

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
COUNTY CENTER 2ND FLOOR
NOVEMBER 13, 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 CEAC Chairman – David Jellerson

III. CONSENT AGENDA

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

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SEPTEMBER 18, 2008 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, September 18, 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 (arrived at 9:03 a.m.), Ken Hagan, Jim Norman, and Mark Sharpe.

The following member was absent: Commissioner Kevin White (schedule conflict).

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

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, stated there were no changes to the agenda. **Commissioner Sharpe moved approval, seconded by Commissioner Blair.** Chairman Higginbotham stated citizens who were unable to stay for the noise rule public hearing could speak during general public comments. **The motion carried six to zero.** (Commissioner White was absent.)

PUBLIC COMMENT

Mr. Christopher Clifton, 8009 Capwood Avenue, addressed concerns related to the Ford Amphitheatre (Amphitheatre); discussed spending \$9,000 for new windows, capability of noise control, results from the EPC workshop, decibel standards, and community dissatisfaction; and asked the EPC to think of the people before voting on the issue.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson reported the CEAC heard presentations by EPC staff on the changes to Chapter 1-10, noise rule, at the September 8, 2008, meeting. The review included background details on the science of noise measurement presented by Dr. John MacDonald, University of Central Florida. After review and discussion, CEAC unanimously recommended the EPC Board adopt the noise rule changes recommended by EPC staff. Presentations from applicants for the pollution recovery fund (PRF) grants were heard; there were 17 applications totaling approximately \$1 million and funds available for grant awards totaled just over \$600,000; final review and debate of the applications would occur at the October 2008 meeting; and the goal was to present recommendations to EPC next month. Mr. Jellerson

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announced Ms. Annie Sutton, CEAC member, had passed away and commented on her dedication to the protection of environmental resources for the County.

CONSENT AGENDA

- A. Approval of minutes: July 17, 2008.
- B. Monthly activity reports.
- C. PRF report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary: August and September 2008.
- F. Fourth quarterly hybrid update report.
- G. Customer service survey report.
- H. Request for authority to take appropriate legal action against Adam Chowdhury.
- I. Approve second amended interlocal agreement with Hillsborough County.

Chairman Higginbotham called for a motion to approve the Consent Agenda. **Commissioner Sharpe so moved, seconded by Commissioner Norman, and carried six to zero.** (Commissioner White was absent.)

SPECIAL PRESENTATIONS

Tampa Bay Estuary Program (TBEP) Report - Ms. Holly Greening, director, TBEP highlighted the history of the TBEP; commented on implementation of the management plan, partners, and local funding commitments being a direct match of Environmental Protection Agency (EPA) funds; discussed population-based funding, local funding commitment stability, results from local counties/cities and citizens activities, and County and EPC projects established; and noted \$127,000 was awarded in the County in the last three years from the TBEP license plate. The County and EPC received more than \$3.6 million in return from the \$84,000 per year investment in the TBEP. She discussed the Tampa Bay Nitrogen Management Consortium and recommendations endorsed by the policy board from the April through June 2008 workshops, which could reduce nitrogen loads to the Bay, and was seeking approval from the Department of Environmental Protection (DEP) and EPA to apply the recommendations as regulatory requirements; reported the next steps were to draft a regional fertilizer ordinance model for policy board consideration by November 2008 to include point-of-sale restrictions, technical background, and

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cost benefits and contact DEP and EPA regarding possible credit for adoption of the ordinances; and thanked EPC for continued support.

Commissioner Blair commended Ms. Greening. Ms. Greening acknowledged the partnership with the County and EPC as major contributors to improving the Bay and commented on the 6,000-acre increase in sea grass and water clarity/quality improvement.

National Pollution Prevention Week Proclamation - Mr. Gerardo Javier, EPC staff, reported staff focused on energy conservation by promoting the use of energy efficient lighting fixtures, pollution prevention displays were set up in the County Center lobby and Roger P. Stewart Center, and staff would be at the Wal-Mart Stores Incorporated located on Causeway Boulevard to accept conventional light bulb fixtures from the public in exchange for efficient compact fluorescent lighting fixtures. Commissioner Blair presented the proclamation proclaiming the week of September 14-20, 2008, as Hillsborough County Pollution Prevention Week to Messrs. Ernest Mayes, Solid Waste Management Department; Randy Klindworth, Facilities Management Division, Real Estate Department; Thomas Hernandez, Tampa Electric Company (TECO); and Ms. Kelley Boatwright, EPC staff.

Mr. Hernandez discussed the \$1.2 billion capital investment and emission reductions, acknowledged the partnership, and offered appreciative comments. Commissioner Sharpe made laudatory comments regarding the efforts of Mr. Hernandez. Mr. Klindworth was appreciative and recognized the teamwork with EPC and other departments. Mr. Mayes was proud to be associated with pollution cleanup and taking on the responsibilities of handling hazardous waste collection. Commissioner Ferlita commended TECO and departments involved with the partnership.

PUBLIC HEARING

Consider Amendments to Chapter 1-10, Noise Rule - Chairman Higginbotham called for a motion to open the public hearing. **Commissioner Ferlita so moved, seconded by Commissioner Blair, and carried six to zero.** (Commissioner White was absent.) EPC General Counsel Richard Tschantz said the public hearing had been properly published in *The Tampa Tribune* and reported changes to the rule, as provided in background material. In answer to Chairman Higginbotham, Attorney Tschantz noted CEAC did not vote on the definition change of decibel in Chapter 1-10.01(2)(d).

Mr. Jerry Campbell, Director, EPC Air Management Division, commented on the history of Chapter 1-10, amendments, provisions, and objectives; stated input

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was solicited from citizens, affected parties, acoustic professionals, and CEAC; and introduced Dr. MacDonald, who was hired by the EPC as an outside expert because of the extensive changes needed.

Dr. MacDonald defined terms involved in the noise ordinance and characteristics, which were magnitude, frequency, and duration; detailed the two components to the existing and proposed noise rule; and distinguished differences between A-weighted decibel levels and octave band limits. Based on the terms mentioned, Dr. MacDonald opined the noise rule required change due to community annoyance and environmental noise and commented on frequency and literature components, momentary instantaneous sounds, and the current rule needing Lmax levels high enough so outdoor events were not flagged as violations and to provide guidance to the EPC. He utilized a thermometer graph to display noise levels of common sounds that could be violations under the current rule, stated extensive literature confirmed the use of Leq was the preferred method for community noise annoyance, touched on the database established, and summarized recommended changes, as provided in background material.

Ms. Kay Strother, EPC staff, highlighted revisions and exemptions to the rule, as provided in background material. Responding to Commissioner Norman, Ms. Strother clarified event exemptions. Mr. Campbell summarized the numerical sound level limits for residential receiving land use category, as provided in background material; acknowledged public comments during workshops; stated reasonable protection from annoyance for the public and responding to every complaint would not change; and reviewed the chart comparing the proposed octave bands to other communities across the country.

The following people addressed noise issues relating to the Amphitheatre: Mr. Edward Schroering Jr., 806 Pyramid Drive, who commented on concert annoyance, loud noise from automobiles, and how many cities mentioned had amphitheatres within city limits and asked the EPC Board to vote no on the proposal, and Ms. Robin Gordon, 806 Pyramid Drive, who mentioned the irony of proclaiming National Pollution Prevention Week and requested EPC to consider noise pollution and protect citizens from harmful noise.

Ms. Joanne O'Brien, 6916 Thrasher Drive, said the Amphitheatre was doing a great job, was not affected by the noise anymore, felt the new rule was good, and commended the EPC and Dr. MacDonald for efforts.

Mr. Arnold Stark, 6305 Eureka Springs Road, commented on the EPC being responsive to the needs and desires of the community affected by the noise rule decision, the desire for more stringent revisions, commercial and

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industrial categories being held to the same levels as residential, excessive noise, and hearing obscenities shouted. Mr. Joe Gross, city of Temple Terrace (Temple Terrace), Code Enforcement Department, expressed appreciation for the opportunity to be heard and touched on noise issues related to Temple Terrace, requested the EPC ensure the change in metrics would not dilute standards and protections and to keep the tranquility of constituents foremost in their minds during deliberations. Responding to Commissioner Ferlita, Mr. Gross said he was delegated to speak for the Temple Terrace Code Enforcement Department.

Mr. David Penoyer, 11006 Saginaw Drive, supported updating changes to the rule, acknowledged difficulty of regulating instantaneous readings of noise, discussed issues with the ten-minute averaging criteria and low-frequency bands, and asked the EPC Board to reject the rule for those reasons.

Commissioner Sharpe referenced complaints and not being able to significantly address sound issues for citizens in proximity to the Amphitheatre. Dr. Garrity advised of reductions in complaints as a result of the noise wall and sound requirements currently established, addressed the sound issue increasing during the summer for certain concerts, and stated Live Nation took responsibility for a warning letter issued. Mr. Javier reported complaint averages had dropped two-thirds for the last three years since implementing interim measures and the noise wall.

Opining the proposed rules, with the exception of the lower decibel, were being reduced and could be enforced, and after discussing coexistence and tranquility continuing with the Amphitheatre and sound diminishment, **Commissioner Sharpe moved to approve the changes. Commissioner Ferlita seconded the motion**, was pleased to hear the history related to complaint reductions, and perceived enforceability was important. In answer to Commissioner Ferlita, Attorney Tschantz verified the noise ordinance had not had major revisions since the mid-1970s and the changes would allow enforceability. Commissioner Ferlita discussed EPC responsibility, balancing tranquility, stronger partnerships, fairness for both sides, needing a duration component, and the noise rule not being just for the Amphitheatre.

Commissioner Norman recalled expressing concerns at meetings prior to the existence of the Amphitheatre and the Board of County Commissioners (BOCC) had voted to not meddle in businesses on the Florida State Fair Authority property, agreed the changes were the best for the ordinance and enforceability, and supported the recommendation. **The motion carried six to zero.** (Commissioner White was absent.)

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EXECUTIVE DIRECTOR

Responding to Commissioner Blair, Attorney Tschantz noted a vote was required to discuss the off-the-agenda item that tied into the Executive Director item. **Commissioner Ferlita moved to have Commissioner Blair add the item on the agenda, seconded by Commissioner Sharpe, and carried six to zero.** (Commissioner White was absent.)

Dr. Garrity expressed laudatory comments regarding Ms. Sutton's service on the CEAC and stated the family would attend the BOCC Awards meeting on October 22, 2008, to receive a plaque in honor of her services. Dr. Garrity acknowledged the accomplishments of Mr. Tom Koulianos, Director, EPC Finance and Administration, who was retiring, and invited EPC Board members to EPC to celebrate his career on October 29, 2008.

After expressing laudatory comments regarding Mr. Koulianos, **Commissioner Blair moved that EPC start the Tom Koulianos Citizens Conservation Efficiency Award and allow staff to breakout the criteria and bring that back to the EPC, seconded by Commissioner Sharpe, and carried five to zero.** (Commissioner Ferlita was out of the room; Commissioner White was absent.) Chairman Higginbotham said staff would come back with details and congratulated Mr. Koulianos for his service. Mr. Koulianos expressed gratitude in working with EPC and Dr. Garrity, was appreciative of the kind words, and recognized staff.

Dr. Garrity said Ms. Joan Ohman would replace Mr. Koulianos and advised of previous experiences, presented a sample of the informational card to explain recent changes in the wetlands program as part of customer service efforts, and thanked the Wetlands Management Division staff.

Attorney Tschantz recognized Ms. Rachel Bartlett from Stetson University Law School.

ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION

Report on Cockroach Bay Marine Sanctuary Citizen Proposal - Mr. Tom Ash, EPC staff, recalled citizen recommendations from the July 2008 EPC meeting related to a sanctuary for the Cockroach Bay aquatic preserve; provided a brief history of the area; commented on differences between an aquatic preserve and a sanctuary, intent for designations, sustainability of public use, and the land being unique; detailed the proposal; discussed the need for a sea grass management plan, multiagency jurisdiction, historical significance of the special designation, increasing law enforcement, and recreational interests being revisited; and stated the ecosystem of the Cockroach Bay aquatic

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preserve was not currently being managed as a whole. Dr. Randy Runnels, aquatic preserves manager, DEP, noted managing four aquatic preserves in three counties; explained the distinction of Cockroach Bay aquatic preserve; discussed island purchases, buffers, statewide reorganizations, and ecosystems; echoed comments regarding Cockroach Bay Aquatic Preserve Management Advisory Team (CAPMAT); and encouraged the EPC to revitalize CAPMAT.

Chairman Higginbotham was familiar with CAPMAT, suggested going back to members that had participated, touched on personal use of Cockroach Bay and putting the public at peace that the EPC was not voting to restrict use or restrict the public from a program involving sea grass beds, was anxiously awaiting the reports, and thanked Mr. Ash for the update.

Commissioner Blair thanked the Tampa Port Authority and EPC staff for mitigating land at the port by donating \$1 million to the restoration of the Cockroach Bay area and the commitment of \$100,000 to Hillsborough County.

FINANCE AND ADMINISTRATION DIVISION

Executive Director's Evaluation Results - Mr. Koulianos had averaged the scores of the evaluations received; stated the EPC budget did not include a salary increase for senior management, which included Dr. Garrity and saved an EPC position; and asked the EPC Board to accept the evaluation as presented.

Commissioner Ferlita was glad to accept the evaluation as presented, opined measures self-imposed by Dr. Garrity had set a bar in terms of doing more than what was expected, and appreciated his service. Commissioner Sharpe echoed laudatory comments.

Commissioner Norman believed there were outstanding Internal Performance Auditor issues to be resolved related to target dates, wetlands accountability, internal reviews/reports, quality control, citizen comments, and the Planning Commission. Commissioner Sharpe agreed and discussed being more proactive on the issue involving mulch and debris, challenges dealing with State agencies/jurisdiction, and potential environmental hazards.

Dr. Garrity thanked the EPC Board for their support and responded to issues raised from Commissioners Norman and Sharpe. Responding to Commissioner Blair, Dr. Garrity provided an update related to the Hobbs Road mulch-site project and addressed Mothers Organics Incorporated not having their permit unduly withheld. Mr. Andy Schipfer, Acting Director, EPC Waste Management Division, commented on letters and accusations, competing parties, money

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involved, complaints about the Solid Waste Management Department, compliance, warning notices, consent timelines, reductions in mulch on the Hobbs Road site, probability of a lawsuit, exemptions, Mothers Organics Incorporated refusal to obtain permits, and cease of operations and compliance efforts at the Hobbs Road site. Discussion included violations, other viewpoints, over-regulating, complaints, and standard operating procedures.

After asking Mr. Roy Davis for comments, **Commissioner Blair moved to open for public comment, seconded by Commissioner Hagan, and carried five to one; Commissioner Ferlita voted no.** (Commissioner White was absent.) Responding to Commissioner Ferlita, Chairman Higginbotham clarified anyone remaining in the audience was invited for public comment.

Mr. Roy Davis, 3224 McIntosh Road, offered to answer questions, referenced a report on agricultural use of materials and benefits to the public, stated nurseries were doing the same thing as discussed without violations, and opined the newly proposed EPC consent order was punitive and criminalized the situation and the EPC would end up in court if they continued that process.

Discussion ensued regarding the briefing received from EPC staff, financial impact on the request, compliance with the University of Florida Institute of Food and Agricultural Science farm plan, County costs, and stipulated penalties. Commissioner Ferlita recommended a public meeting. Discussion resumed related to the 10-foot allowance, solid waste classification, letter received, mulch being used for fertilization, the 5-foot reduction requested, potential for contaminants, shredded yard trash from the County not being considered hazardous, and the 5-foot exemption already approved.

Mr. Schipfer discussed the site, observation of inspections related to contaminants, the site's dramatic change since 2006, and lack of problems with a 2-foot requirement until the Hobbs Road site. In answer to Commissioner Sharpe, Mr. Schipfer verified the owner was cooperative and had completed substantial work to comply and touched on solid waste issues, formal discussions getting the EPC involved with recycling credits, and the EPC not dealing with contracts. Commissioner Blair was not convinced EPC staff was getting to the bottom of the issues.

