No fish cleaning facilities, boat repair facilities or equipment, or fueling facilities on any structure shall be authorized through the MAIW. The structure shall be for recreational use only; with no more than one structure per single-family residence and shall be located within the applicant's area of submerged land ownership (within their property boundaries) or riparian limits. The applicant may construct a dock on property they do not own provided they obtain written authorization from the property owner.

5.3.5 Seawalls

Proposals for the construction certain types of seawalls or repair of existing functional seawalls or similar structures within jurisdictional limits will be reviewed in accordance with the following criteria. The repair of functioning seawalls can be approved under this section provided that no removal of non-nuisance vegetation and / or no additional filling of wetlands is necessary for the construction of the wall. The wall shall be located no further waterward than necessary to complete the repair of the functioning wall. The construction of new seawalls or repair of existing seawalls where additional filling or removal of non-nuisance vegetation is necessary will not be eligible for review as a MAIW and must be submitted under a standard wetland impact request which will require justification of the impacts and, if necessary, mitigation pursuant to Section 1-11.08.

CHAPTER VI - ENGINEERING CRITERIA

The EPC Wetlands staff conducts engineering reviews of activities that may have an adverse effect on surface waters or ground waters of Hillsborough County. The purpose of these reviews is to protect wetland and aquifer hydrology and water quality.

The pre and post hydrology of projects associated wetlands will be analyzed to ensure that adequate volumetric hydration in the post development condition will not be significantly altered from the existing conditions. The existing condition hydroperiod elevations for Seasonal High and Normal Pool of the wetlands will be analyzed to ensure they are maintained in the post development condition.

Any proposed lake, pond, sump or borrow pit excavation will be reviewed to determine if surface water and aquifer hydrology are adequately protected during construction and in the post development condition. The proposed activities may not result in violations of surface or ground water quality standards adopted by the EPC in Chapter 1-5, Water Quality, or impacts to wetlands as defined in Chapters 1-11 and 1-14.

Approved:

Richard Garrity, PhD
Executive Director EPC

Date

DRAFT

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**Application to the
Department of Environmental Protection
State of Florida**

**For Partial Regulatory Delegation of the
Environmental Resource Program**

**Submitted by:
The Environmental Protection Commission
Hillsborough County**

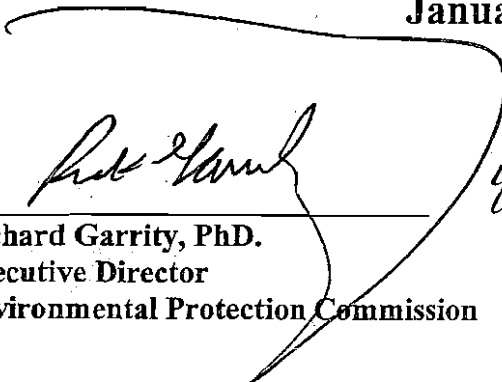
January 2008

Application to the
Department of Environmental Protection
for
Partial Environmental Resource Program Delegation
Chapters 373 and 403, Florida Statutes

from

**Environmental Protection Commission
of Hillsborough County**

**Dr. Richard Garrity, Executive Director
January 2008**



Richard Garrity 1/16/08

**Richard Garrity, PhD.
Executive Director
Environmental Protection Commission**

Coordinator: Bob Stetler, Director of Wetland Management
Legal Review: Andrew Zodrow, Assistant Counsel
Implementation: Bob Stetler, Director of Wetland Management

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- I. Local government contact person**
- II. Map of geographic boundaries of the Environmental Protection Commission's Jurisdiction**
- III. Internal authority to implement Environmental Resource Program Delegation**
- IV. Legal authority EPC will utilize to implement Environmental Resource Program Delegation including existing and proposed rules**
- V. Schedule for proposed implementation**
- VI. Administrative, technical, legal and financial capabilities of EPC to implement delegation**
 - a. Organizational Charts**
 - b. Number of staff positions involved, including qualifications and job descriptions**
 - c. Equipment available for implementation**
 - d. Funding and fiscal resources available**
- VII. Copy of resolution approved by elected governing body of Hillsborough County in support of delegation**
- VIII. Draft Delegation Agreement**

VII. Resolution of Board to seek delegation

At the regularly scheduled Environmental Protection Commission Board meeting on August 16, 2007 the Board voted to accept and implement the “wetlands hybrid plan”.

An important component of the plan is stated as follows:

Process Changes

- **Combined DEP Environmental Resource Permit (ERP), Tampa Port Authority, and EPC authorizations.** Request delegation from the DEP for single family homes, and the associated docks, and shoreline stabilization projects. The delegation will include EPC’s stricter standards. Accept delegation from the Tampa Port Authority for minor works permits. This delegation will also utilize EPC standards. These combined delegated programs will roll into one process applicable federal, state, Tampa Port Authority, and local approvals and will include all permitting, compliance and enforcement activities. Included is the continuation of the existing delegated program in which EPC is the sole agency with authorization to issue mangrove trimming permits and associated compliance and enforcement activities. This effort has been determined to be a first of its kind in the State of Florida.

✓ Result – 1 stop permitting

*Proposed
Technical Advisory Group
Environmental Protection Commission
Hybrid Project*

Appointee	Affiliation	Title	Years of Experience	Company/Department
Armstrong, Marty PhD.	Private	President	>20	Armstrong Inc
Courtney, Chuck	Private	Consultant	38	King Engineering Associates
Dougherty, Derek	Private	Professional Engineer	22	Brooks & Amaden, Inc.
Emory, Scott PhD.	Private	President	30	EIH Inc.
Evans, Rhonda	Gov	Chief Scientist Environmental Program	>20	Environmental Protection Agency Pinellas County Dept. of Environmental
Fehrman, Eric	Gov.	Manager	10	Mgmt. Agriculture Economic Dev. Com.
Gran, Steve	Gov	Director, AEDC Water Atlas,	9	Hillsborough County
ffin, Jim	Gov	Intergovernmental	>20	University of South Florida
Hubbell, Pete	Private	President Director of Tampa Service	>20	Water Resource Associates
Mas, Alba	Gov	Office	>20	SWFWMD- Tampa Service Office
Meryman, Dale	Private	President	>20	Meryman Environmental, Inc. Hillsborough County Public
Mickel, Jason	Gov	Lakes Advisory	10	Works/Stormwater
Neldner, Tim	Private	Vice President	>20	Biological Research Associates
Tom Crisman PhD.	Gov	Professor	15	University of South Florida
Tom Ries	Private	Vice President	>20	Scheda Ecological Associates, Inc.
Wayne Richardson	Private	Consultant	10	Hills & Associates, Inc.

**Technical Advisory Group
Position Paper**

Subject: Classification of wetland quality for regulatory purposes

Participants:

Issue: Should the EPC develop a wetland classification system that would aid in the planning, siting and designing of land development projects? Are there systems used by Federal, State or other local agencies that would serve as a model?

What is the Net Environmental Benefit, if any?

What are the Pros and Cons of developing a classification system?

Should the EPC choose to develop a wetland classification system suggest the recommended mechanism? Rule? 1-11, Basis of Review?

Provide suggested language.

Comments from individual participants:

**TECHNICAL ADVISORY GROUP
POSITION PAPER
AGRICULTURE WETLAND RULE AMENDMENT**

Agriculture in Hillsborough County is recognized as a significant contributor to the local economy. According to a 2005 study, agriculture and the businesses that support the industry have an annual economic impact of \$1.4 billion, providing 20,122 jobs with \$293 million in earnings. In addition to the economic benefits, agricultural land as a part of the open space and rural landscape contributes natural resource and quality of life benefits to the community.

The total area devoted to agriculture is estimated to be 253,229 acres. Much of this farmland also contains wetlands. These wetlands provide for a number of important benefits including wildlife habitat, stormwater retention, water quality treatment, and aquifer recharge. Farmers typically do not earn an income for the value of these benefits that wetlands provide. These benefits accrue to the community at large and cost the agricultural landowner in terms of reduced production area.

As part of the Hybrid Wetlands Proposal, the Environmental Protection Commission of Hillsborough County proposed the following language for agriculture related wetland impacts. The Environmental Protection Commission Board subsequently approved the proposal.

Agricultural Ground and Surface Water Management (AGSWM) - EPC will coordinate with the SWFWMD in the implementation of the AGSWM program for agricultural projects and develop specific rules and standards to incorporate the principles of AGSWM. EPC will consider projects that go through the AGSWM process and receive an exemption from permitting or an Environmental Resource Permit as meeting the EPC reasonable use criteria for impacts. For projects described above and for production related agricultural activities on property engaged in bona fide agricultural uses (except for harvesting primary growth natural forested wetlands), mitigation will be required for cumulative impacts greater than ½ acre and for individual isolated wetlands greater than ¼ acre.

Agriculture Wetland Rule Amendment Summary:

Agriculture activities that may qualify for the exemptions:

Includes site preparation, clearing, fencing, contouring to prevent soil erosion, soil preparation, plowing, planting, harvesting, and construction of access and internal roads, bridges, or culverts to facilitate these operations; construction or maintenance of irrigation and drainage ditches; and construction, operation or maintenance of agricultural use ponds.

Excluded activities:

Excludes logging or timbering in wetlands, construction of permanent or temporary structures such as non-agricultural buildings or residences, or any similar non-agricultural uses of land even if related to bona fide agricultural activities.

Reasonable Use Exemption:

The proposed rule exempts certain wetland impacts from the EPC Reasonable Use criteria.

These include:

- AGSWM – Wetland impacts addressed in a SWFWMD AGSWM exemption.
- Impacts to a non-forested wetland no greater than ¼ acre in size authorized by the WMD through state exemptions in Subsections 40D-4.051(7), (8)(a), (8)(d), (8)(m), (9)(d), or (9)(e), F.A.C.
- Impacts to a non-forested wetland no greater than ¼ acre in size where the impact does not involve conversion to uplands (This will allow excavation). The wetland size impacted can be increased to ½ acre if certain design criteria are met. Cumulative impact cannot exceed ½ acre. Must be authorized by a state exemption or an ERP.
- Impacts to a non-forested wetland no greater than ¼ acre in size (This will allow excavation or filling). Cumulative impact cannot exceed ½ acre. Cumulative impact cannot exceed ½ acre. Must be authorized by a state exemption or an ERP.

Mitigation Exemption:

Wetland impacts that are limited to isolated wetlands ¼ acre or less in size and cumulatively do not exceed ½ acre are exempt from mitigation requirements.