Mr. Koulianos advised a motion was needed for the Executive Director's evaluation. **Commissioner Ferlita moved approval, seconded by Commissioner Sharpe, and carried five to zero.** (Commissioner Blair was out of the room; Commissioner White was absent.)

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There being no further business, the meeting was adjourned at 11:23 a.m.

READ AND APPROVED: _____

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____
Deputy Clerk

ev

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION

September FY 2008

A. Public Outreach/Education Assistance:		
1. Phone Calls:		165
2. Literature Distributed:		<u>0</u>
3. Presentations:		<u>4</u>
4. Media Contacts:		<u>6</u>
5. Internet:		<u>60</u>
6. Host/Sponsor Workshops, Meetings, Special Events		<u>0</u>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		3
b. Construction:		<u>1</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>3</u>
e. General:		<u>2</u>
f. Title V:		<u>0</u>
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. Operating1:		0
b. Construction1:		<u>2</u>
c. Amendments1:		<u>0</u>
d. Transfers/Extensions1:		<u>0</u>
e. Title V Operating2:		<u>5</u>
f. Permit Determinations2:		<u>1</u>
g. General:		<u>2</u>
3. Intent to Deny Permit Issued:		<u>0</u>
C. Administrative Enforcement		
1. New cases received:		<u>4</u>
2. On-going administrative cases:		
a. Pending:		7
b. Active:		<u>15</u>
c. Legal:		<u>3</u>
d. Tracking compliance (Administrative):		<u>14</u>
e. Inactive/Referred cases:		<u>0</u>
Total		<u>39</u>
3. NOIs issued:		<u>2</u>
4. Citations issued:		<u>0</u>
5. Consent Orders Signed:		<u>2</u>

6.	Contributions to the Pollution Recovery Fund:	\$0.00
7.	Cases Closed:	2
D.	Inspections:	
1.	Industrial Facilities:	18
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	0
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	0
c.	Major Sources	5
3.	Asbestos Demolition/Renovation Projects:	24
E.	Open Burning Permits Issued:	4
F.	Number of Division of Forestry Permits Monitored:	367
G.	Total Citizen Complaints Received:	57
H.	Total Citizen Complaints Closed:	59
I.	Noise Sources Monitored:	4
J.	Air Program's Input to Development Regional Impacts:	3
K.	Test Reports Reviewed:	87
L.	Compliance:	
1.	Warning Notices Issued:	8
2.	Warning Notices Resolved:	8
3.	Advisory Letters Issued:	4
M.	AOR's Reviewed:	58
N.	Permits Reviewed for NESHAP Applicability:	0
O.	Planning Documents coordinated for Agency review.	2

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
September 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>\$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>\$1,880.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$160.00</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>\$3,000.00</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>\$600.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$1,500.00</u>
8. Open burning authorization	<u>\$1,200.00</u>
9. Enforcement Costs	<u>\$873.15</u>

WASTE MANAGEMENT'S SEPTEMBER 2008 AGENDA INFORMATION

ENFORCEMENT

New cases received	9
On-going administrative cases	111
Pending	4
Active	49
Legal	10
Tracking Compliance (Administrative)	34
Inactive/Referred Cases	14
NOI's issued	2
Citations issued	4
Consent Orders and Settlement Letters Signed	5
Civil Contributions to the Pollution Recovery Fund (\$)	16,025
Enforcement Costs collected (\$)	4,726
Cases Closed	2

SOLID AND HAZARDOUS WASTE

FDEP Permits received	1
FDEP Permits reviewed	1
EPC Authorization for Fac.'s NOT requiring DEP permit	1
Other Permits and Reports	1
County Permits received	3
County Permits reviewed	3
Reports received	32
Reports reviewed	40
Inspections (Total)	208
Complaints	23
Compliance/Reinspections	20
Facility Compliance	23
Small Quantity Generator	142
P2 Audits	0
Enforcement	
Complaints Received	21
Complaints Closed	24
Warning Notices Issued	1
Warning Notices Closed	0
Compliance letters	91
Letters of Agreement	0
Agency Referrals	0
Pamphlets, Rules and Material Distributed	183

STORAGE TANK COMPLIANCE

Inspections	
Compliance	95
Installation	18
Closure	18
Compliance Re-Inspections	19
Installation Plans Received	13
Installation Plans Reviewed	9
Closure Plans & Reports	
Closure Plans Received	8
Closure Plans Reviewed	5
Closure Reports Received	12
Closure Reports Reviewed	13
Enforcement	
Non-compliance Letters Issued	73
Warning Notices Issued	4
Warning Notices Closed	1
Cases referred to Enforcement	3
Complaints Received	4
Complaints Investigated	4
Complaints Referred	1
Discharge Reporting Forms Received	8
Incident Notification Forms Received	15
Cleanup Notification Letters Issued	7
Public Assistance	

STORAGE TANK CLEANUP

Inspections	41
Reports Received	116
Reports Reviewed	131
Site Assessment received	12
Site Assessment reviewed	11
Source Removal received	2
Source Removal reviewed	4
Remedial Action Plans (RAP's) received	13
Remedial Action Plans (RAP's) reviewed	24
Site Rehab. Completion Order/No Further Action	4
Site Rehab. Completion Order/No Further Action	2
Active Remediation/Monitoring received	49
Active Remediation/Monitoring reviewed	47
Others received	36
Others reviewed	43

RECORD REVIEWS	15
LEGAL PIR's	7
PUBLIC INFORMATION PROJECTS	5

WASTE MANAGEMENT'S OCTOBER 2008 AGENDA INFORMATION

ENFORCEMENT

New cases received	1
On-going administrative cases	112
Pending	2
Active	38
Legal	10
Tracking Compliance (Administrative)	48
Inactive/Referred Cases	14
NOI's issued	2
Citations issued	5
Consent Orders and Settlement Letters Signed	1
Civil Contributions to the Pollution Recovery Fund (\$)	1,410
Enforcement Costs collected (\$)	1,323
Cases Closed	2

SOLID AND HAZARDOUS WASTE

FDEP Permits received	2
FDEP Permits reviewed	2
EPC Authorization for Fac.'s NOT requiring DEP permit	0
Other Permits and Reports	
County Permits received	3
County Permits reviewed	3
Reports received	48
Reports reviewed	32
Inspections (Total)	252
Complaints	22
Compliance/Reinspections	24
Facility Compliance	18
Small Quantity Generator	188
P2 Audits	2
Enforcement	
Complaints Received	23
Complaints Closed	13
Warning Notices Issued	1
Warning Notices Closed	7
Compliance letters	96
Letters of Agreement	1
Agency Referrals	0
Pamphlets, Rules and Material Distributed	321

WASTE MANAGEMENT'S OCTOBER 2008 AGENDA INFORMATION

ENFORCEMENT

New cases received	1
On-going administrative cases	112
Pending	2
Active	38
Legal	10
Tracking Compliance (Administrative)	48
Inactive/Referred Cases	14
NOI's issued	2
Citations issued	5
Consent Orders and Settlement Letters Signed	1
Civil Contributions to the Pollution Recovery Fund (\$)	1,410
Enforcement Costs collected (\$)	1,323
Cases Closed	2

SOLID AND HAZARDOUS WASTE

FDEP Permits received	2
FDEP Permits reviewed	2
EPC Authorization for Fac.'s NOT requiring DEP permit	0
Other Permits and Reports	
County Permits received	3
County Permits reviewed	3
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Reports reviewed	32
Inspections (Total)	252
Complaints	22
Compliance/Reinspections	24
Facility Compliance	18
Small Quantity Generator	188
P2 Audits	2
Enforcement	
Complaints Received	23
Complaints Closed	13
Warning Notices Issued	1
Warning Notices Closed	7
Compliance letters	96
Letters of Agreement	1
Agency Referrals	0
Pamphlets, Rules and Material Distributed	321

STORAGE TANK COMPLIANCE

Inspections	
Compliance	54
Installation	8
Closure	11
Compliance Re-Inspections	18
Installation Plans Received	10
Installation Plans Reviewed	12
Closure Plans & Reports	
Closure Plans Received	6
Closure Plans Reviewed	7
Closure Reports Received	7
Closure Reports Reviewed	9
Enforcement	
Non-compliance Letters Issued	43
Warning Notices Issued	4
Warning Notices Closed	4
Cases referred to Enforcement	1
Complaints Received	0
Complaints Investigated	0
Complaints Referred	0
Discharge Reporting Forms Received	5
Incident Notification Forms Received	15
Cleanup Notification Letters Issued	5

STORAGE TANK CLEANUP

Inspections	39
Reports Received	152
Reports Reviewed	135
Site Assessment received	11
Site Assessment reviewed	9
Source Removal received	6
Source Removal reviewed	5
Remedial Action Plans (RAP's) received	13
Remedial Action Plans (RAP's) reviewed	9
Site Rehab. Completion Order/No Further Action	6
Site Rehab. Completion Order/No Further Action	8
Active Remediation/Monitoring received	63
Active Remediation/Monitoring reviewed	61
Others received	53
Others reviewed	43

RECORD REVIEWS	25
LEGAL PIR's	6
PUBLIC INFORMATION PROJECTS	2

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

A. ENFORCEMENT

1. New Enforcement Cases Received:	2
2. Enforcement Cases Closed:	4
3. Enforcement Cases Outstanding:	50
4. Enforcement Documents Issued:	4
5. Recovered costs to the General Fund:	\$ 1,080.00
6. Contributions to the Pollution Recovery Fund:	\$ 1,975.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Chick-Fil-A Skipper Rd.	Placement of c/s in service w/out acceptance letter	\$ 500.00
b. 14th St. & Busch Industrial Park	Placement of c/s in service w/out acceptance letter	\$ 500.00
c. Crosstown Surveyors	Construction w/out permit	\$ 95.00
d. Bay Hills Village Condo	Expired Permit	\$ 380.00
e. Waters Market Place	Placement of c/s in service w/out acceptance letter	\$ 500.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	26
a. Facility Permit:	1
(i) Types I and II	0
(ii) Types III	1
b. Collection Systems-General	14
c. Collection Systems-Dry Line/Wet Line:	11
d. Residuals Disposal:	0
2. Permit Applications Approved:	22
a. Facility Permit:	2
b. Collection Systems-General:	12
c. Collection Systems-Dry Line/Wet Line:	8
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:	37
a. Facility Permit:	11
b. Collection Systems-General:	12
c. Collection Systems-Dry Line/Wet Line:	14
d. Residuals Disposal:	0
7. Permit Determination:	6
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
C. INSPECTIONS - DOMESTIC	
1. Compliance Evaluation:	9
a. Inspection (CEI):	2
b. Sampling Inspection (CSI):	7
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	55
a. Inspection (RI):	13
b. Sample Inspection (SRI):	1
c. Complaint Inspection (CRI):	40
d. Enforcement Inspection (ERI):	1
3. Engineering Inspections:	34
a. Reconnaissance Inspection (RI):	2
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	6
e. Post Construction Inspection (XCI):	26
f. On-site Engineering Evaluation:	0
g. Enforcement Reconnaissance Inspection (ERI):	0

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL	43
1. Permit Applications Received:	3
a. Facility Permit:	3
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	1
(iii) Type III w/o Groundwater Monitoring:	2
b. General Permit:	0
c. Preliminary Design Report:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0
2. Permits Recommended to DEP for Approval:	0
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	40
a. Phosphate:	3
b. Industrial Wastewater:	25
c. Others:	12
E. INSPECTIONS - INDUSTRIAL	40
1. Compliance Evaluation:	10
a. Inspection (CEI):	10
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	24
a. Inspection (RI):	7
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	17
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	6
a. Compliance Evaluation (CEI):	6
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints:	
a. Domestic:	35
(i) Received:	15
(ii) Closed:	20
b. Industrial:	16
(i) Received:	10
(ii) Closed:	6
2. Warning Notices:	
a. Domestic:	7
(i) Received:	4
(ii) Closed:	3
b. Industrial:	5
(i) Received:	1
(ii) Closed:	4
3. Non-Compliance Advisory Letters:	20
4. Environmental Compliance Reviews:	171
a. Industrial:	46
b. Domestic:	125
5. Special Project Reviews:	2

G. RECORD REVIEWS

1. Permitting:	6
2. Enforcement:	1

H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:

1. Air Division:	73
2. Waste Division:	0
3. Water Division:	22
4. Wetlands Division:	0
5. ERM Division:	281
6. Biomonitoring Reports:	6
7. Outside Agency:	37

I. SPECIAL PROJECT REVIEWS:

1. DRIs:	3
2. ARs:	1
3. Technical Support:	0
4. Other:	0

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

A. ENFORCEMENT

1. New Enforcement Cases Received:	7
2. Enforcement Cases Closed:	3
3. Enforcement Cases Outstanding:	52
4. Enforcement Documents Issued:	9
5. Recovered costs to the General Fund:	\$ 705.00
6. Contributions to the Pollution Recovery Fund:	\$ 5,115.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Crosstown Surveyors	Construction w/out a permit	\$ 115.00
b. Revello Med. Center	Construction w/out a permit Placement of C/S in service w/out acceptance letter	\$ 2,500.00
c. Resource Recycling	Construction w/out a permit	\$ 2,000.00
d. Temple Heights Elem.	Placement of C/S in service w/out acceptance letter	\$ 500.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	22
a. Facility Permit:	2
(i) Types I and II	0
(ii) Types III	2
b. Collection Systems-General	10
c. Collection Systems-Dry Line/Wet Line:	10
d. Residuals Disposal:	0
2. Permit Applications Approved:	24
a. Facility Permit:	5
b. Collection Systems-General:	10
c. Collection Systems-Dry Line/Wet Line:	9
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:	35
a. Facility Permit:	8
b. Collection Systems-General:	12
c. Collection Systems-Dry Line/Wet Line:	15
d. Residuals Disposal:	0
7. Permit Determination:	1
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
C. INSPECTIONS - DOMESTIC	
1. Compliance Evaluation:	16
a. Inspection (CEI):	5
b. Sampling Inspection (CSI):	11
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	46
a. Inspection (RI):	9
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	37
d. Enforcement Inspection (ERI):	0
3. Engineering Inspections:	36
a. Reconnaissance Inspection (RI):	0
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	5
e. Post Construction Inspection (XCI):	31
f. On-site Engineering Evaluation:	0
g. Enforcement Reconnaissance Inspection (ERI):	0

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL

1. Permit Applications Received:	2
a. Facility Permit:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	2
b. General Permit:	0
c. Preliminary Design Report:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0
2. Permits Recommended to DEP for Approval:	0
3. Special:	6
a. Facility Permits:	6
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	51
a. Phosphate:	5
b. Industrial Wastewater:	17
c. Others:	29

E. INSPECTIONS - INDUSTRIAL

1. Compliance Evaluation:	11
a. Inspection (CEI):	11
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	17
a. Inspection (RI):	7
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	10
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	0
a. Compliance Evaluation (CEI):	0
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:	31
(i) Received:	14
(ii) Closed:	17
b. Industrial:	16
(i) Received:	6
(ii) Closed:	10
2. Warning Notices:	26
a. Domestic:	22
(i) Received:	12
(ii) Closed:	10
b. Industrial:	4
(i) Received:	2
(ii) Closed:	2
3. Non-Compliance Advisory Letters:	13
4. Environmental Compliance Reviews:	190
a. Industrial:	64
b. Domestic:	126
5. Special Project Reviews:	0

G. RECORD REVIEWS

1. Permitting:	3
2. Enforcement:	0

H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:

1. Air Division:	0
2. Waste Division:	0
3. Water Division:	0
4. Wetlands Division:	0
5. ERM Division:	0
6. Biomonitoring Reports:	0
7. Outside Agency:	0

I. SPECIAL PROJECT REVIEWS:

1. DRIs:	3
2. ARs:	2
3. Technical Support:	3
4. Other:	0

**EPC Wetlands Management Division
Backup AGENDA
September, 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
September 2008	0	0	0	0	0
Year to Date	2	2	0.11	1	0.06

PGMD Reviews Performance Report

# of Reviews	Timeframes met	Year to Date
183	99%	99%

Formal Wetland Delineation Surveys

	Projects	Total Acres	Total Wetland Acres	# isolated wetlands < ½ acre	Isolated wetland acreage
September 2008	18	385	40	21	3.20
Since April 2008	95	1589	267	63	11.9

Construction Plans Approved

	Projects	Total Wetland Acres	# isolated wetlands < ½ acre	Isolated Wetland Acreage	Impacts Approved Acreage	Impacts Exempt Acreage
September 2008	30	56	9	4.57	7.63	2.49
Since April 2008	147	189	52	13.26	24.64	15.95

Mitigation Sites in Compliance

193/203	95%
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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>
3.10	5.20	5.20	15/18 (83%)

Compliance Actions

Acreage of Unauthorized Wetland Impacts	Acreage of Water Quality Impacts	Acreage Restored
6.4	0	6.5

General

Telephone Conferences	Scheduled Meetings	Unscheduled Citizen Assistance
616	227	52

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

A. General	Totals
1. Telephone Conferences	616
2. Unscheduled Citizen Assistance	52
3. Scheduled Meetings	227
4. Correspondence	338
B. Assessment Reviews	
1. Wetland Delineations	16
2. Surveys	29
3. Miscellaneous Activities in Wetland	36
4. Mangrove	4
5. Notice of Exemption	4
6. Impact/ Mitigation Proposal	13
7. Tampa Port Authority Permit Applications	15
8. Wastewater Treatment Plants (FDEP)	0
9. DRI Annual Report	4
10. Land Alteration/Landscaping	0
11. Land Excavation	1
12. Phosphate Mining	3
13. Rezoning Reviews	21
14. CPA	6
15. Site Development	45
16. Subdivision	26
17. Wetland Setback Encroachment	3
18. Easement/Access-Vacating	6
19. Pre-Applications	40
20. On-Site Visits	109
C. Investigation and Compliance	
1. Complaints Received	20
2. Warning Notices Issued	3
3. Warning Notices Closed	1
4. Complaint Inspections	48
5. Return Compliance Inspections	65
6. Mitigation Monitoring Reports	20
7. Mitigation Compliance Inspections	37
8. Erosion Control Inspections	31
9. MAIW Compliance Site Inspections	12
10. TPA Compliance Site Inspections	6
D. Enforcement	
1. Active Cases	26
2. Legal Cases	1
3. Number of "Notice of Intent to Initiate Enforcement"	2
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	2
6. Administrative - Civil Cases Closed	10
7. Cases Referred to Legal Department	1
8. Contributions to Pollution Recovery	\$4,172.00
9. Enforcement Costs Collected	\$5,451.00
E. Ombudsman	
1. Agriculture	5
2. Permitting Process	0
3. Rule Assistance	0
4. Staff Assistance	1
5. Miscellaneous/Other	1

WETLAND REPORT FOR REVIEW TIME 2008

Month	# Of Reviews	% On Time	% Late
December			
November			
October			
September	292	98%	2%
August	283	98%	2%
July	331	98%	2%
June	339	96%	4%
May	328	95%	5%
April	311	98%	2%
March	341	97%	3%
February	461	98%	2%
January	582	99%	1%

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 10/31/08**

	<u>As of 10/31/08</u>
Beginning Fund Balance, 10/01/08	\$ 908,910
Interest Accrued	
Deposits	64,329
Disbursements	(17,890)
Intrafund Budget Transfers to Project Fund	
Pollution Recovery Fund Balance	<u>\$ 955,349</u>
 Encumbrances:	
Pollution Prevention/Waste Reduction (101)	\$ 4,139
Artificial Reef Program	157,219
PRF Project Outreach	84,109
PRF Project Monitoring	33,490
Total Encumbrances	<u>\$ 278,957</u>
 Minimum Balance (Reserves)	 \$ 120,000
 Balance Available 10/31/08	 <u><u>\$ 556,392</u></u>

PROJECT FUND

	Project Amount	Project Balance
Open Projects		
FY 06 Projects		
COT Parks Dept/Cypress Point (97)	\$ 100,000	\$ 100,000
Bahia Beach Restoration (contract 04-03)	150,000	64,776
Tampa Shoreline Restoration	30,000	1,747
Field Measurement for Wave Energy	125,000	27,884
Port of Tampa Stormwater Improvement	45,000	45,000
	<u>\$ 450,000</u>	<u>\$ 256,987</u>
FY 07 Projects		
Agr Pesticide Collection & Education Day	\$ 24,000	\$ 2,075
Tank Removal	25,000	2,870
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	4,581
Seawall Removal Cotanchobee Ft Brooke Park	100,000	100,000
Analysis of Bacteria & Beach Closures	125,000	10
Knights Preserve	35,235	11,614
Oyster Reef Shore/Stab & Enhance	30,000	10,040
Nitrogen Emission/Deposition Ratios, Air Pollution	40,906	5,867
Erosion Control/Oyster Bar Habitat Creation	75,000	75,000
Remediation of Illegally Dumped Asbestos	4,486	4,486
	<u>\$ 1,041,662</u>	<u>\$ 715,926</u>
FY 08 Projects		
Australian Pine Removal E.G. Simmons Park	\$ 80,000	\$ 80,000
Restoration of MOSI	125,000	119,100
Invasive Plant Removal Egmont Key	133,000	12,415
Lake Magdalene Special Disposition District	66,954	66,954
Testing Reduction of TMDL in Surface Water Flow	19,694	13,665
Assessing Bacteria Lake Carroll	101,962	101,962
Tampa Bay Nitrogen Consortium	5,000	200
	<u>\$ 531,610</u>	<u>\$ 401,065</u>
	32	

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
AS OF 10/31/08**

Fund Balance as of 10/1/08	\$ 241,187		
Interest Accrued	-		
Disbursements FY 09	-		
Fund Balance	<u>\$ 241,187</u>		
Encumbrances Against Fund Balance:		Start Date	Expiration Date
SP627 Tampa Bay Scallop Restoration	\$ 115	8/29/03	12/31/07
SP636 Fantasy Island	8	1/20/05	12/31/07
SP634 Cockroach Bay ELAPP Restoration	241,064	3/10/05	1/31/08
Total Encumbrances	<u>\$ 241,187</u>		
Fund Balance Available 10/31/08	<u><u>\$ -</u></u>		

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

JULY - SEPTEMBER 2008 QUARTERLY SURVEY CARD RESULTS

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

Division		Prompt Service	Professional Courteous	Concerns Addressed	Easy to find Person	EPC Rules Easy	EPC Website Friendly	Overall Satisf
ERM	2 SURVEY CARDS - TOTAL POINTS	No points given						
	AVERAGE							
	Comments:	- Where is the contact information. I can't even easily locate your phone number on your website let along identify who works in what department. <i>E. DeLeeuw contacted 8/29/08 to modify the main page for more obvious contact information.</i> - Citizen was not able to print out the agenda. Also asked when the 9/18/08 minutes will be posted. <i>E. DeLeeuw contacted on 10/8/08 to contact Mr. Feldschau and begin posting the Clerk's minutes of the EPC meetings.</i>						
Waste Division	20 SURVEY CARDS - TOTAL POINTS	100.0	100.0	89.0	89.0	51.0	57.0	94.0
	AVERAGE	5.0	5.0	4.9	4.9	4.6	4.8	4.9
	Comments:	- Desiree is great! Very helpful - MaryJo & receptionist great service - MaryJo was very helpful! - Excellent service - Jerry Javier provided excellent assistance - Greg C. and Desiree very helpful - Very helpful - Excellent help						
Water Division	2 SURVEY CARDS - TOTAL POINTS	10.0	10.0	10.0	10.0	10.0	10.0	10.0
	AVERAGE	5.0	5.0	5.0	5.0	5.0	5.0	5.0
	Comments:	- It was very well co-ordinated.						
	24 CARDS TOTAL EPC AVERAGE	5.0	5.0	5.0	5.0	4.8	4.9	5.0



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: Legal Case Summary for October and November 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: **October and November 2008 EPC Legal Case Summary**

**EPC LEGAL DEPARTMENT MONTHLY REPORT
October and November 2008**

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [3]

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

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

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

RECENTLY RESOLVED ADMINISTRATIVE CASES [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 parties subsequently entered into a settlement in the form of a consent order and Respondent agreed to perform the necessary corrective actions. The case has been closed. (AZ)

B. CIVIL CASES

NEW CIVIL CASES [1]

Adam Chowdhury [LEPC08-]: Authority to take appropriate legal action against Adam Chowdhury for failure to comply with the terms of a Settlement Letter which the Respondent entered into to resolve a violation of EPC Waste Management Rule Chapter 1-7 was granted on September 18, 2008. The Respondent failed to make the agreed upon payment of \$1,550.00 in penalties and \$1,019.76 in costs to the EPC. The EPC is attempting to recover the money. (AZ)

EXISTING CIVIL CASES [16]

Grace E. Poole and Michael Rissell [LEPC08-015]: Authority to take appropriate legal action against Grace E. Poole and Michael Rissell for failure to properly assess petroleum contamination in accordance with EPC and State regulations was granted on June 19, 2008. The property owner and/or other responsible party are required to initiate a site assessment and submit a Site Assessment Report. They have failed to do the required work and the EPC is attempting to obtain appropriate corrective actions. (AZ)

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

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

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. (RM)

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

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

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

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

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

Petrol Mart, Inc. [LEPC07-018]: Authority to take appropriate action against Petrol Mart, Inc. to seek corrective action, appropriate penalties and recover administrative costs for improperly abandoned underground storage tanks and failure to address petroleum contamination was granted on June 21, 2007. The owner of the property is insolvent and the corporation inactive; however, the Waste Management Division intends on obtaining a judgment and lien on the property for the appropriate corrective actions. The Legal Department filed a civil lawsuit on September 26, 2007. The defendant was served with the

served with the lawsuit on October 12, 2007. The Court entered a default on November 9, 2007 for the Defendant's failure to respond. The EPC Legal Department set this matter for trial on March 26, 2008. The Court ruled in favor of EPC and entered a Default Judgment against the Defendant awarding all corrective actions, penalties of \$116,000 and costs of \$1,780. In the event the corrective actions are not completed the court also authorized the EPC to contract to have the site cleaned and to add those costs to the lien on the property. (AZ)

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

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

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

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

Mary Elizabeth Lewis and Jerry Arien Lewis [LEPC08-014]: EPC, a creditor in this Chapter 13 Bankruptcy action, received an Order from the Court dated May 22, 2008, providing the procedures of adequate protection payments to secured creditors. In response, to the order, EPC filed a Proof of Claim on June 6, 2008. A creditor's hearing was scheduled for June 13, 2008 and a second one on July 8, 2008. An Order Dismissing the Chapter 13 Bankruptcy case was issued by the Court on 10/03/08. This case is closed. (AZ)

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

RECENTLY RESOLVED CIVIL CASES [2]

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. On June 19, 2008, the EPC Legal Department filed a civil lawsuit in small claims court seeking a judgment to recover the money. The Court set a pretrial conference/mediation for July 22, 2008. The parties settled the matter based on a reduced payment plan. Upon final payment being made in September the EPC Legal Department filed a voluntary dismissal. (AZ)

Pedro Olivera [LEPC08-021]: Authority to take appropriate legal action against Pedro Olivera for unauthorized wetland and mangrove impacts was granted on July 17, 2008 at the EPC Board meeting. Mr. Olivera conducted several unauthorized wetland activities on his property and several of the violations remain unresolved. The parties have entered into a consent order which provides for corrective actions as well as payment of appropriate penalties and recovery of staff costs. The case has been closed. (AZ)

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)

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

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

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

Hess Corporation [LEPC08-017]: On July 9, 2008 the Appellant filed a request for an extension of time to file a Petition for Administrative Hearing to challenge an Air Division draft Title V Revision permit issued on June 26, 2008. The Legal Dept. granted the request and the Appellant has until August 19, 2008 to file a petition in this matter. Hess did not timely file a petition, but the parties are discussing the draft permit language. This legal case is closed. (RM)

Hess Corporation [LEPC08-018]: On July 9, 2008 the Appellant filed a request for an extension of time to file a Notice of Appeal to challenge an Air Division draft construction permit issued on June 26, 2008. The Legal Dept. granted the request and the Appellant has until August 19, 2008 to file a petition in this matter. Hess did not timely file a petition, but the parties are discussing the draft permit language. This legal case is closed. (RM)

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

P. Daniel Alberdi [LEPC08-022]: On August 7, 2008 The Appellant filed a request for a decision of the Executive Director and a request for an extension of time to challenge the final agency action regarding the re-delineation of wetlands on property controlled by Richard Sapp. The Legal Dept. issued an Order Denying Request for Extension of Time and Order Dismissing Appeal with Leave to Amend. The Appellant has until Sept. 3, 2008 to file an amended appeal. The EPC received an amended appeal and request for extension of time which is being reviewed by the Legal Department. On October 7, 2008, the EPC Legal Department entered an order dismissing the appeal without prejudice based on the Appellant not having legal standing to file an administrative appeal. The Appellant was provided 20 days to file an amended appeal to show standing. No appeal was timely filed and the case has been closed. (AZ)

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



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: Request for authority to take appropriate legal action against Fuego Churrascaria Steakhouse Corp. a/k/a Fuego Churrascaria Steakhouse

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

Division: Air Management Division

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

Brief Summary: Fuego Churrascaria Steakhouse Corp. (Fuego), owns and operates the Fuego Churrascaria Steakhouse located at 1721 West Brandon Boulevard in Hillsborough County. Fuego Churrascaria Steakhouse's regulated activities include playing amplified music, including live bands, recorded music and karaoke, both indoors and on an outdoor patio. EPC staff has received numerous noise complaints and recorded several violations of its Noise Rule, Chapter 1-10, Rules of the EPC. Due to Fuego's unresponsiveness and noncompliance with the regulations, EPC staff requests authorization to take appropriate legal action and for settlement authority.

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

Background: Respondent, Fuego Churrascaria Steakhouse Corp., owns and operates the Fuego Churrascaria Steakhouse located at 1721 West Brandon Boulevard in Brandon, just west of the intersection Hwy 60 and Lakewood Drive. Fuego Churrascaria Steakhouse is a restaurant, but there regulated activities include playing amplified music, including live bands, recorded music and karaoke, both indoors and on an outdoor patio. On July 14, 2007, in response to noise complaints from nearby residents, EPC staff monitored sound levels from Fuego Churrascaria Steakhouse after 10:00 p.m. and recorded violations of the noise standard on the individual octave bands whose center are 63 and 125 hertz. Moreover, 95% of the readings at 63 hertz attributable to music from Fuego Churrascaria Steakhouse were above the noise standard. On August 23, 2007, staff issued Fuego a *Warning Notice* via certified mail for the noise violations. EPC staff monitored the sound levels from Fuego Churrascaria Steakhouse after

10:00 p.m. again on October 7, 2007. Staff recorded noise violations on the A-scale and the individual octave bands whose center are 63 and 125 hertz, with 75% of the readings at the 63 hertz band exceeding the sound level limit. On November 21, 2007, staff issued Fuego, by certified mail, a *Notice of Intent to Initiate Enforcement* with an attached *Consent Order* in an attempt to obtain compliance and settle the case without litigation. During the course of the enforcement case, EPC staff has made numerous attempts to communicate with Fuego by phone, fax and email, however staff has been unsuccessful in obtaining any written response to the documents listed above. EPC staff continued to receive noise complaints regarding activities at Fuego Churrascaria Steakhouse and on March 18, 2008, staff hand delivered Fuego a *Citation To Cease And Order To Correct Violation*. Again, Fuego failed to respond. On August 4, 2008, EPC legal staff issued Fuego a certified letter regarding the citation becoming final and enforceable, and offered Fuego Churrascaria Steakhouse Corp. a final opportunity to settle the case via a consent order by August 14, 2008. Yet, no response was received. From June 13, 2007 through August 25, 2008, EPC staff logged 18 complaints regarding noise from Fuego Churrascaria Steakhouse. In response to on-going complaints, on September 14, 2008, EPC staff monitored the sound levels from Fuego Churrascaria Steakhouse after 10:00 p.m. and recorded noise violations on the A-scale and the individual octave bands whose center are 63 and 125 hertz, with 94% of the 63 hertz band readings exceeding the sound level limit established in Chapter 1-10, Noise, Rules of the EPC. To date EPC staff has not received any correspondence from Fuego to address compliance and resolve the enforcement case; therefore, EPC staff requests authority to file a civil suit and also authorization for the Executive Director to enter into any appropriate settlement.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: Request for authority to take appropriate legal action against SJ Realty Group LLC, SRJ Enterprises, LLC and Surinder Joshi.