Requires that the impacted area remain in agriculture for 7 years. Otherwise it must be mitigated.

Technical Advisory Group Agriculture Subcommittee Findings:

The Agriculture Subcommittee has reviewed the proposed rule amendment and their comments follow. Comments are divided into two sections. First are “pros and cons” of specific components of the rule. Second are general comments.

Agriculture Wetland Rule Amendment Analysis

Rule Components	Pros	Cons
Reasonable Use Criteria	<ul style="list-style-type: none"> • Reasonable expectation of regulatory response based on input. • Exemption justified if it enables an agriculture operation to stay in business and not succumb to development pressure. • EPC maintains compliance enforcement. 	<ul style="list-style-type: none"> • A different standard is applied to the agricultural community. • Existing “reasonable use” review already takes into consideration a variety of factors when determining allowable impacts to wetlands
Use of AGSWM Process	<ul style="list-style-type: none"> • Allows for one-stop approval by having NRCS, SWFWMD, and EPC involved at the same time. • There is no need to develop a separate procedure to review agriculture projects. The criteria, procedures, and staff are already in place. 	<ul style="list-style-type: none"> • AGSWM program could change without any public notice or input.
Excavation impacts to wetlands less than ¼ acre and potentially ½ acre (Must be authorized through an ERP or exemption letter)	<ul style="list-style-type: none"> • Minimal functional wetland loss on ag lands • Provides details on thresholds and authorized activities. • Requires appropriate mitigation for potential future impacts. 	<ul style="list-style-type: none"> • The farmer may have a problem getting the Water Management District to authorize in writing the use of an exemption.
Filling impacts to wetlands less than ¼ acre (Must be authorized through an ERP or exemption letter)	<ul style="list-style-type: none"> • Minimal functional wetland loss on ag lands • Provides details on thresholds and authorized activities. • Requires appropriate mitigation for potential future impacts. 	<ul style="list-style-type: none"> • The farmer may have a problem getting the Water Management District to authorize in writing the use of an exemption.
¼ acre mitigation exemption	<ul style="list-style-type: none"> • Exemption justified if it enables an agriculture operation to stay in business and not succumb to development pressure. • Has threatened or endangered species and area of state critical concern as a backstop. 	<ul style="list-style-type: none"> • Could result in a loss of wetlands. • Mitigation may be required for an activity by EPC and not required by the District/State, leading to confusion and additional costs.

Agriculture Wetland Rule Amendment Analysis		
Rule Components	Pros	Cons
EPC acceptance of ERP mitigation	<ul style="list-style-type: none"> • No functional wetland loss on ag lands. • Allows for one-stop approval to the farmer from SWFWMD and EPC. • Allows EPC to maintain compliance enforcement. • Allows EPC the right to require mitigation if not required by the SWFWMD ERP. 	<ul style="list-style-type: none"> • How would EPC enforce DEP or SWFWMD mitigation conditions if mitigation is performed outside the county? • Requires mitigation only within Hillsborough County; this may not be the best ecological mitigation alternative. A basin approach may be best.
Number of years the land must remain in agriculture to maintain mitigation exemption	<ul style="list-style-type: none"> • Provides for time a threshold that the land must remain in agriculture after authorized wetland impacts. • Provides details of permitting/mitigation requirements if time threshold is not followed. • Provides for notification of future land purchaser of authorized wetland impact history 	<ul style="list-style-type: none"> • These exemptions are for farmers, not developers. A short time frame may encourage a farmer to fill wetlands, or cause a developer to pressure the farmer into filling the wetlands as a condition of sale. • Current 7 year requirement does not take into account the impact that a delay in mitigation has on the UMAM analysis.
Section 1-11.12(2)(a) Further Subdivision of Property		<ul style="list-style-type: none"> • Subdivision of the property does not entitle new land owners to the exemptions if they were utilized on the parent parcel, this could be interpreted as a taking.

Comments:

The Hybrid Proposal provided specific requirements to be included in the amendment language including a process for agriculture projects to meet the EPC reasonable use criteria and a limited mitigation exemption for impacts to small isolated wetlands. The proposed amendment language accomplishes both of these goals.

This proposal will reduce duplication and streamline the wetland regulatory process for farmers and will more closely align the EPC Wetland Rule with policies and procedures that the Southwest Florida Water Management District (SWFWMD) uses to address wetlands for agriculture projects.

Some questions have been raised regarding the proposed rule applying different criteria to agriculture. The Environmental Protection Commission has reasoned that agriculture land uses are more compatible with the environment than other types of development and their impacts should be evaluated differently. Agriculture land accounts for 37% of the

land in Hillsborough County and it provides for environmental and aesthetic benefits, including wetlands. A reduction in the regulatory burden that agriculture faces can help the industry remain economically viable and continue to provide these benefits for the community to enjoy.

Impact of Reasonable Use Criteria and Mitigation Exemption:

The current wetland rule does not have a definition for "Reasonable Use", much less a definition of how it is applied to agriculture. The proposed rule defines the method by which an agriculture project can meet the reasonable use criteria using existing processes that are in place with the SWFWMD. These processes typically take place when land is converting from one agricultural use to another. By utilizing the SWFWMD procedures, EPC can be assured that the proposed impact is for an agricultural purpose and is normal and necessary for the operation.

If a farmer is determined to have met the reasonable use criteria, it does not exempt a farmer from EPC's mitigation requirements. Under the proposed rule, mitigation will be required for impacts to wetlands equal to or greater than $\frac{1}{4}$ acre in size. EPC has determined that there are a total of 291 individual wetlands less than $\frac{1}{4}$ acre in size on land used for agriculture. If these wetlands were all about $\frac{1}{4}$ acre each, the total wetland acreage would be about 73 acres. The implementation of this proposed rule does not mean that all of these wetlands will be automatically allowed to be impacted with no mitigation. The impact would first have to go through the reasonable use determination which would involve the AGSWM process, an Environmental Resource Permit, or an exemption letter from the Water Management District. The AGSWM process does not allow impacts to wetlands greater than $\frac{1}{2}$ acre and no wetland impacts if the farmer wants to maintain NRCS assistance. This provides for an incentive to the farmer to not impact wetlands on their site. These processes do not allow wetland impacts "just because"; the impact must meet the criteria of the SWFWMD.

The SWFWMD AGSWM program and ERP process typically takes place when agricultural land is converting from one agricultural use to another, such as pasture or citrus to strawberries or vegetables. According to the SWFWMD, the conversion from one agriculture use to another is projected to be about 360 acres per year through 2015. Currently, the Hillsborough County Property Appraisers Office has 177,000 acres, on 7,028 parcels, classified as Agricultural Use in private ownership (Report Dated 2/2/07). The 360 acres of agriculture land converted annually from one agriculture use to another represents only 0.2 % of the total agriculture acreage in Hillsborough County. If the $\frac{1}{4}$ acre and less wetlands (291 Total) are evenly distributed across the agriculture parcels, only 4.1% of all agricultural properties have wetlands less than $\frac{1}{4}$ acre. These two factors together show that the potential impact to wetlands less than $\frac{1}{4}$ acre, without mitigation, would be very minimal. All impacts to wetlands greater than $\frac{1}{4}$ acre will be mitigated in the proposed rule.

Since the proposed rule links the reasonable use criteria to SWFWMD policies, the TAG Agriculture Committee recommends that the MOU between EPC and the SWFWMD address notification and involvement in policy changes.

Agriculture Use Time Frame:

Another issue is the time frame that the land must remain in agriculture and maintain the mitigation exemption. The TAG Agriculture Committee has reviewed options that rely on other wetland regulatory time frames and one that considers the time it may take a developer to get a non-agricultural project permitted. The options are as follows:

Wetland Regulatory Time Frames:

The use of an existing regulatory time frame may provide for a level of legitimacy or may validate the time frame based on concurrence with other agencies.

Environmental Resource Permit – 5 years
Individual Water Use Permit – 6 years
General and Small General Water Use Permit – 10 years

UMAM Time Lag Values -	<u>Year</u>	<u>T-Factor</u>
	< or = 1	1
	2	1.03
	3	1.07
	4	1.10
	5	1.14
	6 – 10	1.25
	11 – 15	1.46

Mitigation Agreements – 5 Years
Wetland Delineations – 5 Years

Current Time Frame Rational:

The proposed rule currently sets the time frame at 7 years. This time period was determined to be longer than it would take a developer to fully permit a non-agricultural project subsequent to a impact to a wetland ¼ acre or less without mitigation under the agriculture exemption. This would decrease the incentive for a developer to attempt to use the agriculture mitigation exemption for a development project.

The reason for the time frame requirement is to ensure that only farmers are the beneficiaries of this exemption. A short time frame may encourage a farmer to fill wetlands prior to development or encourage a developer to seek the exemption under the guise of agriculture. A long time frame may adversely impact a farmer that can no longer remain in agriculture due to unforeseen circumstances. In addition, the requirement is to be documented in the public records, this may impact the market value of the land and

thus the farmer's borrowing capacity that they rely on for operational expenses from season to season.

The Agriculture Sub-Committee and the TAG did not reach a consensus on a need to change the time frame language in the proposed amendment. The TAG did recommend that a UMAM score be determined for wetlands that are to be impacted without mitigation prior to the impact so that if mitigation is required in the future, the criteria will be known.

Excavation and Filling Cumulative Impact:

The current rule is not clear if the fill and excavation impacts, within the reasonable use section, could be combined to allow a 1 acre impact. It was agreed that the rule should be revised to impose a ½ cap on the combination of these two.

**Technical Advisory Group
Position Paper**

Subject: Mitigation Banks

Participants:

Issue: Hillsborough County currently has very few mitigation banks other than for transportation projects. Should the Environmental Protection Commission consider taking steps to encourage the development of private and/or public banks?

What is the Net Environmental Benefit, if any?

What are the Pros and Cons of encouraging banks?

Should the EPC choose to encourage banks what would the recommended mechanism be? Rule? 1-11, Basis of Review?

Provide suggested language.