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

Division: Waste Management Division

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

Brief Summary: A property located at 6503 North U.S. Highway 301, folio number 040338.0000 in Hillsborough County and owned by SJ Realty Group LLC and SRJ Enterprises, LLC is currently out of compliance with several EPC rules, including the Waste Management Rule Chapter 1-7, Storage Tank Rule Chapter 1-12, and Water Quality Rule Chapter 1-5. The violations include unpermitted industrial wastewater discharges, underground storage tanks violations, unresolved petroleum contamination, and finally other solid and hazardous waste violations.

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

Background: The property located at 6503 North U.S. Highway 301, folio number 040338.0000 in Hillsborough County and owned by SJ Realty Group LLC and SRJ Enterprises, LLC and operated by Surinder Joshi is out of compliance with numerous EPC regulations. The property is a commercial vehicular retail fuel facility with an associated truck wash and auto repair facility. On August 24, 1994 and September 23, 2005, petroleum discharges occurred at the facility and on the property. This petroleum contamination remains unresolved. In addition, there is an accumulation of solid waste and potentially hazardous waste throughout the property. The truck wash also has been discharging industrial waste waters without a permit under the EPC's delegated wastewater program. The underground fuel storage tanks located on the property are not being operated and maintained in accordance with state and EPC storage tank rules. The violations remain unresolved despite numerous enforcement actions. These enforcement actions include citations being issued in May of 2007 which have not been appealed.

No positive response was received and the violations remain unresolved.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: Mercury Monitoring Subcontract Agreement

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

Division: Air Management Division

Recommendation: Informational report

Brief Summary: The Executive Director entered into a two year contract for EPC to receive \$86,400.00 to run a continuous air monitoring site for the pollutant mercury. The EPC Air Management Division is involved in the operation of one supersite of a network of supersites in support of statewide Total Maximum Daily Loads for Mercury (Mercury TMDL) and Nitrogen (Nitrogen TMDL). To fund the operation of this site, EPC staff has entered into a contract with Atmospheric Research & Analysis, Inc. (ARA) for \$86,400.00 for a two year period. ARA is supplying the equipment and the site in Hillsborough County. EPC will be responsible for running the equipment.

Financial Impact: There is no impact on local ad valorem funds. This will increase the Environmental Protection Commission's grant operating budget and revenues by \$86,400.00

Background: The University of Michigan entered into a contract with the Florida Department of Environmental Protection (FDEP) to perform a statewide total maximum daily load study for mercury, and Atmospheric Research & Analysis, Inc. (ARA) entered into a subcontract with the University of Michigan to build and operate a network of air quality sites to support the TMDL study. ARA contracted with EPC to furnish personnel services to operate, document, ship, maintain and repair the equipment provided by ARA. EPC will use temporary personnel to operate the site. All materials, supplies, replacement parts, shipping costs and expendables to support the site will be provided by ARA. Site operations are expected to commence on November 1, 2008 and continue through December 31, 2010. This item appeared on the BOCC agenda on November 6, 2008. (Item# A-90)

List of Attachments: Subcontract Agreement.

SUBCONTRACT AGREEMENT

Florida Hg TMDL Study

THIS AGREEMENT is made and entered into by and between **Atmospheric Research & Analysis, Inc.**, a North Carolina corporation ("ARA") and **Environmental Protection Commission of Hillsborough County**, ("SUBCONTRACTOR") for consideration of the mutual promises and covenants contained herein.

WITNESSETH

WHEREAS, the University of Michigan (UM) has entered into a contract with the Florida Department of Environmental Protection (FDEP) to perform a statewide total daily maximum load (TMDL) study for mercury, and ARA has entered into a subcontract with UM to build and operate a network of air quality sites in support of the TMDL study;

WHEREAS, ARA desires for Subcontractor to perform and provide ARA with certain services related to air quality monitoring for the TMDL study;

WHEREAS, SUBCONTRACTOR has expertise in air quality monitoring and is willing to perform and provide ARA with such services;

NOW, THEREFORE, in consideration of the representations and agreements contained herein, the parties hereby covenant and agree as follows:

ARTICLE I - SCOPE OF WORK AND SCHEDULE

The SUBCONTRACTOR shall furnish personnel services to operate, document, ship, maintain and repair the equipment listed below. Site operations are expected to commence on November 1, 2008, depending upon weather, shipping schedules and other factors.

- Tekran Hg analyzer (2537A, 1130, 1135)
- URG AIM Ambient Particle analyzer
- Thermo SHARP Particle Mass analyzer
- Trace Gas analyzers (ozone, NO, NOy, CO, SO2)
- Sunset Carbon analyzer
- Meteorological sensors (T, RH, WS, WD, BP, SR, precipitation, surface wetness)
- R&P sequential Dichot
- URG Annular Denuder System
- UM ASPS Precipitation sampler
- Data acquisition system, pumps and support equipment for the above

ARA will provide all materials, supplies, replacement parts, shipping costs and expendables to support the above equipment for the duration of this subcontract.

SUBCONTRACTOR also agrees to attend a 1-week training session, at a mutually agreeable time, in Plano, TX. ARA will reimburse SUBCONTRACTOR for travel costs as outlined in Article VI.

ARTICLE II - PERIOD OF PERFORMANCE

The period of performance shall commence on November 1, 2008, and continue through December 31, 2010, or another date mutually agreed upon in writing.

ARTICLE III - COSTS

The estimated cost of this Contract is \$86,400.

ARTICLE IV - LIMITATION OF FUNDS

Incremental funding in the amount of \$43,200.00 has been authorized for expenditure by the SUBCONTRACTOR, subject to the Terms and Conditions of this Agreement. This amount is estimated to cover the SUBCONTRACTOR's performance through November 30, 2009. The remaining \$43,200.00 will be authorized for expenditure by the Subcontractor, subject to the terms and conditions of this Agreement, to cover the Subcontractor's performance through December 31, 2010. That will bring the total eligible reimbursement available to the Subcontractor to \$86,400.00 for work through December 31, 2010.

ARTICLE V - INVOICING AND PAYMENT

SUBCONTRACTOR shall submit invoices on a quarterly basis to the following address:

**ARA, Inc.
410 Midenhall Way
Cary, NC 27513
Attn: Eric Edgerton
Tel: 919.522.8565**

Invoices will be submitted in triplicate and will show sufficient detail to include hours worked, billing rates and all other direct costs incurred during the previous month as well as a summary total of costs incurred to date.

ARA shall remit payments to the following address within thirty (30) days after receipt of completed invoices from the SUBCONTRACTOR:

**Environmental Protection Commission
Air Management Division
3629 Queen Palm Drive
Tampa, Florida 33619**

ARTICLE VI - TRAVEL REIMBURSEMENT

SUBCONTRACTOR agrees to abide by FDEP travel requirements and reimbursement rates for all travel in performance of this subcontract.

ARTICLE VII - KEY PERSONNEL

SUBCONTRACTOR shall assign to this project the necessary personnel to accomplish project objectives. These personnel will not be reassigned from this project, unless necessitated by illness, death or termination of employment.

ARTICLE VIII - SUBCONTRACTORS

The SUBCONTRACTOR shall not enter into any subcontract arrangement for the purpose of performing this project without the written consent of ARA.

ARTICLE IX - SUBCONTRACTOR

The SUBCONTRACTOR will act solely as an independent SUBCONTRACTOR in performing services, and nothing herein will at any time be construed to create the relationship of employer and employee, partnership, or joint venture between ARA and the SUBCONTRACTOR, or ARA's and the SUBCONTRACTOR's officers, directors, employees or agents. SUBCONTRACTOR and its employees will have no right or authority to act for ARA, and will not attempt to enter into any contract, commitment, or agreement, or incur any debt or liability, of any nature, in the name of or behalf of ARA.

ARTICLE X - CONFIDENTIALITY AND PUBLICITY

The SUBCONTRACTOR will not knowingly disclose to others any confidential information furnished by ARA in connection with this project. Any information which ARA intends to be covered by this Article shall be clearly marked "Confidential". ARA will give a justification to SUBCONTRACTOR as to why the document is "confidential" and EPC shall be given an opportunity to respond to the justification(s). These restrictions shall not apply to information that (i) the SUBCONTRACTOR had in its possession prior to disclosure by ARA; (ii) becomes public knowledge through no fault of the SUBCONTRACTOR, (iii) the SUBCONTRACTOR lawfully acquires from a party not under an obligation of confidentiality to ARA; (iv) is independently developed by the SUBCONTRACTOR; or (v) the SUBCONTRACTOR is required to disclose by law, or administrative order.

The SUBCONTRACTOR and its personnel will not publish, publicize, or disclose information obtained from this project without the prior consent of ARA, unless required by Florida's public records laws including but not limited to Chapter 119, Florida Statutes.

Neither ARA nor SUBCONTRACTOR will use the name of the other, or the names of UM and FDEP, either expressly or by implication in any news release, publicity release, or other promotional fashion without the express written approval of the other.

ARTICLE XI - INSURANCE

The SUBCONTRACTOR, at its own expense, will provide and maintain insurance as follows:

- (a) Worker's compensation, occupational disease, employer's liability, disability benefit, and other similar employee benefits insurance required under the applicable state law.
- (b) SUBCONTRACTOR's commercial general liability insurance including SUBCONTRACTOR's protective and contractual liability with a single combined limit of \$1,000,000 per occurrence and \$1,000,000 aggregate for bodily injury, including death, and property damage.

The SUBCONTRACTOR will, upon written request, furnish ARA a certificate of insurance evidencing the coverage and providing thirty days prior written notice in the event of cancellation or material change in coverage.

ARTICLE XII - INDEMNIFICATION

The SUBCONTRACTOR shall indemnify, defend, and hold harmless ARA, its officers, directors, agents, or employees against claims, demands, and causes of action including expenses of defense for personal injury, disease or death and loss or damage of property arising from or during the performance of Services and caused by the negligence or willful misconduct of SUBCONTRACTOR.

ARA shall indemnify, hold harmless and defend the SUBCONTRACTOR, its officers, directors, agents, and employees from all claims, demands and causes of action including expenses of defense for personal injury, disease or death and loss or damage of property arising out of or in any manner connected with or related to the performance of Services and caused by the negligence or willful misconduct of the ARA.

Neither party nor their affiliated companies, nor the officers, agents and employees or subcontractors of any of the foregoing, shall be liable to the other in any action or claim for consequential or special damages, loss of profits, loss of opportunity, loss of product, or loss of use, and any protection against liability for losses or damages afforded any individual or entity by these terms shall apply whether the action in which recovery of damages is sought is based on contract, tort (including sole, concurrent or other negligence and strict liability of any protected individual or entity), statute or otherwise. To the extent permitted by law, any statutory remedies which are inconsistent with these terms are waived.

ARTICLE XIII - FORCE MAJEURE

No liability will attach to either party from delay in performance or nonperformance caused by circumstances beyond the control of the party affected, including but not limited to acts of God, fire, flood, explosion, war, action or request of governmental authority, injunction, labor relations, accidents, delays or inability to obtain materials, equipment, fuel or transportation.

ARTICLE XIV - TERMINATION

This Agreement may be terminated in whole or in part in writing by either party in the event of default by the other party in fulfilling its material obligations under this Agreement, provided that no termination may be effected unless the other party is given not less than thirty (30) calendar days written notice, delivered by certified mail, or intent to terminate, and thirty (30) days from the date of receipt of notice within which to cure the default.

In the event of termination, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the SUBCONTRACTOR at the time of termination may be adjusted to cover any additional costs to the ARA because of the SUBCONTRACTOR's default.

Upon termination, the SUBCONTRACTOR shall promptly discontinue all affected work (unless the notice directs otherwise), and shall deliver or otherwise make available to the ARA all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the SUBCONTRACTOR in performing the Agreement, whether completed or in progress. Nothing in this entire contract shall be read to require EPC to act contrary to or violate Florida laws, including but not limited to Florida's public records laws.

ARTICLE XV - ACCESS TO RECORDS

The SUBCONTRACTOR shall maintain books, records, documents, and other evidence directly pertinent to work performed under this Agreement in accordance with generally accepted accounting principles and practices consistently applied, for a period of at least 3 years after termination of this subcontract. ARA, or any of their authorized representatives, shall have access to all such books, records, documents, and other evidence for the purpose of inspection, audit, and copying during normal business hours. The SUBCONTRACTOR shall provide proper facilities for such access and inspection.

ARTICLE XVI - RESPONSIBILITY OF THE SUBCONTRACTOR

The SUBCONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all services furnished by the SUBCONTRACTOR under this Agreement, as well as for the services of its subcontractors, if any.

The SUBCONTRACTOR shall perform such services as may be necessary to accomplish the work required to be performed under this Agreement, in accordance with all the terms of this Agreement. It is understood that performance of this Agreement may require coordination and/or cooperation with other subcontractors. This coordination and/or cooperation shall be performed without obstruction.

The SUBCONTRACTOR shall not be liable for the performance of other subcontractors which have contracted directly with ARA, provided that prompt notice is given to ARA of any problems which may arise.

ARTICLE XVII - ASSIGNMENT

Neither this Agreement nor any interests therein, or claimed thereunder, shall be assigned or transferred by the SUBCONTRACTOR to any other entity, except as specifically authorized in writing by the ARA.

ARTICLE XVIII - AMENDMENTS

This Agreement and any attachments hereto constitute the entire Agreement between the parties. No amendment to this Agreement shall take effect until approved in writing by ARA and the SUBCONTRACTOR.

ARTICLE XIX - ADDITIONAL TERMS AND CONDITIONS

Any equipment or property purchased (or charged to this agreement) by the SUBCONTRACTOR pursuant to this agreement shall be the property of ARA. All such equipment and property, except for necessary expendable items, shall be returned promptly (but no later than the end date of this agreement) to ARA.

This subcontract is issued under a State of Florida Department of Environmental Protection Contract and is subject to the terms and conditions of the agreement between the DEP and the University of Michigan dated February 4, 2008 (Attachment A).

ARTICLE XX - DISPUTES

Any disputes arising from this Agreement shall be settled in and subject to the laws of the State of Florida.

IN WITNESS WHEREOF, the parties have executed this Subcontract as of the day and year shown below.

For Environmental Protection Commission of Hillsborough County:

Name:

Title:

Date:

[Handwritten Signature]

*Acting Executive Director
EPC*

10/21/08

For Atmospheric Research & Analysis, Inc.:

Name:

Title:

Date:

[Handwritten Signature]

President

October 21, 2008



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: EPC Permitting Guide

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

Division: Legal Department

Recommendation: Informational Report

Brief Summary: The EPC recently updated its EPC Permitting Guide and posted it on the EPC website. The document is intended to assist the regulated community and the public in understanding which permits the EPC issues and where the form and/or rules can be located for the permit application or registration.

Financial Impact: No Financial Impact.

Background: In January of 1996, the EPC developed an EPC Permitting Guide and made it available to the public in a hard copy/booklet format. Staff recently updated the document and posted it on the EPC website. An electronic copy was also sent to each Commissioner.

The document is intended to assist the regulated community and the public in understanding which permits, certifications, registration, and/or notices the EPC issues or requires and where most of the forms and/or rules can be located for the regulated activities. The EPC staff has added many helpful links to the guide for persons to view on-line, but upon request we can print the document for interested parties also.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: Report to Commissioners

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

Division: Legal Department

Recommendation: Informational Report

Brief Summary: At the July 17th EPC meeting, staff presented the final Hybrid Plan rule amendments for adoption. At the September 18th EPC meeting, staff submitted the Final Hybrid Quarterly Report for approval. During Board discussion it was requested that staff report back to the Commission regarding certain remaining issues by October. The attached report was submitted to the Commissioners on October 10, 2008. It is submitted here for acceptance by the Commission.