Comments from individual participants:

**EPC Wetlands Management Division
Backup AGENDA
April, 2008**

Assessment Report

Agriculture Exemption Report

	# Agricultural exemptions reviewed	# isolated wetlands impacted	# acres of isolated wetlands impacted	# isolated wetlands qualify for mitigation exemption	# acres of wetlands qualify for mitigation exemption
April 2008	0	0	0	0	0
Year to Date	1	1	0.06	1	0.06

PGMD Reviews Performance Report

# of Reviews	Timeframes met	Year to Date
135	100%	99%

Formal Wetland Delineation Surveys

Projects	Total Acres	Total Wetland Acres	# isolated wetlands < ½ acre	Isolated wetland acreage
19	353.31	35.53	11	3.18

Construction Plans Approved

Projects	Total Wetland Acres	# isolated wetlands < ½ acre	Isolated Wetland Acreage	Impacts Approved	Impacts Exempt
19	6.58	4	1.13	0	0

Mitigation Sites in Compliance

198/212	93%
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Enforcement Report

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

Enforcement Actions

Acreage of Unauthorized Wetland Impacts	Acres Restored	Acres Mitigated	<i>Mitigation Sites in Compliance</i>
.5	0	2.0	15/18 (83%)

Compliance Actions

Acreage of Unauthorized Wetland Impacts	Acreage of Water Quality Impacts	Acreage Restored
1.5	33.5	35.35

General

Telephone Conferences	Scheduled Meetings	Unscheduled Citizen Assistance
655	284	226

EPC WETLANDS MANAGEMENT DIVISION
 BACKUP AGENDA
 April 2008

A. General	Totals
1. Telephone Conferences	655
2. Unscheduled Citizen Assistance	226
3. Scheduled Meetings	284
4. Correspondence	275
B. Assessment Reviews	
1. Wetland Delineations	22
2. Surveys	18
3. Miscellaneous Activities in Wetland	9
4. Mangrove	1
5. Notice of Exemption	2
6. Impact/ Mitigation Proposal	16
7. Tampa Port Authority Permit Applications	18
8. Wastewater Treatment Plants (FDEP)	1
9. DRI Annual Report	0
10. Land Alteration/Landscaping	1
11. Land Excavation	1
12. Phosphate Mining	5
13. Rezoning Reviews	17
14. CPA	2
15. Site Development	45
16. Subdivision	25
17. Wetland Setback Encroachment	6
18. Easement/Access-Vacating	0
19. Pre-Applications	40
20. On-Site Visits	169
C. Investigation and Compliance	
1. Complaints Received	31
2. Warning Notices Issued	9
3. Warning Notices Closed	5
4. Complaint Inspections	61
5. Return Compliance Inspections	49
6. Mitigation Monitoring Reports	5
7. Mitigation Compliance Inspections	19
8. Erosion Control Inspections	30
9. MAIW Compliance Site Inspections	1
10. TPA Compliance Site Inspections	0
D. Enforcement	
1. Active Cases	27
2. Legal Cases	1
3. Number of "Notice of Intent to Initiate Enforcement"	1
4. Number of Citations Issued	1
5. Number of Consent Orders Signed	2
6. Administrative - Civil Cases Closed	2
7. Cases Referred to Legal Department	1
8. Contributions to Pollution Recovery	\$7,050.00
9. Enforcement Costs Collected	\$614.00
E. Ombudsman	
1. Agriculture	1
2. Permitting Process	0
3. Rule Assistance	0
4. Staff Assistance	0
5. Miscellaneous/Other	1

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
March 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	\$4,550.00

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

9. Enforcement Costs Collected	\$669.00
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	311	98%	2%
March	341	97%	3%
February	461	98%	2%
January	582	99%	1%

Miscellaneous Activities in Wetlands and Exemptions and Permitting

August 20, 2007

1-11.10 MISCELLANEOUS ACTIVITIES IN WETLANDS

(1) Upon request of any person with a legal or equitable interest including governmental bodies, and upon payment of the appropriate fee as established in Chapter 1-6, the Executive Director or authorized agent shall review an application to determine whether any of the following activities qualify for a Miscellaneous Activities in Wetlands authorization:

(a) Development consisting of less than 500 square feet of permanent impact for the purpose of crossing any artificially created ditches. This authorization does not apply to ditches that divert historic perennial or intermittent streams or creeks.

(b) Nuisance and exotic vegetation removal in wetlands. Phased removal of the vegetation or replanting with wetland desirable species may be necessary to ensure erosion control and / or to ensure the area is adequately re-vegetated.

(c) Other miscellaneous activities in wetlands as provided in section 1-11.09(1)(c) that are not exempt under section 1-11.11. These activities include but are not limited to construction of boardwalks, docks, pilings, rip rap, aids to navigation, boat lifts, outfall structure placements, herbaceous vegetation removal for minor swim access areas not to exceed 25 feet of shoreline, boat ramps for single family residences, and other similar structures or activities.

(2) Development activities in wetlands that qualify under this section do not need to satisfy the reasonable use requirement in section 1-11.07 or mitigation under section 1-11.08.

(3) Conditions and limitations applicable to all above activities:

(a) These activities do not apply to wetlands or other surface waters that serve as significant habitat, such as roosting, nesting or denning areas, for state listed threatened or endangered species.

(b) Although not required as part of an application for impacts, these activities shall not cause offsite adverse impacts, including flooding, or otherwise affect the local hydrology so as to adversely affect other wetlands.

(c) These activities shall include best management practices for erosion, turbidity and other pollution control to prevent violations of state or Commission water quality standards.

(d) Activities authorized under this section do not imply exemption from obtaining all proper permits or complying with regulations of other federal, state or local agencies.

Section History – Adopted August 16, 2007; Effective August 20, 2007.

1-11.11 EXEMPTIONS

(1) The following activities in wetlands and other surface waters in Hillsborough County shall be exempt from the application of Chapter 1-11 provided the development is reviewed and approved by other appropriate agencies as necessary:

(a) Standard Exemptions.

(i) Maintenance within all roadway drainage ditches which contain water only following the occurrence of rainfall and which ditches are not adjacent or contiguous to other wetlands or other surface waters. However, activities authorized under this section may not increase the length, width, depth and/or sideslopes of any drainage system beyond its original design or permitted specifications, if available. Additionally, this exemption does not apply to ditches that divert historic perennial or intermittent streams or creeks;

(ii) Development within artificially created stormwater treatment (including tailwater recovery ponds) and conveyance systems designed solely for the purpose of stormwater treatment, which are permitted by Hillsborough County, the Florida Department of Environmental Protection, or the Southwest Florida Water Management District; and works, impoundments, reservoirs, and other watercourses constructed and operated solely for wastewater treatment or disposal in accordance with a valid permit issued under Chapter 373, F.S., or Chapter 403, F.S. or the Hillsborough County Land Development Code. This exemption specifically excludes those systems, works, impoundments, reservoirs, and other watercourses which incorporate wetlands which existed before construction of the stormwater / wastewater treatments systems listed above, or are proposed to be altered through expansion into wetlands or other surface waters; and

(iii) Development consisting of 500 square feet or less of permanent impact for the purpose of crossing any artificially created ditches if the activity has been reviewed and approved by Hillsborough County or any municipality. This exemption shall apply only to a maximum of two crossings on a given parcel of property, with a minimum distance of 500 feet between crossings. This exemption does not apply to ditches that divert historic perennial or intermittent streams or creeks.

(b) Noticed Exemptions. Thirty (30) calendar days after verified receipt by the Executive Director of written notice of the proposed activity, and upon no agency denial being issued, the following activities in wetlands and other surface waters shall be exempt from the application of Chapter 1-11 provided the activity is reviewed and approved by other appropriate agencies as necessary.

(i) Development within artificially created ditches which were excavated within predominantly upland soils, within the project limits, for the purpose of draining water from the land or wetlands, or for transporting water for use on the land, and which are not built for any navigational or recreational purpose. However, alterations authorized under this section may not increase the length, width, depth and/or sideslopes of any drainage system beyond its original design or permitted specifications, if available. Additionally, this provision does not apply to ditches that divert historic perennial or intermittent streams or creeks;

(ii) Development within wholly owned artificially created wetlands or other wholly owned surface waters less than one (1) acre in surface area, such as stock

watering ponds, which were constructed entirely in historic uplands, including those areas legally converted to uplands, as determined through review of historic aerial photography and soil mapping; and

(iii) Alterations to commercial fish ponds, whether for food or the pet trade. (2) Conditions and limitations applicable to all above exempt activities:

(a) These exemptions do not apply to wetlands or other surface waters that serve as significant habitat, such as roosting, nesting or denning areas, for state listed threatened or endangered species.

(b) These exemptions do not apply to any filling activity using anything other than clean fill as defined in 62-701.200(38) or (15), 62-701.730(15), F.A.C.

(c) Development under these exemptions shall not cause offsite adverse impacts, including flooding, or otherwise affect the local hydrology so as to adversely affect other wetlands.

(d) These exemptions do not apply to wetlands created, enhanced, or restored as mitigation for wetlands or surface water impacts under a permit issued by the Executive Director, DEP, SWFWMD or United States Army Corps of Engineers.

(e) The development under these exemptions shall include best management practices for erosion, turbidity and other pollution control to prevent violations of state or Commission water quality standards.

(f) This section shall not apply to those artificial wetlands or surface waters which were constructed pursuant to a permit under Part IV, Chapter 373, Florida Statutes.

(g) Exemptions under this section do not apply to activities reviewed under the Mangrove Trimming and Preservation Rule Chapter 1-14.

(h) These exemptions do not imply exemption from obtaining all proper permits or complying with regulations of other federal, state or local agencies.

Section History – Adopted August 16, 2007; Effective August 20, 2007

Memorandum of Understanding Between the
Southwest Florida Water Management District and
The Environmental Protection Commission
of Hillsborough County
Regarding Coordination of Regulatory Activities

WHEREAS, the Environmental Protection Commission of Hillsborough County (EPC) and the Southwest Florida Water Management District (SWFWMD) both have authority to regulate activities affecting water pollution in Hillsborough County;

WHEREAS, it is in their interest to coordinate activities and eliminate duplication or unnecessary expenditures wherever possible;

WHEREAS, EPC already has a significant infrastructure specifically directed toward delineating wetlands, responding to complaints, monitoring mitigation compliance, and performing investigations within Hillsborough County; and

WHEREAS, SWFWMD and the Florida Department of Environmental Protection have split environmental resource permitting responsibilities as per the Operating Agreement dated October 27, 1998, and attached hereto as Exhibit "A".

NOW THEREFORE, EPC and SWFWMD agree to coordinate their activities subject to that Operating Agreement as follows:

1. WETLAND DELINEATIONS:

- a. For environmental resource permitting review and evaluation purposes, SWFWMD and EPC will accept formal determinations of the landward extent of wetlands and other surface waters performed by either agency's staff. The determination must delineate all wetlands and surface waters located within the specified property boundary as legally described within an application, as provided under Chapter 1-11, Rules of the EPC, and Chapter 40D-4, Florida Administrative Code (F.A.C.), Basis of Review, Section 3.4, and in accordance with the statewide methodology established by Chapter 62-340, F.A.C., as ratified in Section 373.4211, Florida Statutes (F.S.).
- b. To enable each agency to maintain current information on wetland delineation activities in Hillsborough County, each agency, upon request, will provide the other with copies of surveys or other appropriate documentation, reflecting each approved wetland delineation performed by its staff in Hillsborough County subsequent to the effective date of this Agreement. SWFWMD will provide, upon receipt, copies to EPC of all petitions for formal wetland determinations in Hillsborough County, as well as proposed agency actions and final agency actions regarding Environmental Resource Permits proposed for issuance in Hillsborough County.

2. COMPLAINT INVESTIGATION:

- a. When SWFWMD staff observes or receives a complaint regarding activities in, on, or over wetlands or other surface waters, they will forward the complaint to EPC for investigation within 24 hours or as soon as reasonably practical thereafter. In notifying EPC, SWFWMD will not distinguish between cases involving thresholds, or exemptions in Rule 40D-4, F.A.C., or Chapters 373 or 403, F.S. After performing a site investigation, EPC will provide SWFWMD with a copy of all complaint investigation forms within 14 days. EPC will notify SWFWMD if unpermitted construction activities are observed, even if the construction is occurring landward of wetlands or waters.
- b. EPC will investigate all referred complaints on behalf of SWFWMD and, where appropriate, issue a Warning Notice or appropriate enforcement document. EPC will forward a copy of the Warning Notice or enforcement document to SWFWMD within 14 days of issuance. If the complaint is not substantiated or a minor violation can be resolved prior to the issuance of a Warning Notice or enforcement document, EPC will provide SWFWMD with a copy of the closed complaint form within 14 days of completion.
- c. SWFWMD may choose to intervene and independently pursue resolution of any case, and specifically those cases involving unpermitted activities in uplands, construction of appurtenances or works, or cases related to flooding or stormwater treatment. In such cases, SWFWMD will notify EPC in writing of its intent to independently conduct enforcement actions. Independent enforcement actions conducted by SWFWMD will not in any way be construed to preclude or diminish the ability or responsibility of EPC to independently conduct enforcement activities under its own rules.
- d. Nothing herein is intended to create an obligation on the part of EPC to conduct enforcement actions for those activities outside EPC jurisdiction under its own rules.

3. MITIGATION COMPLIANCE MONITORING:

- a. As of the effective date of this Agreement, SWFWMD will delegate to EPC responsibility for monitoring compliance with Environmental Resource Permit (ERP) mitigation requirements for all wetland impacts occurring in Hillsborough County which are subject to Chapter 1-11, Rules of the EPC, when the mitigation site is located in Hillsborough County and the permit is issued after the effective date.
- b. SWFWMD will include EPC in any discussions regarding the development and implementation of District-wide mitigation success criteria guidelines that will be used to review mitigation sites for compliance with permit conditions. Deviation from such uniform guidelines may occur on a case-by-case basis. If deviation from the guidelines is warranted, EPC and SWFWMD will make reasonable efforts to jointly develop alternative success criteria.

- c. Prior to EPC assuming responsibilities for compliance and monitoring oversight of a mitigation project, and prior to authorizing commencement of the required monitoring and maintenance period, both agencies will strive to conduct a joint initial compliance inspection of the site or sites within forty-five (45) days of SWFWMD's receipt of the construction completion report to ensure construction in accordance with the permitted plans. SWFWMD will formally transfer to EPC the mitigation information associated with an ERP permit within forty-five (45) days of its receipt of the construction completion report unless as-built deviations exist which affect the mitigation site.
- d. Upon transfer of specific ERP mitigation permit responsibilities from SWFWMD to EPC, EPC staff will respond with a written acknowledgment of permit receipt. This acknowledgement shall be sent to an email address designated by SWFWMD for this purpose. All correspondence sent to permittees, or their agents, by either agency in regards to the monitored project shall be copied to the other agency.
- e. EPC will provide SWFWMD with quarterly reports that document the status of all ERP mitigation sites being monitored by EPC. Each quarterly report will reference the ERP number.
- f. Minor modifications of a permitted mitigation plan, such as changes in the species to be planted, may be made through written correspondence with the permittee or their agent. EPC will provide SWFWMD with copies of all correspondence related to such minor modifications in a timely manner and will note such changes in the quarterly status report.
- g. Major modifications of a permitted mitigation plan will require prior written approval by SWFWMD. EPC will not approve a major modification until prior written approval from SWFWMD has been received.
- h. Upon EPC's determination that a mitigation site has successfully complied with all EPC permit conditions, EPC will provide written notice to SWFWMD of the site's release from EPC's monitoring and maintenance requirements and EPC's intent to issue a Certificate of Completion for the site. An EPC Certificate of Completion issued for a site that is also subject to ERP permit conditions will specify that a separate release is required from SWFWMD, and that additional monitoring or maintenance activities may be required to meet the ERP conditions. EPC will not conduct any mitigation compliance activities for the site following issuance of the Certificate of Completion.
- i. Neither agency may release or modify a Conservation Easement, required by either agency, over a mitigation site subject to the jurisdiction of both agencies without the prior written approval of the other agency.
- j. For projects permitted prior to the effective date of this Agreement, EPC and SWFWMD will strive to coordinate site investigations and meetings regarding mitigation sites that appear to be out of compliance with permit conditions. EPC and SWFWMD will participate in joint training and information exchange to facilitate this coordination.

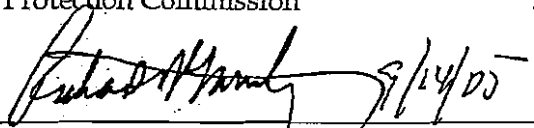
k. SWFWMD may retain ERP mitigation compliance responsibility for specific projects in its sole discretion upon written notification to EPC. In such cases, the ability and responsibility of EPC to independently conduct compliance activities under its own rules is not precluded or diminished in any way.

4. PRE-APPLICATION MEETINGS:


SWFWMD and EPC will notify applicants that representatives of the other agency may attend pre-application meetings unless the applicant objects.


This Agreement will take effect upon the signature by the Executive Director of the EPC and the Executive Director of the SWFWMD. The Agreement will be reviewed by the signatory agencies two (2) years subsequent to its date of execution to review its effectiveness. This Agreement can be modified by mutual agreement of the parties, or revoked by either party at any time upon notice to the other.

Hillsborough County Environmental
Protection Commission


Richard D. Garrity, Ph.D.
EPC Executive Director

Southwest Florida Water
Management District


David L. Moore
Executive Director

Reviewed and Approved by Legal

SWFWMD ATTORNEY

**Internal Review of and Recommendations for the
Memorandum of Understanding between EPC and the
Southwest Florida Water Management District
December 2007**

The Memorandum of Understanding (MOU) between EPC and the Southwest Florida Water Management District (SWFWMD) was executed in October 2005 in order to coordinate activities and eliminate duplication or unnecessary expenditures wherever possible.

The Wetlands Hybrid included SWFWMD Coordination. As part of that effort, an internal staff review of the MOU was performed. In September and October 2007, both senior management and field scientists from each agency met to review the MOU language and to determine if each agency was adhering to the terms of that agreement. Following are the findings of that audit:

1. WETLANDS DELINEATIONS:

- a. SWFWMD and EPC will accept formal determinations of the landward extent of wetlands. Both agencies are currently in compliance with this and continue cross training exercises to insure consistency.
- b. SWFWMD will provide petitions for formal wetland determinations and both agencies will provide copies of surveys and other documentation. This is done routinely.

2. COMPLAINT INVESTIGATION:

- a. SWFWMD will, within 24 hours of receipt, forward all complaints in Hillsborough County to EPC for investigation. Upon request, EPC sends copies of completed investigations to SWFWMD. According to the EPC database, the number of complaints forwarded from SWFWMD is minimal and they are forwarded in a timely manner. Most complaints are called directly into EPC.
- b. EPC will investigate all referred complaints and issue Warning Notices or enforcements documents as appropriate and provide copies to SWFWMD within 14 days. SWFWMD has indicated that

they only wish to receive these documents upon request, whereupon, copies are provided immediately.

- c. SWFWMD may independently pursue enforcement in any case. However, both agencies effectively use resources and manpower to coordinate cooperative resolution of joint enforcement cases.

3. MITIGATION COMPLIANCE MONITORING:

- a. SWFWMD will delegate to EPC responsibility for monitoring compliance with Environmental Resource Permit (ERP) mitigation requirements for all wetland impacts in Hillsborough County. Since the MOU was signed, six such sites have been transferred to EPC and all compliance monitoring, including onsite inspection, report review and correspondence is performed by EPC staff. The number of transferred sites is low due to the time it takes to get associated permits, to complete project construction and to complete mitigation site construction. The mitigation sites are not transferred to EPC until SWFWMD is satisfied that they have been properly constructed. EPC staff has also taken responsibility (with SWFWMD approval) for several sites where mitigation was approved prior to the MOU.
- b. SWFWMD will include EPC in any discussions regarding the development and implementation of District-wide mitigation success criteria guidelines. These guidelines have not been discussed to date but SWFWMD has agreed to include EPC in any future discussions.
- c. SWFWMD and EPC will conduct an initial joint compliance inspection within 45 days of completion of construction of the mitigation site to be transferred to EPC. These joint inspections are typically performed well before the established deadline.
- d. Upon SWFWMD transfer of mitigation monitoring requirements, EPC will provide acknowledgement in writing. This is accomplished through email.
- e. EPC provides SWFWMD with quarterly status reports for all mitigation sites being monitored by EPC. Although the MOU was signed in October 2005, the first mitigation site was transferred to EPC in January 2007 due to the time lag between permitting and completion of construction. Several others were transferred in the

summer of this year. Therefore, the first quarterly report was sent to SWFWMD on September 1, 2007 and the second one was sent in December 2007.