Financial Impact: No Financial Impact

List of Attachments: Commissioner Report dated October 10, 2008

Memorandum

Date: October 10, 2008
From: Richard Garrity
To: Commissioners
Subject: Response to Commissioner Comments regarding EPC meetings of July 17, 2008 and September 18, 2008

At the July 17th EPC meeting, staff presented the final Hybrid Plan rule amendments for adoption. During Board discussion it was requested that staff report back to the Commission regarding certain remaining issues by October. On August 28th, I sent the final EPC Wetland Hybrid Implementation Quarterly Report to each Commissioner. At the September 18th EPC meeting, that Report was accepted by the Board. However, there was again at that time further Board discussion of certain issues in which the Board requested follow-up information. Many of the issues raised have already been addressed as part of our IPA Action Plan which was provided to the Board in August and again in September as part of the Consent Agenda. EPC inadvertently did not forward this report to the IPA but has done so now with additional clarifications, including target dates requested by the IPA. The Auditor's office is now satisfied with the progress made toward establishing firm target dates for action items and methods for tracking and reporting progress and will work with EPC going forward to ensure the items outlined in the IPA Action Plan are resolved. With all this in mind, I will review the issues.

- **Internal Performance Audit**

Several of the issues raised at the July 17th and September 18th EPC meetings are related to the Internal Auditor's Report and the subsequent Action Plan created by staff. After some additional discussion recently with the auditors, the action plan has been augmented with a revised tracking system to provide an easy to track summary of all the action steps identified in the plan. The issues raised at the EPC board meetings that are addressed by the action plan and the newly revised tracking system are:

- ❖ Peer reviews, Training, and Quality Control
- ❖ Electronic automation through OPTIX and electronic applications

- ❖ Measuring performance through wetland evaluation data
- ❖ Technical Advisory Group review and reports

The specific responses to each of these subjects are addressed below. Additionally, a copy of the revised tracking sheets that were developed with the assistance of the auditors is attached (Attachment 1). This tracking system is proposed to be the method of communicating to the Board, the Auditor and the public on the status of implementation of the various actions steps in the Auditor's Report.

❖ **Peer reviews, Training and Quality Control**

In our efforts to deal with the Audit's questions on Peer review, we divided the issue into internal and external reviews. The internal review is considered to be in part our quality assurance and quality control program. We identify how our staff is trained and cross-trained, the method of supervisory review of work products, retention of documentation, standard operating procedures and the proper application of policies, etc. The external peer review is considered to take place in the interaction and performance reporting requirements the EPC has with the State Agencies such as the Southwest Florida Water Management District and the Department of Environmental Protection as well as the actions planned as a result of the recommendations in the Technical Advisory Group white papers. Numerous action steps are listed in the attached tracking sheets that provide the details and schedule for implementation of these activities. Annual workshops will be held with invitations to TAG members and other stakeholders to solicit input and give feedback to Wetlands staff.

❖ **Electronic automation through OPTIX and electronic applications**

Electronic automation through OPTIX is a joint effort with the PGMD staff. This implementation is being approached in several phases as PGMD testing of the new process progresses. EPC staff will conduct evaluations at the end of each testing phase to determine the effectiveness and efficiency of using OPTIX. A full breakdown on the tasks, target dates and implementation dates are listed on the attached tracking system.

Implementation of electronic applications for nuisance vegetation removal and exempt wetland impacts began in September 2007. This system allows applicants to upload supporting documentation, including drawings and site plans. EPC has received positive feedback from applicants. These applications were demonstrated to the Board at the October 18, 2007, meeting. Electronic applications are however currently limited to projects that do not require a fee. We are continuing to work with internal budget staff and external vendors such as the credit card processing center and banking institution to develop a process for collecting fees.

❖ **Measuring Performance through wetland evaluation data**

During the development of the Hybrid, and as a result of questions by Commissioners relating to measuring the performance of the wetlands protection program, the EPC staff developed a reporting procedure that for the first time monitors specific acreages of “wetlands delineated”, “proposed for development”, “allowed to be developed”, “agricultural activities”, etc. This database now provides clear records for the small, less than one-half acre, wetlands that are protected by local government but not the state. Additionally, the database provides information on compliance records and enforcement actions that measure wetland acreage impacts. These data are now reported to the Board in a summary fashion on a monthly basis. A recent report is attached (Attachment 2).

❖ **Technical Advisory Group – Reviews and Reports**

The Technical Advisory Group has completed its work and is not considered to be an ongoing process. The members have all been issued a letter thanking them for their time and service. The working group was assembled and met 30+ times over a 9 month period and produced a list of recommendations that were prioritized and consolidated into an EPC TAG Action Plan. This action plan that resulted is being implemented along with the IPA Action Plan and some of the recommendations in these reports are overlapping in their scope. Both of these plans have previously been submitted to Commissioners in August and September. Members of the TAG, along with other stakeholders and the general public, will be invited to participate in annual workshops. The workshops will be open to discussion regarding the wetland review process, recommendations on the Applicant’s Handbook and to provide general feedback and recommendations to staff.

• **How has EPC interfaced with the Planning Commission regarding the wetland hybrid program?**

In July of 2007, during the debate of the EPC wetland rule, EPC staff spoke with the Planning Commission staff concerning the potential effect of the repeal of the EPC Wetland Rule on the Hillsborough County Comprehensive Plan. The Hillsborough County Comprehensive Plan and EPC wetland regulatory authority are interrelated since certain goals of the Comprehensive Plan are partially implemented through EPC’s Wetland Rule. As one example, the Comprehensive Plan’s designation of certain areas as conservation or preservation areas is satisfied through EPC adoption of the Wetland Rule.

Once the Hybrid Plan was passed and the resultant wetland rule amendments were being studied, EPC staff again spoke with the Planning Commission staff in 2008 to discuss some of the proposed Technical Advisory Group suggestions and their effect upon the Comprehensive Plan. Several discussions were held regarding the reasoning and policy considerations of the Planning Commission in designating a future land use for a particular area and whether that designation took into consideration the

environmental factors of the designated area. The issue was that some TAG members wanted EPC to include future land use as one of the criteria of determination of reasonable use. Planning Commission staff advised EPC that wetland issues were not necessarily taken into consideration in future land use designation and therefore it was inappropriate to use it as a factor in determining reasonable use.

After the Hybrid wetland rule amendments were implemented by the Commission in July 2008, staff met with the Executive Director of the Planning Commission and a key staff member to discuss coordination of the Planning Commission and the EPC in implementing environmental protections for the County. From the discussions, it is clear that the Planning Commission is supportive of the wetland program and the rule amendments and is willing to work closely with the EPC to improve coordination.

Mr. Hunter has been invited to an EPC meeting to discuss how the two agencies are working together to avoid breakdowns or delays or to suggest improvements to the process. He was able to confirm availability for the December 18th EPC meeting and that will be scheduled.

- **Wishau enforcement case**

At the July 17th EPC meeting, Ms. Kelly Wishau of 3604 Cork Road in Plant City and a representative spoke under Public Comment regarding EPC staff actions in response to activities she was conducting in wetlands on her property. An Administrative Citation is pending in that matter and staff briefly responded. Several members of the Commission however requested a follow-up with further factual information regarding the activity on the property and staff's handling of the matter. In order to comply with the Commission's request, on August 28th I sent the Commission a detailed synopsis of the case current through that date. I have attached that correspondence (Attachment 3) to this memorandum.

Additionally, I personally met with Ms. Wishau and her representatives on August 14th, to attempt to lay a course to resolve the issues. We left that meeting with an agreement to have our staff meet Ms. Wishau on the property to determine her plan for the wetland portions. Since that date, due to several circumstances, Ms. Wishau has been unable to arrange a time for EPC staff to meet her on the property. I sent Ms. Wishau a reminder, and as a result, staff has a date to visit the site in a few weeks.

- **Hobbs Road enforcement case**

At the September 18, 2008 EPC meeting, some questions arose regarding staff's handling of the Hobbs Road mulch application site. Interim Waste Management Division Director Mr. Paul Schipfer addressed the Commission and provided a factual status update on the site and spoke to staff's handling of the matter. Since the meeting, EPC staff has entered into a Consent Order that resolves the issue by requiring the mulch be brought to a level consistent with the IFAS approval letters and to be maintained in compliance with FDEP and EPC regulations. On September 25th I sent correspondence to the Commission indicating that this matter has been resolved along with a fact sheet that I feel succinctly clarifies the factual issues of the case. I have attached that correspondence (Attachment 4) to this memorandum.

As always, please feel free to contact me should you have any further questions regarding these or other issues of concern.

Action Plan - Implementation of IPA Recommendations

PART I OPPORTUNITIES FOR STREAMLINING IDENTIFIED BY WORKGROUP

Item	Description	Status	Target Date	Date Completed	Prerequisites / Dependencies	Comments
Automation of processes						
A.	Electronic verification of fees collected by PGMD	Complete	N/A	Mar, 2008	Obtain login to Permits Plus via County portal system	more efficient verification of payment for EPC review fees collected by PGMD
B.	Coordination with PGM re: PGM STORE (Optix)					EPC and PGM staff met March 2008 to discuss goals and procedures
1	Evaluate efficiencies gained by electronic review					
a	Meet with PGMD staff to determine initial needs	Complete	N/A	Mar, 2008		met with county ITS March 2008
b	Conduct training	In Progress	Q1 FY 09		Optix account setup (County ITS)	Will meet with PGMD staff for training once account setup is complete
c	Determine optimal implementation level for participation in electronic review process	In Progress	Q3 FY 11		completion of setup and training (County ITS, PGMD); completion of testing phases 1-4 as described in item 2.	See phases listed in Item 2; At the end of each successive phase, assess effect of electronic review on efficiency, identify possible mechanisms for increase of efficiency and any resources needed, recommend course of action based on these factors.
d	Identify method for tracking costs associated with printing	Pending	Q1 FY 09			Assess costs associated with printing plan sheets received electronically
e	Identify method to track efficiency of electronic review	Pending	Q1 FY 09			Develop method to compare efficiency of staff time via electronic review vs. review of hard copy
2	Implementation / Testing					
a	Phase 1 Testing - Commenting/tracking status in Optix					PGM initiated workflow notification testing in Sep, 2008; EPC to participate once Optix account information has been received
i	comment submittal via email	Complete	N/A	Dec, 2007		hard copy scanned and sent via attachment
i	upload of comments by EPC staff	Pending	Q2 FY 09		Optix account setup (County ITS)	List of accounts needed provided to County ITS; additional resources may require budget adjustment
i	update project status in Optix	Pending	Q2 FY 09		Optix account setup	
i	Phase 1 Post-Assessment	Pending	Q2 FY 09		Completion of above items	
b	Phase 2 Testing -partial electronic review	Pending	Q3 FY 09 - Q4 FY 09		Completion of Phase 1; possible need for additional resources	Initiation dependent on outcome of PGM staff testing of process. Testing minimum of 6 months
i	Phase 2 Post-Assessment	Pending	Q1 FY 10		Completion of Phase 2 testing	
c	Phase 3 Testing - Full Electronic review - simple projects	Pending	Q3 FY 10 - Q4 FY 10		Dependent on Phase 2 Recommended Course of Action	Initiation dependent on outcome of PGM staff testing of process. Testing minimum of 6 months
i	Phase 3 Post-Assessment	Pending	Q4 FY 10		Completion of Phase 3 testing	
d	Phase 4 Testing - Full Electronic review of complex projects	Pending	Q1 FY 11 - Q2 FY 11		Dependent on Phase 3 Recommended Course of Action	This phase will be implemented only if recommended at the end of Phase 3.
i	Phase 4 Post-Assessment	Pending	Q3 FY 11		Completion of Phase 4 testing	
C	Internal Document Management	In Progress	Q3 FY 09			Assess possible efficiencies from archiving projects for easy retrieval
	Submittal of Applications to EPC via website					

Complete - Task completed

Ongoing - Initiation of open-ended task (ex. training, data collection)

In Progress - Task initiated, but not yet complete

Pending - Not yet initiated, additional resources needed, or waiting on action by outside party

	Submittal of applications not requiring fees/authorizations	Complete	N/A	Sep, 2007		Application for Nuisance Vegetation Removal and Notice of Exempt Activities in Wetlands were made available on EPC's website in September, 2007
	Identify steps needed to accept online submittal of applications for which fees and/or authorizations are required	Pending	Q3 FY 09		Establishment of procedure to receive fees; identification and satisfaction of any legal issues	EPC staff to schedule meeting with financial institution Q2 FY 09

Complete - Task completed
Ongoing - Initiation of open-ended task (ex. training, data collection)
In Progress - Task initiated, but not yet complete
Pending - Not yet initiated, additional resources needed, or waiting on action by outside party

Item	Description	Status	Target Date	Date Completed	Prerequisites / Dependencies	Comments
II	Eliminating preliminary reviews for projects where no wetlands are found					
III	Schedule meeting with PGMD Improvement of communication	Pending	Q2 FY 09		determination of method for documentation	
A	Attendance at DRC	Ongoing	N/A	Jul, 2007		
B	Quarterly Meetings with Natural Resources	Ongoing	N/A	Apr, 2008		
IV	Explore feasibility of consolidating certain activities and improving coordination					
	Schedule meeting with PGMD staff	Pending	Q2 FY 09			coordinate efforts with respect to complaint investigation, etc.
V	Informational sheet for Pre-submittal conferences					
	Create information sheet	Pending	Q1 FY 09			
Item	Description	Status	Target Date	Date Completed	Prerequisites / Dependencies	Comments
I	Performance Measures Assessment Report					
A.						
1	Wetland Surveys	Ongoing	N/A	Apr, 2008		
2	Impact/Mitigation Applications	Ongoing	N/A	Apr, 2008		
3	Exemptions (Chapter 1-11.11)	Ongoing	N/A	Apr, 2008		
4	Agricultural Exemptions (Chapter 1-11.12)	Ongoing	N/A	Apr, 2008		
5	PGMD project reviews	Ongoing	N/A	Apr, 2008		
B.	Enforcement/Compliance Report					
1	Acreage of unauthorized impacts, restored wetlands, wetland mitigation	Ongoing	N/A	Apr, 2008		
2	Wetland Mitigation Compliance	Ongoing	N/A	Apr, 2008		
3	Compliance with construction plan approvals	Ongoing	N/A	Apr, 2008		
II.	Quality Assurance Program Enhancements					
A.	Training					
1	Produce outline to document initial training	In Progress	Q1 FY 09			Training has always been SOP including training for delegated programs such as mangrove trimming and preservation
2	Formalize internal training procedures	In Progress	Q1 FY 09			Wetland delineation, hydric soils, plant identification, etc.
3	Document external training activity	In Progress	Q2 FY 09			One staff member trained Jan - Jun 2008; second staff member in training Jun 2008
	Staff training at Tampa Port Authority	In Progress	Q3 FY 09			Random review of assigned work on a monthly basis to ensure conformance with standards; documentation to be added to personnel files
B.	Quality Control					records will be retained for determination and tracking of quality control
1	Supervisory Assessment	Ongoing	N/A	Oct, 2008		Technical Advisory Group recommendations were incorporated into an action plan. Members will be invited to participate in workshops as described in item III.E.
2	Documentation of internal peer review	In Progress	Q1 FY 09			First site established Sep 2008
3	External peer review	Completed	N/A	Sep, 2008		
4	Establishment of delineation training sites	In Progress	Q2 FY 09		coordination with ELAPP	

Complete - Task completed

Ongoing - Initiation of open-ended task (ex. training, data collection)

In Progress - Task initiated, but not yet complete

Pending - Not yet initiated, additional resources needed, or waiting on action by outside party

Item	Description	Status	Target Date	Date Completed	Prerequisites / Dependencies	Comments
C	Interagency Coordination					
1	SWFWMD Monthly Supervisory Meeting	Ongoing	N/A	Jan-08		Meetings focus on specific projects to better coordinate reviews resulting in a more efficient process for agencies and applicants.
2	ERP Advisory Group	Ongoing	N/A	Jan, 00		Multagency quarterly meeting; DEP oversight on ERP statutory requirements. EPC staff to continue participation
3	State Stormwater Rule Meetings	Ongoing	N/A	Mar, 2008		
	Participation in County Transportation Task Force	Complete	N/A	Sep, 2008		Monthly meetings with SWFWMD and County representatives to streamline review process and reduce costs
III:	Identify ways to reduce resubmittals					
A.	Pre-application conferences	In Progress	N/A	Aug, 2007		Staff member dedicated August, 2007
B.	Basis of Review	Complete	N/A	Jul, 2008		Adopted by EPC July 2008; Clarifies criteria used for application review and recommendation of approval
C.	Applicants' Handbook	Complete	N/A	Jul, 2008		Provides clarification of EPC's guidelines and requirements for review of applications
D.	Sufficiency Checklist for PGM project review	Complete	N/A	Apr, 2008		Itemizes documents, etc. needed for EPC staff to complete review of applications through PGMD.
E.	Set schedule for annual workshops	Pending	Q2 FY 09			Open, informal workshop with public to discuss rules, operating procedures, and gain feedback.