- f. EPC may make minor modifications to permitted mitigation plans through correspondence with the permittee. This correspondence is automatically copied to SWFWMD and indicated on the quarterly status report.
- g. Major modifications require written approval by SWFWMD. To date, no major modifications have been addressed.
- h. EPC shall provide written notice to SWFWMD upon determination that a mitigation site is successful and ready for release. To date, this has not occurred for any mitigation sites transferred under the MOU.
- i. Neither agency may release or modify a Conservation Easement required by the other agency without written approval by the other agency. This happens rarely. In 2007 EPC notified SWFWMD that it intended to change a Conservation Easement and SWFWMD approved the change in writing.
- j. For projects permitted prior to the MOU, EPC and SWFWMD will strive to coordinate site investigations and meetings regarding mitigation sites that are out of compliance. The agencies are doing joint field inspections of these sites and developing joint recommendations for getting the sites back into compliance.
- k. SWFWMD may retain responsibility for compliance of specific mitigation sites upon written notification to EPC. To date, this has not occurred.

4. PRE-APPLICATION MEETINGS:

SWFWMD and EPC will notify applicants that representatives of the other agency may attend pre-application meetings unless the applicant objects. EPC will provide this notification through the Applicant's Handbook.

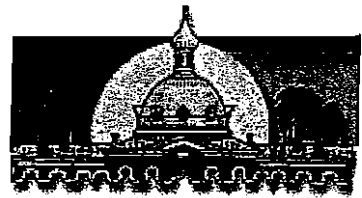
RECOMMENDATIONS FOR FUTURE CONSIDERATION:

EPC staff is attending SWFWMD's regularly scheduled ERP Policy and Procedure meetings to improve coordination and consistency between the agencies. This gives both agencies an ongoing forum to address issues as they arise.

- EPC supervisors have attended Tampa Service Office supervisory staff meetings, and will continue to attend on at least a quarterly basis, to discuss issues of mutual interest. These topics include but are not limited to: staff coordination, cross-training, policy issues, potential for recommendations to update the MOU and compliance issues.
- SWFWMD does not approve wetland surveys until the permit is issued. This can delay EPC construction plan approval, which cannot be completed without an approved survey. This topic is scheduled for discussion at an upcoming Tampa Service Office supervisory staff meeting.
- The MOU requires EPC to provide SWFWMD with closed complaint investigations if the complaint is unsubstantiated or a minor violation that can be corrected without issuing a Warning Notice. Staff from both agencies would like to delete that requirement.
- In the future, EPC would like to provide SWFWMD with a monthly electronic report on Warning Notices issued which would be generated from the EPC database.
- District-wide mitigation success criteria guidelines have been identified as an issue to be addressed at upcoming Tampa Service Office supervisory staff meetings.
- Any potential rule changes will be addressed at the Tampa Service Office supervisory staff meetings to determine if changes to the MOU may be required.
- The MOU will need to be modified to incorporate the recent change to Chapter 1-11, Rules of the EPC regarding agricultural activities.

**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.

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.

INTERLOCAL AGREEMENT

Between

**TAMPA PORT AUTHORITY
and the**

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

**For Delegation of Permitting Preparation for Certain Minor Work Permits to the
Environmental Protection Commission of Hillsborough County**

THIS INTERLOCAL AGREEMENT, hereinafter referred to as the "Agreement," made and entered into this 15th day of NOVEMBER, 2007, by and between the Tampa Port Authority, a body politic and corporate organized and existing under the laws of the State of Florida, hereinafter referred to as "TPA", the address of which is 1101 Channelside Drive 33602, and the Environmental Protection Commission of Hillsborough County, a political subdivision of the State of Florida, hereinafter referred to as "EPC", the address of which is 3629 Queen Palm Drive, Tampa, Florida 33619.

WITNESSETH:

WHEREAS, it is the purpose and intent of this Agreement, the parties hereto, and Section 163.01, Florida Statutes, known and referred to as the Florida Interlocal Cooperation Act of 1969 ("Cooperation Act"), to permit and authorize the TPA and EPC to enter into this local agreement wherein the TPA's authority to prepare Minor Work Permits be delegated to the EPC for subsequent issuance by the TPA and thereby provide the services and efforts provided for herein in the manner that will best utilize existing resources, powers and authority available to each of them; and,

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

WHEREAS, the TPA is an independent special district created by Special Act Chapter 95-488, Laws of Florida and by virtue of Section 25 of this act, the TPA has permitting authority over the filling, dredging, development and construction of submerged lands located within the boundary of the port district in Hillsborough County; and

WHEREAS, the TPA Submerged Lands Management Rules adopted there under provide standards for authorizing certain construction activities through the issuance of "Minor Work Permits"; and

WHEREAS, the EPC reviews environmental impacts for TPA Minor Work Permits and in order to increase agency efficiency, eliminate confusion as to which agency the applicant should submit their application and expedite the permit review process this review activity can be consolidated into one agency ; and

NOW, THEREFORE, the TPA and EPC hereby agree as follows:

1. PURPOSE: The EPC staff will conduct the review and prepare certain TPA Minor Work Permit applications for TPA Board of Commissioners approval and TPA issuance for certain marine construction activities, as set forth below, which require a "Minor Work Permit" in Hillsborough County.

2. DEFINITIONS and ABBREVIATIONS: Definitions in this agreement shall be those as set forth in Special Act Chapter 95-488 Laws of Florida ("TPA Special Act"), the "Tampa Port Authority Submerged Land Management Rules" ("TPA Rules") and the "Tampa Port Authority Engineering Standards for Submerged Land Utility Crossing" ("TPA Engineering Standards") as these rules may be amended from time to time. Additional terms include:

- a. "Permit Packages": are "packages" consisting of draft permits, the original application, and any and all other permit back-up materials utilized in permit preparation.
- b. "RAI": Requests for additional information.
- c. Standard Work Permits: are those permits which exceed the criteria for Minor Work Permits as set forth in the TPA Rules.

3. DELEGATED AREAS FOR PERMIT PREPARATION: (as defined in Section IV of TPA Rules) (A map of these defined areas is provided for reference as Exhibit A):

- a. Includes EPC preparation of Minor Work Permits for TPA issuance in;
 1. Urban Tidal lands;
 2. Seddon Channel (a Commercial Tidal land);
 3. Rural tidally influenced lands;
 4. Downtown, Urban and Rural River lands;
 5. Lake Keystone and Lake Thonotosassa;
 6. Aquatic Resource Protection areas:
 - a) Cockroach Bay Aquatic Preserve
 - b) Bullfrog Creek Marine Preserve
 - c) Upper Old Tampa Bay
 - d) McKay Bay
 - e) Upper Hillsborough River
 - f) Aldermans Ford Park
 - g) Gadsden Point
 - h) Pendola Point

- b. Notwithstanding anything to the contrary, EPC delegated areas do not include the following:
 1. Commercial Tidal lands (except for Seddon Channel as set forth above)
 2. TPA owned uplands:
 - a) including but not limited to Fantasy Islands, D2 and D3 and other dredge spoil islands;
 - b) any permits over or across uplands created from accretion. These lands are the property of the TPA.
 3. Port of Tampa Berths or related marine structures;
 4. Any permits that the TPA requires for its development.

4. INDEPENDENT UNCONDITIONAL PERMIT PREPARATION:

Permit preparation and review shall be pursuant to TPA rules, policies and procedures governing permit issuance. It is expressly understood that the preparation of Minor Work Permits for TPA issuance shall be done completely independently of any and all upland issues. The TPA Minor Work Permits shall remain an independent marine permit and shall not be combined with any other permit or regulatory review process. Further, permit preparation and submittal of the permit package to the TPA shall not be delayed or withheld pending the resolution of any other aquatic and /or upland permit or regulatory issues.

5. PERMIT PREPARATION AND RESPONSIBILITIES:

- a. Permit Transfer and fees: EPC shall transfer applications that are not appropriate for a Minor Work Permit to the TPA. The TPA shall forward any application for Minor Work Permits that it may receive to the EPC for permit preparation. EPC shall collect, for use for EPC administrative expenses, the permit fees as set forth in the TPA Rules.
- b. Preparation of Construction only Minor Work Permits: Conduct review of applications and prepare permit packages for TPA Minor Work Permits pursuant to the TPA Special Act, the TPA Rules and the TPA Engineering Standards respectively.
 1. Preparation of the permit package shall consist of:
 - a) evaluating submitted application materials pursuant to TPA rules regulation and policies;
 - b) site visits and inspections, coordinating and participating in any public hearings relating to permit processing;
 - c) issuing RAI (if necessary) to the applicant;
 - d) addressing concerns and complaints from the applicant and other citizens or parties;
 - e) submitting permit packages for TPA review and placement on the agenda of TPA Board of Commissioners meeting.

- c. Preparation of Minor Work Permits involving easements, (including but not limited to utility easements), variances or leases:
 - 1. EPC shall notify the TPA within 3 working days and provide a copy of any permit application which requires the granting of an easement, variance or lease by the TPA so that permit preparation by EPC and easement, variance or lease preparation by the TPA can proceed simultaneously.
 - 2. Preparation of the permit package shall consist of:
 - a) evaluating submitted application materials pursuant to TPA rules, regulation and policies;
 - b) forwarding to the TPA Environmental Manager for processing for TPA approval all submerged land easements. Applicants are required to provide a legal description and sketch by a Florida registered surveyor and mapper for the proposed easement.
 - c) site visits and inspections, coordinating and participating in any public hearings relating to permit processing;
 - d) coordinating with the TPA Real Estate and Engineering Departments for tidal surveys or riparian property lines;
 - e) issuing RAI (if necessary) to the applicant and provide the TPA with copies of the RAI and response;
 - f) addressing concerns and complaints from the applicant and other citizens or parties;
 - g) submitting permit packages for TPA review and placement on the agenda of TPA Board of Commissioners meeting.
- d. Permit revisions and extensions: Applicants desiring a permit revision or extension requests shall submit all pertinent information to EPC for evaluation and processing. These shall be submitted to the TPA for approval by the TPA Director of Environmental Affairs.
- e. Distribution of Permits: For all permits: The EPC will forward copies of application and other pertinent information, including but not limited to surveys, plans and the TPA Minor Work Permit Application, to appropriate governmental agencies, adjacent property owners, and other interested parties at least 14 days prior to submittal to the TPA for issuance of any Minor Work Permit.
- f. Submission of Permit Packages: The EPC will submit completed permit packages for Minor Work Permits to the TPA Environmental Department a minimum of two weeks prior to the next regular TPA business meeting, which is typically conducted on the third Tuesday of each month. This report will include a list of all categories of permits to be issued, and be in a format similar to Exhibit "B", as may be mutually amended from time to time by the parties.

- g. Permit Issuance: The permits will be issued by order of the TPA. A report of any permit that was not issued by the TPA will be furnished to EPC with the reason(s) for permit denial.