Complete - Task completed
Ongoing - Initiation of open-ended task (ex. training, data collection)
In Progress - Task initiated, but not yet complete
Pending - Not yet initiated, additional resources needed, or waiting on action by outside party

**EPC Wetlands Management Division
Backup AGENDA
September, 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
September 2008	0	0	0	0	0
Year to Date	2	2	0.11	1	0.06

PGMD Reviews Performance Report

# of Reviews	Timeframes met	Year to Date
183	99%	99%

Formal Wetland Delineation Surveys

	Projects	Total Acres	Total Wetland Acres	# isolated wetlands < ½ acre	Isolated wetland acreage
September 2008	18	385	40	21	3.20
Since April 2008	95	1589	267	63	11.9

Construction Plans Approved

	Projects	Total Wetland Acres	# isolated wetlands < ½ acre	Isolated Wetland Acreage	Impacts Approved Acreage	Impacts Exempt Acreage
September 2008	30	56	9	4.57	7.63	2.49
Since April 2008	147	189	52	13.26	24.64	15.95

Mitigation Sites in Compliance

193/203	95%
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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>
1.0	1.5	.10	15/18 (83%)

Compliance Actions

Acreage of Unauthorized Wetland Impacts	Acreage of Water Quality Impacts	Acreage Restored
1.9	0	1.2

General

Telephone Conferences	Scheduled Meetings	Unscheduled Citizen Assistance
622	225	49

Tschantz, Rick

From: Garrity, Rick
Sent: Thursday, August 28, 2008 4:23 PM
To: Blair, Brian; Ferlita, Rose; Hagan, Ken; Higginbotham, Al; Norman, Jim; Sharpe, Mark; White, Kevin; Castellano, Christopher; Chan, Sandy-BOC; Cury, Della; Hall, Steve; Hurley, Deanna; Johnson, Jess Joaquin; Kelly, Benjamin; Kinney, Joy; Larson, Eric; McCray, Cedric; McGlocklin, Steve; Ottino, Sandy; Reidy, Richard
Cc: Stetler, Bob; Tschantz, Rick
Subject: Summary of actions on Wishau property
Attachments: Wishau Ltr to Commissioners (5)rg (2).docx

Commissioners:

Please find attached a summary of the history of EPC actions on the property at 3604 Cork Road in Plant City owned by Ms. Kelly Wishau. Ms. Wishau and another representative spoke at the last EPC Board meeting about this property and several commissioners asked for a staff response.

Please let me know if you have any additional questions or if I can provide any additional information.

Regards,

Rick Garrity

Dear Commissioners:

At the July 17, 2008 EPC meeting, public comments were made by David Storck and Kelly Wishau regarding EPC staff handling of wetland impact violations located on the Wishau property at 3604 Cork Road in Plant City. Several Commissioners indicated they wanted a staff response to those comments. I would like to outline some of the facts of this case for you.

Mr. Storck indicated in his comments that Ms. Wishau bought the property in 1999 and the property did not contain any jurisdictional wetlands. The property however has been delineated twice and has a substantial amount of wetlands on site. In fact, in a letter from the Water Management District to Ms. Wishau dated June 23, 2004, they describe the property as "... dominated by depressional hydric soils with a seasonal high water table of up to two feet above ground.... Furthermore, the attached National Wetland Inventory (NWI) map identifies a substantial amount of the property as wetlands".

EPC staff Environmental Scientist Tom Lafountain was invited to the site June 26, 2000 by Ms. Karen Sysk, Ms. Wishau's agent, to set a wetland line and to review a proposed home site. Ms. Sysk was advised of the wetlands on the site and informed that the existing drive entrance was constructed in a wetland. Mr. Lafountain further informed Ms. Sysk that additional fill should not be brought in for the drive and he recommended relocating the drive entrance into a nearby upland area. The first delineation was never surveyed in by the property owner.

In late 2000 or early 2001, Mr. Lafountain observed that fill had been placed in the drive entrance. He spoke to Ms. Wishau and explained that the property had an extensive amount of wetlands and that placing fill in the wetland areas could be a violation. On April 9, 2001, Mr. Lafountain met a consultant on the site to complete a second wetland delineation. The second delineation was necessary because of the fill violation on the site and because a survey was never conducted for the first delineation. The wetlands were flagged again and the limits clearly marked, however the line was again never surveyed in by the owner. (Note: An applicant for a wetland delineation is required to have the wetland boundary surveyed in order to finalize the process and ensure accuracy.)

From 2001 through 2003, Ms. Wishau was issued four Warning Notices for: 1) Excavating in wetlands, 2) Dredging and spoil placement in wetlands, 3) Tree clearing and mulch placement in wetlands, and 4) Disking, filling and tree clearing in wetlands.

In 2005, a fifth Warning Notice was issued for soil filling in three wetland areas on the site. The Warning Notice was closed after a two month period by removal of the fill pursuant to a Settlement Letter signed by Ms. Wishau.

A sixth Warning Notice was issued in March of 2007 for new fill placed in the wetlands. Prior to resolution of this Warning Notice, additional excavation within wetlands, diskings,

soil deposition and tree clearing were discovered within wetlands during inspections in May and November of 2007.

In February of 2008 staff noted that approximately 75 to 100 wetland trees (many with leaves still on them) had been pushed over and were stockpiled within wetlands on the site.

A Citation was issued to Ms. Wishau on April 25, 2008.

Prior to the issuance of the Citation, Mr. Bob Stetler, the Wetlands Management Division Director met for over four hours with Mr. Storck and Ms. Wishau. Mr. Storck insisted that the wetlands on site were artificially created by the alteration of off-site drainage systems. Mr. Stetler indicated that historical aerials and soils map show a forested wetland system from 1940 to 1972 when some dredging, filling and clearing apparently did take place. The historical activities did not alter the wetland jurisdiction the site. However, on February 7, 2001 staff did discover significant new excavations on-site apparently for the purposes of draining the existing wetlands. Ms. Wishau in a letter dated September 20, 2001 indicated she had corrected the problem by back-filling the excavated areas. In her testimony to the Board Ms. Wishau referred to a Water Management Letter dated in 2004 allowing maintenance of ditches. This State of Florida maintenance exemption is allowed for certain drainage ditches, however that exemption is unrelated to, and inappropriate for, the area of excavation discovered and corrected in 2001.

At the meeting, Mr. Stetler indicated to Mr. Storck and Ms. Wishau that the most prudent course of action would be to have another wetland determination made on the property by either the EPC or the Water Management District. Once that determination was made, we could meet in a pre-application meeting to discuss what activities could be approved and what permits would be required. Ms. Wishau indicated that she would like Mr. Bob Owens from the staff to conduct those further studies of her property based on her past interaction with Mr. Owens. Mr. Stetler agreed to make Mr. Owens available to Ms. Wishau at her convenience and for her to call him directly for the site inspection. This meeting was not set up.

Afterward, on June 11, 2008 Mr. Lafountain further observed a bush hog in wetlands on the site and a recent excavation and fill road in the wetlands. In conversation with Ms. Wishau, she stated she was burying trees in the excavation. Mr. Lafountain explained that the site was under Citation and that she should not have cleared the trees nor attempted to bury them in the wetland areas. The case is currently under enforcement.

Finally, EPC staff met with Ms. Wishau and her representatives on August 14, 2008 and agreed on several action items to be accomplished:

- Extending the period of time for Ms. Wishau to respond to the Citation
- Having a wetland line delineated for the property one more time. The line would be set by a consultant and verified by EPC.

- Setting up a date for the property to be inspected. The idea in mind was to determine what activities she may undertake along with what approvals may be needed from EPC and what corrective actions would be necessary. There have been several telephone calls exchanged since August 14th and the site meeting is still being planned.

As you can see, staff has had a long history attempting to gain compliance at this site. Furthermore, each staff member has been interviewed and I have been assured that staff has conducted themselves professionally in every instance and that at no time did any staff member treat Ms. Wishau or Mr. Storck with disrespect.

Mr. Storck also stated publically that "Bob" Inch (apparently referring to Bill Inch of the Wetland Management Staff) pulled off of Cork Road "three weeks ago" and threatened workers on the site with a Citation if they did not stop cutting up trees on the site. Bill Inch a staff Environmental Scientist has not been to the Wishau site since May 3, 2007 and was understandably upset by this very public misrepresentation. It was Tom Lafountain that visited the property and correctly informed Ms. Wishau that she should not continue working in wetlands and that she was already under Citation.

I intend to remain engaged in the resolution of this issue and hope to receive Ms. Wishau's cooperation as well.

Rick Garrity

Tschantz, Rick

From: Garrity, Rick
Sent: Thursday, September 25, 2008 1:23 PM
To: Blair, Brian; Ferlita, Rose; Hagan, Ken; Higginbotham, Al; Norman, Jim; Sharpe, Mark; White, Kevin; Castellano, Christopher; Chan, Sandy-BOC; Cury, Della; Hall, Steve; Hurley, Deanna; Johnson, Jess Joaquin; Kelly, Benjamin; Kinney, Joy; Larson, Eric; McCray, Cedric; McGlocklin, Steve; Ottino, Sandy; Reidy, Richard
Cc: Zodrow, Andy; Tschantz, Rick; Schipfer, Andy; Cope, Ron; Campbell, Leslie; Boostani, Hooshang
Subject: Hobbs Rd
Attachments: Case Facts (2).doc

Commissioners:

As a follow up to the Board discussion of the Hobbs Rd. mulch site on September 18th, I am pleased to inform you that EPC has entered into a Consent Order with the responsible parties involved in the Hobbs Rd. mulch operation. This Consent Order resolves the issue of bringing the depth of mulch to a level consistent with the IFAS approval letters and also operating the site in a manner consistent with IFAS recommendations. This also means that the operation is under order to be brought into and maintained in compliance with FDEP and EPC regulations. Under a separate attached document I have outlined the case facts for your information.

Regards,

Rick Garrity

Case Facts, Hobbs Road Mulch Operation

- The EPC Board has adopted the FDEP definition of solid waste
- Shredded yard trash (mulch) such as that brought to the Hobbs Rd site is considered solid waste by the FDEP and requires an authorization from EPC
- The FDEP in 2004 issued a policy memo stating that if mulch is spread no more than 2 feet deep it will be considered a beneficial use of a product rather than a solid waste
- This same policy memo states that mulch in excess of 2 feet will be presumed to be solid waste, but that this presumption can be overcome on a case-by-case basis, for example "if an agricultural use plan demonstrates that a thicker amount of mulch is beneficial for some project, we would treat this as a beneficial use (or a normal farming operation)..."
- EPC inspected the Hobbs Rd. site in March, 2008 and found mulch depths (up to 10 feet) far in excess of the FDEP policy guidance and issued Warning Notices to responsible parties
- The property manager Paul Savich cooperated by stopping all further dumping of mulch and working to reduce the pile size
- Mr. Savich applied to FDEP for an exemption to go higher than 2 feet. His first application was denied. His second application which contained a letter in support from the local IFAS office was approved by FDEP.
- Confusion arose in the press, and through correspondence from IFAS to a third party citizen, about whether IFAS truly approved Mr. Savich's farm plan
- EPC proactively contacted IFAS to clear up the confusion and in return on September 2, 2008 received a clarification from IFAS that Mr. Savich's farm plan was approved but only with conditions as outlined in a second letter
- EPC then incorporated these IFAS conditions into a Consent Order for the site. The Consent Order resolves the issue of bringing the depth of mulch to a level consistent with the IFAS approval letters and also operating the site in a manner consistent with IFAS recommendations.
- The Consent Order sets conditions for the Hobbs Rd operation to be brought into and maintained in compliance with FDEP and EPC regulations
- The Consent Order also contains a reasonable settlement figure recognizing Mr. Savich's cooperation in not accepting any additional mulch and attempting to reduce the size of the mulch piles.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: Open Burning Multilateral Operating Agreement

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

Division: Air Management Division

Recommendation: Informational Report

Brief Summary: Since 1989, EPC staff has entered into an operating agreement with the Division of Forestry, Hillsborough County Fire Rescue, the Hillsborough County Sheriff's Office, and the fire rescue departments for the three municipalities. This cooperative agreement minimizes duplication of effort and ensures that open burning in Hillsborough County is addressed in a coordinated manner both to protect the citizens from impacts and to allow burning in the county when necessary. EPC staff also works with the agricultural community to implement voluntary measures for certain agricultural open burning.

Financial Impact: No additional funds required.

Background: Since 1989, EPC staff has entered into an agreement with the law enforcement and fire rescue departments in Hillsborough County, and the fire rescue departments in the cities of Tampa, Temple Terrace, and Plant City, as well as the State of Florida's Division of Forestry. This agreement outlines the coordinated efforts of the agencies and departments to respond to open burning issues in the County. EPC staff regulates land clearing for initial development, and the Division of Forestry (DOF) regulates most agricultural open burning. EPC staff also works with the agricultural community on voluntary measures to control emissions from the burning of agricultural black plastic.

This coordinated effort ensures that all agencies and departments are working together to avoid air quality impacts and to protect the citizens' health and safety, while minimizing duplication of effort and still allowing open burning for initial land clearing and agricultural purposes.

List of Attachments: Open Burning Multilateral Operating Agreement

OPEN BURNING MULTILATERAL OPERATING AGREEMENT

Section 1 - Intent

The Florida Department of Agriculture and Consumer Services (FDACS) through the Division of Forestry (DOF); Hillsborough County through Hillsborough County Fire Rescue (HCFR); the Hillsborough County Sheriff's Office (HCSO); the City of Tampa through Tampa Fire Rescue (TFR); the City of Temple Terrace through Temple Terrace Fire Department (TTFD); the City of Plant City through the Plant City Fire Department (PCFD); and the Environmental Protection Commission of Hillsborough County (EPC) through the Air Management Division enter into this non-binding Multilateral Operating Agreement (MOA) to cooperate in fulfilling each agency's responsibility concerning open burning in Hillsborough County including the municipalities of Tampa, Temple Terrace, and Plant City. The intent of the parties to this agreement, with mutual respect for regulations and available resources, is that a partnership be formed to protect the quality of the environment, and the lives, property, and general welfare of all citizens, with minimal duplication of effort.

Section 2 - Administration

1. All parties shall provide to each other, at the time of signature of the agreement, a listing of appropriate key personnel and their functions. This information will be updated and distributed whenever a significant change in personnel occurs. This information will be updated as needed.
2. All parties shall cooperate in providing staff assistance to each other and in carrying out coordination investigations and evaluations of open burning incidents affecting the public health, safety, general welfare, and the environmental quality in Hillsborough County.
3. All parties shall apply the strictest applicable rules and regulations of the agreeing parties in permitting, compliance, and enforcement activities. Parties undertaking responsibility for enforcement activities will insure continued and timely communication of case status throughout the term of case activity to all concerned parties to this agreement.
4. All parties shall provide each other relevant information and keep each other up to date on their respective rules and regulations pertaining to open burning and procedures for authorization, permitting, compliance inspections and enforcement.