6. CONTESTING OF TPA ORDER:

- a. An opponent, in the event a permit is granted, or the applicant, in the event a permit is refused, rescinded or revoked, may have the appropriate order judicially reviewed in a court of competent jurisdiction.
- b. Resubmittal of Permit: An application once refused, denied rejected or rescinded or revoked may not again be submitted for consideration of the TPA for a period of two years after the date of the order, if it affects the same subject lands or any part thereof, unless a preliminary hearing is held and a substantial change of conditions is demonstrated.

7. CUSTOMER DISPUTES AND COMPLAINT RESOLUTION:


- a. EPC shall develop and implement, subject to TPA approval (such approval not to be unreasonably withheld or delayed) a written customer service plan by means of which issues and complaints received from applicants and interested parties regarding the permitting preparation and recommendations by EPC may be investigated and resolved.
- b. EPC shall prepare and submit a monthly report to the TPA outlining the nature of each complaint and the action taken to resolve the complaint.

8. INVESTIGATION OF UNAUTHORIZED MARINE CONSTRUCTION:

EPC shall investigate and complete Notice of Violation Reports. These reports shall include recommended actions necessary to either bring the unauthorized structure into compliance or reasons for its removal and sent to the TPA as the issues arise. TPA shall take the appropriate enforcement actions and report the results to EPC.

9. FUNDING AND TRAINING:

- a. The TPA shall provide initial training for designated EPC personnel for a period of one and one-half (1½) years to ensure the EPC staff can effectively prepare permit packages for the appropriate permits. This training shall consist of:
 - 1. Assistance with implementing administrative processes for permit package preparation;
 - 2. TPA rule interpretation; and
 - 3. Interpretation of data provided or needed for permit package preparation.
 - 4. Complaint investigation

- b. The TPA agrees to provide continuing technical support to EPC staff should specific questions arise.
- c. TPA reserves the right to participate in the designated EPC employee selection process and require EPC to provide substitute personnel for training should the designated employee prove unacceptable.
- d. The TPA shall provide funding not to exceed \$80,000 for fiscal year 2007 /Year One of the training that provides for the salary and benefits of the designated EPC staff. EPC shall submit quarterly invoices to the TPA for these funds that includes backup material such as hours worked, salary, benefits, etc. TPA shall pay EPC within twenty-five (25) calendar days from receipt of a proper invoice.
- e. Upon execution of this Agreement, and every two months thereafter, EPC and TPA staff will meet, if necessary, to review and reconcile issues concerning deliverables, services, supporting documentation, or expenditures. EPC shall demonstrate consistency in rule interpretation in the permit preparation process.
- f.  TPA will commence a fee study in conjunction with EPC to determine the appropriateness of the various permit fees, including but not limited to the fee for a Minor Work Permit. TPA will commence this study approximately six months after the execution of this agreement. *MAY 2008*

10. TERM OF AGREEMENT: The term of this agreement shall be for three (3) years, which includes the eighteen months training period. This agreement may be amended from time to time or extended in writing by mutual agreement of the parties.

11. TERMINATION: Either party may terminate this agreement without cause upon 60 days written notice. The 60 days shall commence upon the non-terminating party's receipt of the written notice. In the event sufficient funds are not available for a new fiscal period, the TPA shall notify the EPC in writing of such occurrence and the Agreement shall terminate on the last day of current fiscal period without penalty or expense to the TPA. The fiscal period ends the last day of September of each year.

12. NOTICE: Written notices shall be provided via U.S. mail or hand delivery to the following:

FOR TPA:

Environmental Director
Tampa Port Authority
1101 Channelside Drive
Tampa, FL 33602

WITH A COPY TO:

Port Counsel
Tampa Port Authority
1101 Channelside Drive
Tampa, FL 33602

FOR EPC:

Division Director
Wetlands Management Division,
3629 Queen Palm Drive
Tampa, FL 33619

WITH A COPY TO:

EPC Legal Department
3629 Queen Palm Drive
Tampa, FL 33619

13. LIABILITY: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its respective officers, agents, and employees arising from the duties related to this Agreement. Notwithstanding any provision in this Agreement, all issues relating to liability, including but not limited to waivers or assumptions of liability, in this Agreement are subject to the sovereign immunity laws, including but not limited to section 768.28, Florida Statutes.

14. NON-EXCLUSIVITY OF AGREEMENT: EPC understands and agrees that this Agreement is non-exclusive and the TPA reserves the right to seek similar or identical services elsewhere if deemed in the best interest of the TPA.

15. AUDIT: EPC shall keep adequate records and supporting documentation applicable to this Agreement for a minimum of ten (10) years from the date of termination of this Agreement. The TPA and its authorized agents shall have the right to audit, inspect and copy all such records and documentation as often as the TPA deems necessary during the period of this Agreement and during the period of ten (10) years thereafter. The ten (10) year time period will be extended until audit findings are issued if an audit is initiated during the ten (10) year period. Such activity shall be conducted during normal business hours. The TPA shall also have the right to obtain a copy of and otherwise inspect any audit made at the direction of EPC as concerns the aforesaid records and documentation.

16. COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS: EPC shall comply fully with all applicable federal, state, county, municipal and other governmental laws, executive orders, rules and regulations relating to wage, hour and labor, workers' compensation, equal opportunity, and women and minority business enterprises. All applicable Federal and Florida laws, statutes, rules and regulations shall apply to this Agreement as though written therein. Florida law shall govern all questions concerning implementation and execution

of this Agreement and shall also be controlling in any cause of action brought pursuant to this Agreement.

17. ATTORNEYS' FEES AND COSTS: The parties agree that in the event that it should become necessary for either party to employ an attorney to enforce any of its rights hereunder, the prevailing party shall be entitled to reimbursement of all costs and expenses, including attorneys' fees and paralegal fees (at both trial and appellate court levels) which may reasonably be incurred or paid at any time or times by it in connection therewith.

18. EQUAL EMPLOYMENT OPPORTUNITY/SBE PROGRAM: EPC acknowledges that the TPA is an equal employment opportunity employer and encourages the firms with whom it does business to likewise follow these principles. It is the policy of the TPA to encourage small business enterprises ("SBE(s)"), as defined in the TPA's SBE Program. During the performance of this Agreement, the EPC herein assures the TPA that said EPC is in compliance with Title VII of the 1964 Civil Rights Act, as amended and the Florida Civil Rights Act of 1992 in that the EPC does not on the grounds of race, color, national origin, religion, sex, age, handicap or marital status, discriminate in any form or manner against EPC's employees or applicants for employment.

19. MISCELLANEOUS PROVISIONS:

- a. **PARTIES BOUND.** This Agreement shall be binding on and inure to the benefit of the parties and to their respective representatives, successors and permitted assigns.
- b. **SEVERABILITY.** Should any one or more of the provisions contained in this Agreement be declared invalid, void, or unenforceable in any respect, all remaining provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.
- c. **MODIFICATIONS.** Modifications may be presented at any time by either party. However, no waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the parties.
- d. **ENTIRE AGREEMENT.** This Agreement contains the entire Agreement between the parties and supersedes all prior and contemporaneous Agreements, arrangements, negotiations and understandings between the parties hereto relating to the subject matter hereof.
- e. **NO ASSIGNMENT OF AGREEMENT.** EPC shall not assign this Agreement, in whole or in part, without the prior written authorization of the Authority.
- f. **CHOICE OF LAWS/VENUE.** This Agreement shall be construed under and in accordance with the laws, rules and regulations of the State of Florida and venue shall be in Hillsborough County, Florida.

- g. **EXECUTION IN COUNTERPART.** The parties hereto may execute this Agreement in counterpart and such signatures shall have the same effect as if signed all at the same time. Regardless of the specific dates executed by this EPC, the binding date for purposes of execution shall be the date signed by the TPA.
- h. **CONFLICT OF TERMS.** If there is a conflict between the terms and conditions of this Agreement and any Exhibits attached hereto, this Agreement shall prevail.
- i. **AUTHORITY TO EXECUTE.** Each of the parties hereto covenants to the other party hereto that it has lawful authority to enter into this Agreement, that the governing or managing body of each of the parties has authorized the execution of this Agreement in the manner hereinafter set forth.

The County Clerk of HILLSBOROUGH COUNTY is hereby authorized and directed, after execution of this Agreement by the TPA and EPC, to file this Agreement with the Clerk of the Circuit Court of Hillsborough County, Florida, for recording in the public records of Hillsborough County, Florida.

IN WITNESS WHEREOF, the TPA and EPC have caused this Agreement to be executed as of the date first stated above.

By: Angela A. Cordis
WITNESS
By: [Signature]
WITNESS

TAMPA PORT AUTHORITY

By: [Signature]
Richard A. Wainio, Port Director and CEO

ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH
COUNTY

By: [Signature]
WITNESS
By: [Signature]
WITNESS

By: [Signature]
EPC Executive Director

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
EPC Counsel

By: [Signature]
TPA Counsel

[Notarization follows on next page]

STATE OF FLORIDA
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 14th day of November, 2007, by RICHARD A. WAINIO as Port Director & CEO of TAMPA PORT AUTHORITY, a body politic and corporate under and by virtue of the laws of the State of Florida, and on behalf of the TAMPA PORT AUTHORITY, who is personally known to me or has produced _____ (state) driver's license or _____ as identification.



My Commission Expires _____
(AFFIX NOTARY SEAL)

Angela A. Candis
Notary Public (Signature)

Angela A. Candis
(Printed Name)

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 15 day of November 2007, by RICHARD D. GARRITY, PH.D as Executive Director of THE ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY, a political subdivision of the State of Florida, on behalf of ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY, who is personally known to me or has produced _____ (state) driver's license or _____ as identification.

My Commission Expires: _____
(AFFIX NOTARY SEAL)

Evelyn Joan McElroy
Notary Public (Signature)

(Printed Name)



Evelyn Joan McElroy
MY COMMISSION # DD487068 EXPIRES
December 17, 2009
BONDED THRU TROY FAIN INSURANCE, INC.