Section 3 - Responsibilities and Duties

1. All parties shall provide general information to the public on the approved methods for conducting open burning in Hillsborough County. The parties shall refer individual public inquires to the appropriate agency.
2. No open burning should be conducted if the appropriate authorities determine that conditions are unfavorable. All parties are encouraged to follow the general guidance for public safety and air quality concerns as follows:

- a. The EPC's Division of Air Management Air Monitoring Section monitors and examines air pollutant data from collection stations located throughout Hillsborough County. In addition to these local sites, staff reviews the National Oceanic and Atmospheric Administration's weather forecasts closely. If elevated pollutant levels are approached or conditions that may potentially cause poor air quality are forecast, the Executive Director of the EPC may determine to suspend open burning for initial land clearing as authorized by EPC until conditions improve. In the event that EPC suspends their open burning authorizations because of air quality concerns, then EPC will notify all parties of such and request that they consider suspending all open burning in Hillsborough County until advised otherwise.
 - b. Weather conditions such as inversions, high winds, low humidity, drought conditions, or other variables that may create hazardous burning situations must be considered before open burning is allowed. Such data are reviewed and evaluated by DOF daily to determine if open burning should be permitted or suspended. To ensure public safety, all parties should follow DOF's lead prior to allowing open burning in their respective jurisdictions.
To implement this, EPC will include a provision in all their open burn authorizations, that the applicant contact DOF every morning prior to starting their burn. If DOF is suspending any types of burns because of the drought index and dryness concerns, then EPC open burn permittees will be precluded from burning that day.
 - c. All Fire Departments may choose to suspend open burning within their individual jurisdictions due to fire hazard concerns, including but not limited to lack of available resources for a particular area. The Fire Department will notify other MOA members in such cases.
- 3. a. The EPC will be responsible under this agreement for reviewing, processing and administering all open burning authorizations for initial land clearing of vegetation, initial land clearing for agriculture and mineral operations, clearing of rights-of-way for public highways or roads, clearing for flood control and water drainage channels.
 - b. EPC duties:
 - 1) Conduct inspections and compliance verifications of all open burning for initial land clearing.
 - 2) Issue open burning authorization for approved initial land clearing applications.
 - 3) Receive and respond to all complaints or public inquiries on open burning involving initial land clearing.
 - 4) Review and act on HCFR incident reports and Advisory Letters written by HCFR, TFR, TTFD, and PCFD regarding residential and commercial open burning incidents.
 - 5) Initiate enforcement action as may be required to assure compliance with regulations for open burning.
 - 6) Immediately notify HCSO for response to illegal dumpsites involving illegal burning.

- 7) Maintaining an Advisory Letter template (attached) that HCFR, TFR, TTFD, and PCFD may utilize by affixing their respective government logos to the template.
4. a. The DOF will be responsible under this agreement for reviewing, processing, and administering all open burning authorizations for prescribed burns for habitat/ecosystem management, silvicultural operations, range improvement, maintenance operation of agricultural land use for the grazing of animals, or other agricultural purposes.
 - b. DOF duties:
 - 1) Verify and issue all open burning intended for agricultural purposes via phone or on-site inspection(OSI) as needed.
 - 2) Issue authorizations for approved open burning for agricultural maintenance purposes.
 - 3) Receive and respond to all complaints or public inquiries involving agricultural open burning.
 - 4) Notify EPC of all authorizations issued for prescribed burning, silviculture and ecological burns in Hillsborough County.
 - 5) On a daily basis, provide by facsimile the following information regarding DOF authorizations in Hillsborough County to HCFR, TFR, and EPC: authorization number, name, location, and date(s) of authorized burning.
 - 6) Initiate enforcement action as may be required to assure compliance with regulations for open burning.
5. a. The HCFR will be responsible under this agreement for the overall administration and control of residential open burning within unincorporated Hillsborough County.
 - b. HCFR duties:
 - 1) Receive and respond to all complaints or public inquiries involving residential open burning.
 - 2) Issue an Advisory Letter to the responsible party in all cases where open burning is of such size, frequency, or type of material, as may be considered a violation of Chapter 1-4, Rules of the EPC.
 - 3) Submit a copy of all incident reports relating to residential burning to EPC.
 - 4) Submit in a timely manner to the EPC a copy of the Advisory Letter and the HCFR incident report for each residential or commercial open burning incident.
6. a. The HCSO will be responsible under this agreement for follow-up and enforcement of all incidents of open burning within Hillsborough County of such size and type of material as to be considered a criminal offense.
 - b. HCSO duties:
 - 1) Provide assistance with crowd control, as may be necessary to insure safe entry, upon direct request from HCFR, EPC and DOF personnel.
 - 2) Review all forwarded open burning reports.
 - 3) Initiate enforcement action as may be required to assure compliance with regulations for open burning.

7. a. The TFR will be responsible under this agreement for reviewing all authorizations issued for prescribed burning, silvicultural operations, range improvement and initial land clearing operations within the City of Tampa.
- b. TFR duties:
 - 1) Issue permits authorizing burning within the city limits of Tampa to all applicants prior to their requesting an EPC authorization.
 - 2) Notify EPC and DOF of all authorizations issued for open burning within the city limits.
 - 3) Issue an Advisory Letter to the responsible party in all cases where open burning is of such size, frequency, or type of material as may be considered a violation of Chapter 1-4, Rules of the EPC.
 - 4) Submit to EPC in timely manner copies of all incident reports or Advisory Letters that were issued as a result of a residential or commercial open burning violation.

8. a. The TTFD will be responsible under this agreement for reviewing all authorizations issued for prescribed burning, silvicultural operations, range improvement, and initial land clearing operations within the Temple Terrace city limits.
- b. TTFD duties:
 - 1) Issue permits authorizing burning within the city limits of Temple Terrace to all applicants prior to their requesting an EPC authorization.
 - 2) Notify EPC and DOF of all authorization issued for open burning within the city limits.
 - 3) Issue an Advisory Letter to the responsible party in all cases where open burning is of such size, frequency, or type of material as may be considered a violation of Chapter 1-4, Rules of the EPC.
 - 4) Submit to EPC in a timely manner copies of all incident reports or Advisory Letters that were issued as a result of a residential or commercial open burning violation.

9. a. The PCFD will be responsible under this agreement for the overall administration and control of residential open burning within the city limits of Plant City.
- b. PCFD duties:
 - 1) Issue permits authorizing burning within the city limits of Plant City to all applicants prior to requesting an EPC authorization.
 - 2) Notify EPC and DOF of all authorizations issued for open burning within the city limits.
 - 3) Issue an Advisory Letter to the responsible party in all cases where open burning is of such size, frequency, or type of material as may be considered a violation of Chapter 1-4, Rules of the EPC.
 - 4) Submit to EPC in a timely manner copies of all incident reports or Advisory Letters that were issued as a result of a residential or commercial open burning violation.

Section 4- Burning of Structures for Training

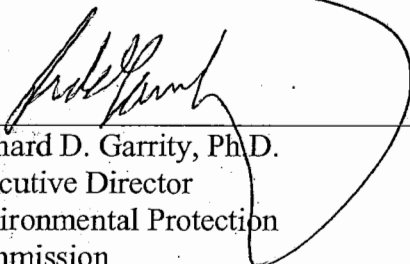
1. Burning of structures for training is subject to the federal asbestos rules (40 CFR61, Subpart M) regarding prior notification and required work practices. DEP has adopted the federal regulations by reference, and DEP has authorized EPC to act on its behalf to ensure compliance. Any local fire department conducting training burns shall complete the appropriate notification form and submit it with the required fees or inter-organizational charge to the Air Management Division of the EPC at least ten days prior to the exercise date. All asbestos and asbestos-containing material must be removed from the structure and properly disposed of in compliance with 40 CFR 61, Subpart M, particularly as these address notification, and confinement of airborne dust, prior to the burning. The EPC will provide clarification as needed.
2. The training site must be prepared prior to burning as required by NFPA 1403. A representative from both the EPC and appropriate fire control agency shall inspect the structure prior to burning to insure the safety of both the public and the environment. Approval or disapproval of the burn site will then be determined. After approval, the EPC will notify the appropriate fire control agency.
3. Materials used to create the fire shall be in accordance with NFPA 1403, Appendix A.
4. Following conclusion of the training fire, the local fire department shall provide a copy of the "Live Fire Evolution Checklist" to the EPC.

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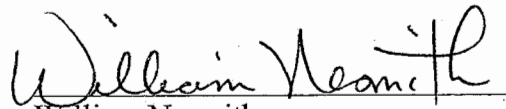
Section 5 - Terms of Agreement

1. This agreement shall become effective immediately upon execution by all parties and shall remain in effect until terminated by any party or superseded by a new agreement.
2. This agreement shall be reviewed by all parties every three years in order to determine its adequacy and discuss any needed revisions.
3. Any party to this agreement may terminate participation without cause upon written notice to all other parties of at least sixty (60) days. Such action by any party does not nullify or otherwise impact on the effect of this agreement for the other parties involved.
4. This agreement shall be effective when signed by the administrative head or designee of each party.

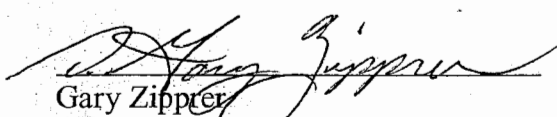
AGREED, this 7 day of August 2008



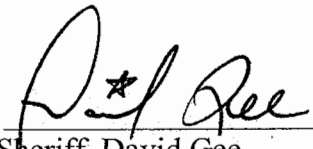
Richard D. Garrity, Ph.D.
Executive Director
Environmental Protection
Commission
of Hillsborough County



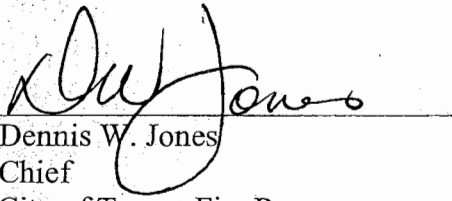
William Nesmith
Chief
Hillsborough County
Fire Rescue



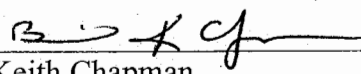
Gary Zipper
District Manager
Division of Forestry
Dept. of Agriculture and Consumer Services



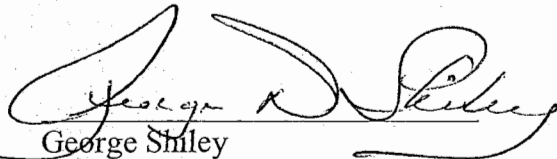
Sheriff, David Gee
Hillsborough County
Sheriff's Office



Dennis W. Jones
Chief
City of Tampa Fire Rescue



Keith Chapman
Chief
City of Temple Terrace Fire Dept.



George Shiley
Chief
Plant City Fire Rescue



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: 2008 Pollution Recovery Fund Projects

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

Division: Environmental Resources Management

Recommendation: Approve staff and CEAC's recommendations for funding selected Pollution Recovery Fund Projects and authorize EPC Chair to execute agreements with selected parties. See details below.

Brief Summary: The EPC staff and the Citizens Environmental Advisory Committee (CEAC) have been reviewing seventeen 2008 Pollution Recovery Fund applications since May 2008. After extensive review, the staff and CEAC jointly recommend approving nine of the projects as described in the attached project summary. Eight of the projects are jointly recommended for denial by staff and CEAC.

Financial Impact: The financial impact for approving the EPC staff recommended projects would be to reduce the PRF balance available for projects as of September 30, 2008 from \$777,362 to \$334,061 thereby approving a total expenditure of \$443,301 for new projects.

Background: EPC staff and CEAC have reviewed the Calendar Year 2008 Pollution Recovery Fund project applications. Each application is reviewed for legal sufficiency (compliance with the EPC Act and Chapter 1-9 Rules of the EPC), technical merit (is the project permissible and is it based on sound scientific knowledge), and financial requirements. A total of eighteen applications were received this year, seventeen of which were deemed complete and legally sufficient. Both EPC staff and CEAC are jointly recommending approval of 9 projects and denial of 8 of the projects as described in the attached project summary list.

In summary, EPC staff requests that the Board:

- 1) Approve 9 listed projects as denoted by the "✓" mark (see attached).
- 2) Deny 8 listed projects as denoted by the "X" (see attached).
- 3) Authorize the EPC Chair, on a continuing basis, to execute the approved PRF agreements in substantially the same format as the form PRF Agreement drafted by the Legal Department.

It should also be noted that on February 16, 2006 the EPC Chair was granted by the EPC Board the continuing duty to execute, after staff consultation, future amendments to PRF agreements that involve non-material changes or reasonable deadline extensions as may be necessary from time to time. The minor amendments will not involve changes in funding.

List of Attachments: 2008 PRF Project Summary List & 2008 Synopsis of Recommendations

2008 Pollution Recovery Fund Project Summary

Total PRF Funds Available for Projects: \$ 777,362 (As of 9/30/08)

Total PRF Funds Approved for Projects: \$ 443,301

Total Remaining Available for Projects: \$ 334,061

9 Projects Recommended for Approval by both EPC / CEAC

8 Projects Recommended for Denial by both EPC / CEAC

✓ Agriculture Pesticide Collection and Education Day

- EPC Staff & CEAC Recommend Approval for \$24,000 (CEAC Vote 9-0-0)
- This project removes a great deal of potential pollutants from the watershed.
- Helps educate and promote agricultural best management practices.

✓ Agriscience, Food, & Natural Resources Env. Stewardship Program

- EPC Staff & CEAC Recommend Approval for \$2,275 (CEAC Vote 9-0-0)
- This project educates students on agriculture's role in environmental issues.
- Students will grow, harvest, and plant smooth cordgrass for environmental restoration.

✓ Great American Cleanup and International Coastal Cleanup of 2009

- EPC Staff & CEAC Recommend Approval for \$12,830 (CEAC Vote 8-0-1)
- Project will help fund volunteer efforts during cleanup events.
- Educate volunteers and public about the impacts of litter on natural habitats and wildlife.

✓ MacDill Phase 2 Seagrass Transplanting Project

- EPC Staff & CEAC Recommend Approval for \$79,196 (CEAC Vote 9-0-0)
- The second phase of a successful seagrass restoration effort in Hillsborough Bay
- Encourage stewardship through hands-on education and restoration opportunities.

✓ McKay Bay Sediment Quality Action Plan Development

- EPC Staff & CEAC Recommend Approval for \$55,000 (CEAC Vote 9-0-0)
- Refine the spatial extent, volume, and potential sources for sediment contaminants.
- Develop a detailed action plan to address future cleanup or remediation options.

- ✓ **MiniFARMS BMP Implementation Program**
 - EPC Staff & CEAC Recommend Approval for \$50,000 (CEAC Vote 9-0-0)
 - Refine the spatial extent, volume, and potential sources for sediment contaminants
 - Develop a detailed action plan to address future cleanup or remediation options

- ✓ **Petrol Mart, Inc. Tank Removal**
 - EPC Staff & CEAC Recommend Approval for \$75,000 (CEAC Vote 8-1-0)
 - Removal of underground storage tanks and completion of a contamination assessment

- ✓ **Site Assessment and Removal of Two 55-Gallon Drums of Contaminated Soil**
 - EPC Staff & CEAC Recommend Approval for \$25,000 (CEAC Vote 7-2-0)
 - Removal of contaminated soils and completion of a preliminary contamination assessment

- ✓ **Wetland Restoration Potentials on County-Owned Lands**
 - EPC Staff & CEAC Recommend Approval for \$120,000 (CEAC Vote 8-1-0)
 - Identify readily restorable isolated wetland systems on County-owned land
 - Restore the hydrology on the top five ranked sites and assess their recovery

- X **36th Annual Ecosystems Restoration and Creation Conference**
 - EPC Staff & CEAC Recommend Denial (\$61,535) (CEAC Vote 7-1-1)
 - The project has a limited environmental educational component
 - The project does not propose to alleviate any actual environmental harm

- X **Assessment of Long Term Viability of Isolated Wetlands in Urban Landscape**
 - EPC Staff & CEAC Recommend Denial (\$137,807) (CEAC Vote 8-0-1)
 - Little new information would be gained that is not already known of isolated wetland function
 - Any actual benefit from the project would be dependent on future rulemaking/policy changes

- X **Assessment of Lake Ecosystems by Using Frontier Estimation Technique**
 - EPC Staff & CEAC Recommend Denial (\$40,966) (CEAC Vote 8-0-1)
 - This study will provide little new information beyond currently existing sources
 - The project does nothing to alleviate actual environmental harm

- X **Exploring Impacts of Urbanization on Water Quality in Alafia River Watershed**
 - EPC Staff & CEAC Recommend Denial (\$111,961) (CEAC Vote 8-0-1)
 - This study will provide little new information beyond currently existing sources
 - The project does nothing to alleviate actual environmental harm

- X Improving Surface Waters by Reducing Impacts of Residential Fertilizer
 - EPC Staff & CEAC Recommend Denial (\$36,494) (CEAC Vote 8-0-1)
 - The project proposes many of the same fertilizer initiatives as the ongoing efforts of the TBEP
 - This study will provide little new information beyond currently existing sources

- X Restoration of Seagrass Damage Caused by Boating Impacts in Cockroach Bay
 - EPC Staff & CEAC Recommend Denial (\$105,600) (CEAC Vote 9-0-0)
 - The project relies on the establishment of an as yet determined protected area
 - Evidence of successful seagrass recovery could take longer than funding allows

- X Riverwalk Segment 10 – Nutrient Separating Stormwater Baffle Box
 - EPC Staff & CEAC Recommend Denial (\$38,500) (CEAC Vote 8-1-0)
 - The proposed technology is more successful at removing litter and debris than nutrients
 - More traditional methods of stormwater retention/detention may be more appropriate

- X Communities Learning Over (CLOVER)
 - EPC Staff & CEAC Recommend Denial (\$50,000) (CEAC Vote 9-0-0)
 - The project is a strictly educational effort that seems to lack focus
 - The project does not propose anything to alleviate actual environmental harm

2008 Project Requests for Pollution Recovery Funds

A08-1 36th Annual Ecosystems Restoration and Creation Conference: Assessment of Wetland Mitigation and Mitigation Banks

Applicant: **University of South Florida**

Project Details For the past 34 years, the Institute of Florida Studies at Hillsborough Community College has held an annual conference entitled: Annual Ecosystems Restoration and Creation Conference. Attended by several hundred participants annually, the conference has become a standard venue for local, state, national and international scientists, agency staff and stakeholders to meet and freely exchange ideas regarding ecosystem restoration and creation.