EXHIBIT "A"

Map of Tampa Port Authority Submerged Land Classifications

November 29, 2007

Mr. Robert Gordon
Hillsborough County Public Works
601 East Kennedy Boulevard
Tampa, FL 33602

Blanket Authorization for Activities in Wetlands:

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
WETLAND IMPACT AUTHORIZATION FOR HILLSBOROUGH COUNTY
DEPARTMENT OF PUBLIC WORKS**

Pursuant to the Hillsborough County Environmental Protection Act, Chapter 84-446, as amended, Laws of Florida, (EPC Act), the Environmental Protection Commission of Hillsborough County (EPC) has jurisdiction over activities that may cause or contribute to water pollution in Hillsborough County. The EPC regulates activities constituting development, as defined in Section 1-11.02, Rules of the EPC, within wetlands in Hillsborough County. In accordance with Chapter 62-340 Florida Administrative Code (F.A.C.), as adopted into Section 1-11.04, Rules of the EPC, wetlands include but are not limited to the following: swamps, marshes, bayheads, cypress domes and strands, sloughs, wet prairies, shallow grass ponds, riverine swamps, seepage slopes, tidal mangrove areas, salt marshes and ditches.

By way of this document, EPC authorizes Hillsborough County's Department of Public Works to conduct County activities within wetlands and/or waters of the County in accordance with the conditions listed below, without further application to the EPC, unless otherwise noted:

1. Work may be conducted within Hillsborough County maintained drainage easements or rights of way in areas defined as flowways, open water bodies or roadside ditches paralleling County maintained roads. A flowway is defined by the existence of a distinct top of bank where the top of bank is immediately adjacent to uplands.
2. For those linear wetland systems that are not adjacent to roadways, if the flowway or ditch is not mapped as a perennial or intermittent stream in either the 1958 or 1989 Soil Conservation Service's Soil Survey of Hillsborough County, accumulated sediment removal shall be allowed but cannot exceed the depth of the most immediate upstream and downstream culverts.

3. Herbicide spraying and mowing of herbaceous vegetation will be considered maintenance. When spraying, the herbicide must be applied by a state certified applicator using an herbicide approved for work in aquatic systems only. All label directions and Hillsborough County standard operating procedures must be followed.
4. Maintenance can be done within 100 feet upstream or downstream of the following:
 - a. the landward edge of a culvert, or
 - b. the landward edge of a bridge head wall or wingwall.
5. For areas that qualify for an exemption under Chapter 1-11.11(b)(i), removal of accumulated sediments shall not exceed, in depth, the bottom elevation of the closest upstream and downstream culverts.
6. Tree removal is authorized for any non-mangrove tree growing within a flowway or ditch and blocking water flow.

In all cases, the following specific limitations apply:

- a. The target wetland cannot be significant habitat for any state listed wetland dependent plant or animal species.
- b. Clean fill only as defined in Subsection 62-701.200(38) or (15), or Subsection 62-701.730(15), F.A.C. can be used.
- c. Any surplus material resulting from maintenance activities shall be properly disposed of off-site at an approved landfill, storage facility or other upland area. Materials can be temporarily stored on-site outside of wetlands in a manner that will prevent the introduction of that material into any wetlands or surface waters. If there is any doubt as to whether the off-site area proposed for storage of materials is wetlands or not, EPC staff must be contacted to make a determination prior to movement of the materials.
- d. No offsite flooding or alteration of existing wetland hydroperiods can be caused by the activity.
- e. Upon completion of construction and with the exception of those areas where maintenance activities are involved, any area of exposed soil must be returned to existing grade and stabilized with an annual grass seed so that native wetland plants may recruit. If the area has not achieved 50% areal coverage by wetland plant species by the end of the first growing season, EPC staff may require supplemental plantings of native non-nuisance wetland species found in the immediate wetland area. Placement of sod in

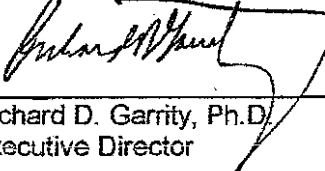
this area will be a violation of Chapter 1-11, the EPC Wetland Rule, and is not permitted.

- f. This approval does not apply to wetlands created, enhanced or restored as mitigation for wetland or surface water impacts.
- g. Best management practices shall be employed for erosion, turbidity or other pollution control to maintain State water quality standards.
- h. This approval does not apply to those wetlands or surface waters that were constructed pursuant to Part IV, Chapter 373, Florida Statutes.
- i. This approval does not apply to activities that must be reviewed under the Mangrove Trimming and Preservation Rule, Chapter 1-14.
- j. This approval applies only to the work described herein and does not imply exemption from obtaining all proper permits from other governmental agencies.
- k. Those activities which do not qualify for the approvals listed above must be permitted by EPC through a Miscellaneous Activities in Wetlands permit or a mitigation / wetland impact authorization.
- l. This authorization will remain valid for a period of five years from the execution date. Upon the expiration date the document may be updated in accordance with the existing regulations in effect.

3 *Reamber* (RS)

DONE and ENTERED this 28th day of November, 2007.

**ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH COUNTY**


Richard D. Garrity, Ph.D.
Executive Director

cc: Bob Stetler, EPC Wetland Management Division Director
Richard Tschantz, Esq., EPC General Counsel

The Environmental Protection Commission (EPC) of Hillsborough County exerts its regulatory authority over all wetlands that occur within Hillsborough County. In accordance with Chapter 62-340 Florida Administrative Code, as adopted into Chapter 1-11, Wetlands, Rules of the EPC, wetlands include but are not limited to the following: swamps, marshes, bayheads, cypress domes and strands, sloughs, wet prairies, shallow grass ponds, riverine swamps, seepage slopes, tidal mangrove areas, salt marshes and ditches.

By way of this document, EPC authorizes Hillsborough County's Department of Public Works to conduct activities within wetlands and/or waters of the County in accordance with the conditions listed below:

1. Work can be conducted within Hillsborough County maintained drainage easements or rights of way in areas defined as flowways, open water bodies or roadside ditches paralleling County maintained roads. A flowway is defined by the existence of a distinct top of bank where the top of bank is immediately adjacent to uplands.
2. For those linear wetland systems that are not adjacent to roadways, if the flowway or ditch is not mapped as a perennial or intermittent stream in either the 1954 or 1988 Soil Conservation Service's Soil Survey of Hillsborough County, accumulated sediments removal cannot exceed the depth of the most immediate upstream and downstream culvert.
3. Herbicide spraying and mowing of herbaceous vegetation will be considered maintenance. When spraying, herbiciding must be performed by a state certified applicator using an herbicide approved for work in aquatic systems only. All label directions and Hillsborough County standard operating procedures must be followed.
4. Maintenance can be done within 50 feet of the following:
 - a. the landward edge of a culvert
 - b. the landward edge of a bridge head wall or wingwall
5. For areas that qualify for an exemption under Chapter 1-11.11(b)(i), removal of accumulated sediments shall not exceed in depth the bottom elevation of the closest upstream and downstream culvert.
6. Tree removal is authorized for any non-mangrove tree growing within a flowway or ditch and is blocking water flow.

In all cases, the following specific limitations apply:

- a. The target wetland cannot be significant habitat for any state listed wetland dependent plant or animal species

- b. Clean fill only as defined in 62-701.200(38) or (15) or 62-701.730(15) FAC can be used.
- c. No offsite flooding or alteration of existing wetland hydroperiods can be caused by the activity.
- d. These exemptions do not apply to wetlands created, enhanced or restored as mitigation for wetland or surface water impacts.
- e. Best management practices shall be employed for erosion, turbidity or other pollution control to maintain State water quality standards.
- f. These exemptions do not apply to those wetlands or surface waters that were constructed pursuant to Part IV, Chapter 373, Florida Statutes.
- g. These exemptions do not apply to activities that would be reviewed under the Mangrove Trimming and Preservation Rule, Chapter 1-14.
- h. All other governmental permits must be obtained.

Agriculture Rule

January 17, 2008

1-11.12 BONA FIDE AGRICULTURAL ACTIVITIES

(1) The following exemptions apply to development within wetlands as a result of bona fide agricultural activities. Bona fide agricultural activities include necessary farming operations which are normal and customary for the area, such as site preparation, clearing, fencing, contouring to prevent soil erosion, soil preparation, plowing, planting, harvesting, and construction of access and internal roads, bridges, or culverts to facilitate these operations; construction or maintenance of irrigation and drainage ditches; and construction, operation or maintenance of agricultural use ponds. The following exemptions do not include activities such as logging or timbering in wetlands, construction of permanent or temporary structures such as non-agricultural buildings or residences, or any similar non-agricultural uses of land even if related to bona fide agricultural activities. The applicant for any of the following wetland impacts must apply with the Wetlands Management Division to utilize the following exemptions under a Miscellaneous Activities in Wetlands authorization or under mitigation review as applicable.

(a) Reasonable Use exemption: The following wetland impacts satisfy the reasonable use requirement set forth in Section 1-11.07:

(i) Wetland impacts where the wetland impacts are addressed in a Southwest Florida Water Management District (District) approved Resource Management System (RMS) plan or a Natural Resource Conservation Service approved RMS plan implemented pursuant to the Agricultural Ground and Surface Water Management program (AGSWM). The applicant for wetland impacts must fully implement the terms of the RMS plan to be eligible for this exemption. The conditions contained in the RMS plan shall be included in any approval as an order of the Executive Director and shall be enforceable as such pursuant to Section 17 of the EPC enabling act.

(ii) Where the impact is to an isolated non-forested wetland no greater than one quarter (1/4) acre in size and the impact is authorized in writing by the District through use of any of the state exemptions in Subsections 40D-4.051(7), (8)(a), (8)(d), (8)(m), (9)(d), or (9)(e), F.A.C.

(iii) Any activities constituting development as defined in this rule within isolated non-forested wetlands no greater than one quarter (1/4) acre in size. An applicant may increase wetlands impacts under this Section up to a one half (1/2) acre isolated non-forested wetland where the wetland impact does not involve converting wetlands or other jurisdictional surface waters to uplands and the impact incorporates the requirements set forth in Section 8.01.06A of the Land Development Code. The total cumulative area of wetland impacts on the property under this exemption shall not exceed one half (1/2) acre. The impact must also be authorized by a state exemption or an Environmental Resource Permit issued by the District. In the event wetland impacts are authorized in those wetlands in the future pursuant to Chapter 1-11, the previously impacted wetland area shall be mitigated as an undisturbed wetland for purposes of Section 1-11.08.

(b) Mitigation exemption:

(i) Wetland impacts that are limited to fully isolated wetlands or other surface waters one quarter (1/4) acre or less in size, are exempt from the mitigation requirements under Section 1-11.08, unless the total proposed wetland impacts to isolated wetlands on the agricultural land cumulatively exceed one half (1/2) acre in size. This exemption does not apply where the wetland is used by threatened or endangered species, or the wetland is located in an area of state critical concern designated pursuant to Chapter 380, F.S.

(ii) Any wetland impacts authorized under Section 1-11.12(1)(a) that are proposed for mitigation pursuant to the uniform mitigation assessment methodology and are incorporated into an ERP shall be exempt from Section 1-11.08. The conditions of the ERP mitigation shall be included in any approval as an order of the Executive Director and shall be enforceable as such pursuant to Section 17 of the EPC enabling act. The mitigation must be located within Hillsborough County. However, if mitigation is otherwise required by the Wetland Rule Chapter 1-11 and the District does not require mitigation, an applicant must still comply with Section 1-11.08 for those wetland impacts and provide the appropriate mitigation.

(iii) To be eligible for this exemption under this Section the property must remain in a bona fide agricultural use for at least five (5) years from the date of the impact. In the event the wetland impact area is taken out of agricultural use and the land converts to other uses such as residential or non-agriculture commercial use within five (5) years, the wetlands that were impacted pursuant to the exemption must be re-created in substantially the same location and in substantially the same condition, or the impacted wetlands must be mitigated pursuant to Section 1-11.08. If the property

owner sells or conveys the property, the property owner shall ensure that future property owners are aware that the area must be re-created or mitigated as provided above in the event the area converts to a non-agricultural use. The approval letter shall be recorded in the public records to serve as notice to future owners.

(2) Conditions and limitations applicable to all above exempt activities:

(a) Further subdivision of a property after the adoption of this rule shall not entitle present or future owners to wetland impact thresholds greater than the areas eligible under the area of original common ownership.

(b) These exemptions do not apply to any filling activity using anything other than clean fill as defined in Sections 62-701.200(38) or (15), or 62-701.730(15), F.A.C.

(c) Development under these exemptions shall not cause offsite adverse impacts, including flooding, or otherwise affect the local hydrology so as to adversely affect other wetlands.

(d) Fish ponds constructed under this Section shall not be eligible for the exemption in Section 1-11.11(1)(b)(iii).

(e) These exemptions do not apply to wetlands created, enhanced, or restored as mitigation for wetlands or surface water impacts under a permit issued by the Executive Director, DEP, District or United States Army Corps of Engineers.

(f) The development under these exemptions shall include best management practices for erosion, turbidity and other pollution control to prevent violations of state or Commission water quality standards.

(g) These exemptions do not apply to activities reviewed under the Mangrove Trimming and Preservation Rule Chapter 1-14.

(h) These exemptions do not imply exemption from obtaining all proper permits or complying with regulations of other federal, state or local agencies.

Section History – adopted January 17, 2008; Effective January 18, 2008

Environmental Protection Commission of Hillsborough County

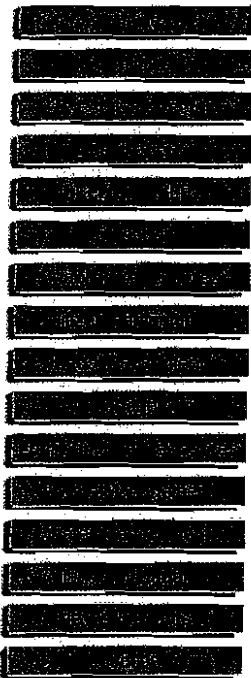
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EPC Overview

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Disclaimer

EPC Agency Forms

Wetlands Management

Online Forms (new) - You can fill out the following forms/applications either electronically through our website or on the computer using Adobe Reader.

WEA10 - Notice of Exempt Activities in Wetlands
 This form is to provide notice for exempt activities as required in Section 1-11.11(1)(b), Wetlands, and/or Section 1-14.05(a), Mangrove Trimming & Preservation, Rules of the EPC.

Submit Online - You can fill out online and submit electronically. [WEA10](#)

Adobe .PDF - You can fill out on the computer using Adobe Reader, print the form, and mail or hand deliver. [.PDF](#)

WNV15 - Application for Nuisance Vegetation Removal in Wetlands (Miscellaneous Activities)
 This application is for removing Nuisance Vegetation in Wetlands as provided in Section 1-11.10(1)(b), Wetlands, Rules of the EPC.

Submit Online - You can fill out online and submit electronically. [WNV15](#)

Adobe .PDF - You can fill out on the computer using Adobe Reader, print the form, and mail or hand deliver. [.PDF](#)

Other Wetlands Forms:

- Mangrove Trimming Forms:
 - Mangrove Trimming Application Form *(new)*
 - Mangrove Trimming Exemption Form *(see WEA10 above)*
 - Professional Mangrove Trimmer Registration Form *(new)*
- Application To Perform Miscellaneous Activities In Wetlands *(updated 07 2006)*
- Application To Perform Miscellaneous Activities in Wetlands *(see WVN15 above)*
(EPC Aquatic Plant Management Application)
- Wetlands Delineation Request *(updated 08 2006)*
- Mitigation Agreement - Individual or Corporation *(updated 11 2006)*
- Assignment of Responsibility *(updated 08 2006)*
- Conservation Easement Document *(updated 07 2006)*
- Escrow Agreement *(updated 06 2005)*
- Performance Bond document
- Letter of Credit - Example Form *(updated 06 2005)*

Permit Application Notice Sign

Using the sign provided in this link, please fill out the remaining information and post this pursuant to Sec. 1-2.051(a) within 15 days of submitting an application for any of the following initial permits or initial authorizations :

- wastewater permits in excess of 100,000 gallons discharge per day



Environmental Protection Commission of Hillsborough County (EPC)
 Roger P. Stewart Center
 3629 Queen Palm Drive · Tampa, FL 33619
 Ph: (813) 627-2600 · Fax: (813) 627-2630



WEA10 - Notice of Exempt Activities in Wetlands

This form is to provide notice for exempt activities as required in Section 1-11.11(1)(b), Wetlands, and/or Section 1-14.05(a), Mangrove Trimming and Preservation, Rules of the EPC. PLEASE COMPLETE ALL APPLICABLE SECTIONS. A fee for this review is not required. **Please include drawings that show 1) parcel boundaries, 2) existing shoreline, 3) wetland boundary, and 4) location of proposed activities.**

Return completed notice to Environmental Protection Commission (EPC), ATTN WETLANDS DIV, 3629 Queen Palm Drive, Tampa, FL 33619.

1. Property Owner Information

First Name _____ Last Name _____

Company Name (if applicable) _____

Street Address _____

Suite/Apt _____

City _____ State _____ Zip Code _____

Owner Phone _____ Fax _____

E-mail _____

2. Agent Information (if applicable)

First Name _____ Last Name _____

Company Name (if applicable) _____

Street Address _____

Suite/Apt _____

City _____ State _____ Zip Code _____

Phone _____ Fax _____

E-mail _____

3. Property Site Information

Folio Number of Site: _____ (xxxxxx.xxxx)

4. Type of Site and Exempt Wetlands Activity Proposed

Select the Exempt Activity(ies) you are proposing. Please refer to Section 1-11.11(b), Wetlands, Rules of the EPC.

- a. Development within artificially created ditches which were excavated within predominantly upland soils within the project limits. This excludes historic streams and creeks.
- b. Development within wholly owned artificially created wetlands, less than 1 acre in size.
- c. Alterations to commercial fish ponds.

Type of Exempt Mangrove Trimming Proposed

Please refer to Section 1-14.05(a), Mangrove Trimming and Preservation, Rules of the EPC. If selecting options (c), (d), or (g) documentation is required and should be included when submitting your notice.

- a. Riparian mangrove fringe with existing mangroves 10 ft or less in height, located on private property. No Professional Mangrove Trimmer (PMT) required. For shorelines greater than 150 ft, no more than 65% may be trimmed.
- b. Riparian mangrove fringe with existing mangroves greater than 10 ft no more than 24 ft in height, located on private property. For shorelines greater than 150 ft, no more than 65% may be trimmed. PMT required.
- c. Reestablishment or maintenance of a riparian mangrove fringe to a previous configuration, where mangroves do not exceed 24 ft in height. Documentation of previous authorization is required. PMT required for mangroves exceeding 10 ft in height.
- d. Maintenance trimming of mangroves in accordance with a previous exemption or governmental authorization. Documentation of previous authorization is required. PMT required.

Additional Information for Trimming Mangroves

a. Has a conservation easement or any other restriction been placed on the property?

No

Yes If Yes, explain: _____

b. Has a mangrove trimming, dock or dredge and fill permit been previously issued for this property?

No

Yes If Yes, list permits: _____

Terms of Agreement

I certify that I am the record owner of the subject property or am acting as the duly authorized agent to the property owner. I understand that my notice will not be processed if there is any missing or invalid information. I am familiar with the information contained in this notice and that to the best of my knowledge and belief, such information is true, complete and accurate.

Name _____ Initial _____ Date _____



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Print Form

WNV15 - Application for Nuisance Vegetation Removal in Wetlands

This EPC application is for removing nuisance vegetation in wetlands as provided in Section 1-11.10(1)(b) Wetlands, Rules of the EPC. PLEASE COMPLETE ALL APPLICABLE SECTIONS. A fee for this review is not required. **Please include drawings that show 1) parcel boundaries, 2) existing shoreline, 3) wetland boundary, and 4) location of proposed activities.** Return completed applications to Environmental Protection Commission (EPC), ATTN WETLANDS DIV, 3629 Queen Palm Drive, Tampa, FL 33619.

1. Property Owner Information

First Name _____ Last Name _____
 Company Name _____
 Street Address _____ Suite/Apt _____
 City _____ State _____ Postal Code _____
 Owner Phone _____ Fax _____
 E-mail _____

2. Agent Information (if applicable)

First Name _____ Last Name _____
 Company Name _____
 Street Address _____ Suite/Apt _____
 City _____ State _____ Postal Code _____
 Phone _____ Fax _____
 E-mail _____

3. Project Site Information

Folio Number of Site: _____ (XXXXXX.XXXX)

4. Nuisance Vegetation Information

a. Please provide a general description and location for the proposed activities: (attach separate sheet if necessary)

b. List the Plant Name, Control Method, and Herbicide Name or Tools. Refer to EPC's List of Nuisance Plants for assistance.

Target Plant Name	Control Method: Herbicide, Mechanical or Hand Removal	Herbicide or Tools

I certify that I am the record owner of the subject property or am acting as the duly authorized agent to the property owner. I understand that my application will not be processed if there is any missing or invalid information. I am familiar with the information contained in this application and that to the best of my knowledge and belief, such information is true, complete and accurate.

Name _____ Initial _____ Date _____