Dr. Sudeep Vyapari of HCC has assumed leadership of this conference and has partnered with the University of South Florida to use the conference as a venue for addressing key issues in ecosystem restoration and creation for Florida in general, and for Hillsborough County in particular. The results from the conference will be published as a state of the art document on the conference topic that can assist agencies in the county and around the state in development of policies and management scenarios. Funding is sought to jump start this process to ensure that the 35th annual conference planned for November 2008 is a successful model for sustaining the new direction of the conference into the future. Following initial funding from HCEPC, it is anticipated that the conference will become self sustaining financially for future events.

PRF Request: \$61,535.00

Project Manager: Thomas L. Crisman

Total Cost: \$115,983.00

Phone: 813.974.5134

EPC Staff Recommendation: Denial

Staff Notes: The project does not propose to alleviate any actual environmental harm. There is an obvious educational component, however, the majority of funding would go toward salaries and produce little in the way of an actual product.

CEAC Recommendation Denial

CEAC Notes: CEAC voted 7-1-1 in favor of supporting EPC staff's recommendation to deny this project.

A08-2 Agriculture Pesticide Collection and Education Day

Applicant: **Economic Development Department and Solid Waste Department**

Project Details Throughout the years the U. S. Environmental Protection Agency (EPA) has banned, canceled, or suspended many pesticides because of potential risk to human health. Farmers may still have these cancelled and suspended products in storage as they await the availability of affordable disposal options. Long term storage of these pesticides can pose unnecessary risks to employees, surrounding communities, and the environment, especially through ground and surface water contamination. Proper disposal can be costly and a regulatory burden for small farmers and other pesticide users. This program offers an opportunity to avoid these formidable barriers and to promote safe and environmentally sound pesticide use, handling and disposal.

PRF Request: \$24,000.00

Project Manager: Stephen Gran

Total Cost: \$28,066.00

Phone: 813-272-5506

EPC Staff Recommendation: Approve

Staff Notes: The staff feels this is a worthwhile project and removes a great deal of potential pollutants from the watershed. Based on past successes, this project is expected to benefit the county in general and the agricultural community in particular. Staff would like to see a stronger educational component stressing the use of BMPs and would like to see more of a financial commitment from the manufacturers of these products in the future.

CEAC Recommendation Approve

CEAC Notes: CEAC voted unanimously (9-0-0) in favor of supporting EPC staff's recommendation to approve the project.

2008 Project Requests for Pollution Recovery Funds

A08-3 Assessment of Long Term Viability of Isolated Wetlands Preserved Within the Urban Landscape of Hillsborough County

Applicant: **University of South Florida**

Project Details Isolated wetlands have been preserved historically as part of the urbanization of Hillsborough County and Florida. Thus, a time gradient of wetland preservation exists from approximately 1900 to the present. The key question is whether such wetlands can function as intended as part of an urban landscape. This is a critical issue currently in Hillsborough County as increasing numbers of wetlands are being preserved associated with development.

The current proposal seeks to address the issue of isolated wetlands in urban landscapes by examining key physical and biological components as indicators of ecosystem structure and function. Both ecosystem structure and function will be examined relative to: 1) time since surrounding urban development, 2) wetland size, and 3) distance to similar wetland systems. The study will focus on forested wetlands displaying a dominance of cypress, the major wetland type currently encountered as the Tampa metropolitan area expands north and east. This study will be designed in conjunction with HCEPC in order to ensure the most representative sites, and the study results will be shared with the agency to assist them in determining any changes necessary in current practices to ensure maximum sustainability of isolated wetlands within the urban landscape.

PRF Request: \$137,807.00

Project Manager: Thomas L. Crisman

Total Cost: \$198,997.00

Phone: 813.974.5134

EPC Staff Recommendation: Denial

Staff Notes: Staff feels this project will provide little information that is not already common knowledge regarding the ecological function of isolated wetlands in urban settings. While there are parts of the study that seem worthwhile, it appears actual results in mitigating the effects of pollution may not be realized at all if rulemaking is required to improve protection of isolated wetlands.

CEAC Recommendation Denial

CEAC Notes: CEAC voted 8-0-1 in favor of supporting EPC staff's recommendation to deny this project.

A08-4 Assessment of the Lake Ecosystems in Hillsborough County by Using Frontier Estimation Technique

Applicant: **University of South Florida**

Project Details The proposed research seeks to conduct a cross sectional analysis of the lake in Hillsborough County by applying Data Envelopment Analysis (a frontier estimation technique). This method will be used to rank lake performance according to the typical chemical, physical, and biological parameters. This method has never been applied to compare lakes to each other and it will provide researchers with new tools to assess the performance of the lake ecosystems. It will show which lakes perform better and where there are problems in lakes that need attention by managers. In other words, it will show the excess in the inputs and the shortage in the outputs. The proposed research will link land use to water quality and enhance our management of water resources. Finally, this proposed research will focus on providing new tools for water managers involved in evaluating non-point pollution impacts on lakes. This ranking tool will allow managers to focus on particular lakes, while identifying the causes for specific problems.

PRF Request: \$40,966.00

Project Manager: Kamal Alsharif, Ph. D.

Total Cost: \$40,966.00

Phone: 813-974-4883

EPC Staff Recommendation: Denial

Staff Notes: This study will provide very little new information that does not already exist via sources such as the Lake Atlas, FDEP Impaired Waters list, etc. The project does nothing to alleviate actual harm nor does it propose measures to do so.

CEAC Recommendation Denial

CEAC Notes: CEAC voted 8-0-1 in favor of supporting EPC staff's recommendation to deny this project.

2008 Project Requests for Pollution Recovery Funds

A08-6 Agriscience, Food, & Natural Resources Department Environmental Stewardship Program

Applicant: **East Bay High School**

Project Details A portion of the Agriscience Foundations curriculum is to incorporate environmental stewardship. The program is designed to educate students about soil, water, and wildlife, along with pollution, control methods, and how agriculture plays a role in environmental issues. At East Bay High School we have taken it a step further by partnering up with Tampa Bay Watch, a non-profit environmental group to harvest, propagate and plant *Spartina alterniflora* (otherwise known as salt marsh grass or smooth cordgrass). Our goals for this program include:

- Educating our students, school and community about the importance of preserving, protecting and restoring our south shore habitats. Press releases of the event will be sent to the media and educational curriculum will be incorporated into the current course work.
- Students will harvest, propagate, grow out and plant smooth cordgrass for environmental restoration projects.
- Students will monitor and maintain plant health and water quality.
- Students will take an active role in making a difference in their community today and improving it for years to come.
- Students will gain awareness of environmental issues, regulations and governmental agencies. Advisors will assist Tampa Bay Watch staff as needed to pull permits or to obtain any required authorizations for this project.
- Students will learn the importance of taking part in their community and environmental stewardship.

Our intention with this grant is to expand the educational component of the partnership to purchase educational kits that the students can utilize along with updating some of the equipment used to raise the grass.

PRF Request: \$2,275.00

Project Manager: Belinda Gran and Kimberly Willis

Total Cost: \$7,025.00

Phone: 813-629-5440

EPC Staff Recommendation: Approve

Staff Notes: Staff feels this is an inexpensive and practical educational project with an actual "in-the-ground" component. Funding will be used to purchase educational materials, harvest and cultivate salt marsh grasses and provide supplies for students. Students and teachers working in conjunction with Tampa Bay Watch will increase the potential for success of this project.

CEAC Recommendation Approve

CEAC Notes: CEAC voted unanimously (9-0-0) in favor of supporting EPC staff's recommendation to approve this project.

A08-7 Exploring the Impacts of Urbanization on Water Quality Impairment in the Alafia River Watershed

Applicant: **University of Florida**

Project Details Plan, implement and manage independent research and extension programs dealing with soil and water management problems of commercial ornamental, vegetable, and other crops of south Florida. Specific research areas include: determination of crop water requirements, development and improvement of water conservation alternatives, and development of improved management practices which result in water quality protection. Some current research program areas include:

- Water management of subirrigated sod using GIS technology
- Development and improvement of nutrient and water management BMP's for fresh market strawberry production
- Water requirements for transplant establishment of tomato and pepper seedlings for subirrigated and drip-irrigated growing conditions
- Non-isothermal fate and transport of drip-chemigated fumigant Methyl isothiocyanate (MITC) in plastic-mulched soil beds: Model development and validation
- Development of a solar irradiance model for plastic-mulched soil beds during tomato production

PRF Request: \$111,961.00

Project Manager: Dr. Gurpal S. Toor

Total Cost: \$111,961.00

Phone: 813.633.4152

EPC Staff Recommendation: Denial

Staff Notes: This project does not propose to alleviate any harm or cleanup any pollution source(s). It only attempts to correlate existing landuse through soil samples to the existing water quality data already available. This study does not seem to bring forward any new information and would only serve to, perhaps, verify already generally accepted pollution control measures.

CEAC Recommendation Denial

CEAC Notes: CEAC voted 8-1-0 in favor of supporting EPC staff's recommendation to deny this project.

2008 Project Requests for Pollution Recovery Funds

A08-8 Great American Cleanup and International Coastal Cleanup of 2009

Applicant: **Keep Hillsborough County Beautiful, Inc**

Project Details Thousands of local residents come out to clean up and beautify our communities during the Great American Cleanup in April and the International Coastal Cleanup in September. Keep Hillsborough County Beautiful rallies volunteers to make a visible difference in their environment through initiatives such as litter removal, litter prevention, recycling, beautification and improvement programs during these annual events. The main objectives are to raise public awareness about litter in our communities, educate volunteers about the impacts of litter on us, our environment and the animals that depend on it for survival, restore natural habitats and protect wildlife from injury or death by being entangled in or ingesting trash and other debris.

PRF Request: \$12,830.00

Project Manager: Christine Commerce

Total Cost: \$662,877.00

Phone: (813) 960-5121

EPC Staff Recommendation: Approve

Staff Notes: This project will organize and coordinate volunteers to participate in the Great American Coastal Cleanup and International Coastal Cleanup. PRF funding will be used to purchase materials such as: trashbags, gloves, safety vests, t-shirts, portolets, first aid packets, among other items.

CEAC Recommendation Approve

CEAC Notes: CEAC voted 8-0-1 in favor of supporting EPC staff's recommendation to approve this project.

A08-9 Improving the Surface Water Quality of Hillsborough County by Reducing the Negative Impacts of Residential Fertilizer

Applicant: **University of South Florida**

Project Details Surface waters of Hillsborough County are vulnerable to the impacts of residential lawn fertilizer use. The principal objective of this project is to conduct a mail survey that will provide information for formulating environmental policy recommendations to counteract the negative impacts of residential fertilizer use. The mail survey will also provide public feedback related to specific environmental policies mandating the residential use of phosphorous-free fertilizers. The survey will test the residence knowledge about Best Management Practices (BMPs) and will look to source reduction of phosphorus. Educational programs regarding fertilizer use can then be selectively implemented to improve their efficiency by identifying a target audience.

PRF Request: \$36,494.00

Project Manager: Kamal Alsharif Ph. D.

Total Cost: \$42,194.00

Phone: 813-974-4883

EPC Staff Recommendation: Denial

Staff Notes: This project is proposing many of the same residential lawn fertilizer initiatives as the ongoing efforts of the Tampa Bay Estuary Program's Fertilizer Task Force and Nitrogen Management Consortium which are much farther along in the process. There would be very little new information to be gained from this study.

CEAC Recommendation Denial

CEAC Notes: CEAC voted 8-0-1 in favor of supporting EPC staff's recommendation to deny the project.

2008 Project Requests for Pollution Recovery Funds

A08-10 MacDill Phase 2 Seagrass Transplanting Project

Applicant: **Tampa Bay Watch, Inc**

Project Details There are three primary objectives of this project: 1) to enhance and restore seagrass in areas of Hillsborough Bay where they have existed historically; 2) to evaluate the concept that historically present off-shore seagrass meadows were instrumental in maintaining prominent stable long-shore sandbars in Tampa Bay; and 3) to encourage greater stewardship of Tampa Bay natural resources by providing hands-on educational experiences for community and student volunteers.

This is the second phase of a highly successful seagrass transplanting program supported by the Environmental Protection Commission of Hillsborough County in 2006. Results of the 2006 program were utilized to design a second transplanting effort adjacent to the Phase 1 sites but within the elevational zone of the greatest seagrass transplant survival and parallel to the shoreline to accelerate recovery and expansion of manatee grass, *Syringodium filiforme*, along the southern Mac Dill Peninsula shelf.

PRF Request: \$79,196.00

Project Manager: Serra Herndon

Total Cost: \$95,049.00

Phone: (727) 867.8166

EPC Staff Recommendation: Approve

Staff Notes: This project is a continuation of the very successful Phase 1 that transplanted seagrasses from the Westinghouse area of Old Tampa Bay to the southern tip of the Interbay Peninsula adjacent to MacDill AFB. This project is a partnership between Tampa Bay Watch, the City of Tampa Bay Studies Group, and Coastal Resources Group, Inc.

CEAC Recommendation Approve

CEAC Notes: CEAC voted unanimously (9-0-0) in favor of supporting EPC staff's recommendation to approve this project.

A08-11 McKay Bay Sediment Quality Action Plan Development

Applicant: **Tampa Bay Estuary Program**

Project Details The Tampa Bay Sediment Quality Assessment Group (SQAG), which is organized through the Tampa Bay Estuary Program (TBEP), has identified 9 priority areas within Tampa Bay for development of sediment quality action plans (Figure 1). McKay Bay, an important estuarine habitat located in a heavily industrialized and urbanized setting in northeast Hillsborough Bay, has been ranked as the highest priority area for additional research and development of an action plan during an October 2007 SQAG meeting. The major objectives of this project will be to:

1. Refine the spatial extent, volume, and potential sources of sediment contamination in the McKay Bay estuary using a phased sampling approach, and
2. Develop a detailed action plan to address the existing sediment contamination present in this area based upon the refined assessment.

PRF Request: \$55,000.00

Project Manager: Ed Sherwood

Total Cost: \$85,000.00

Phone: 727-893-2765

EPC Staff Recommendation: Approve

Staff Notes: This project is a partnership through the Tampa Bay Estuary Program and will provide finer scale detail on sediment contamination in McKay Bay and lead to the development of a sediment quality action plan for that area. The action plan will identify the extent and severity of contaminated sediments, potential sources, and recommend appropriate source(s) control and remediation techniques.

CEAC Recommendation Approve

CEAC Notes: CEAC voted (9-0-0) in favor of supporting EPC staff's recommendation to approve this project.

2008 Project Requests for Pollution Recovery Funds

A08-12 MiniFARMS (Facilitating Agricultural Resource Management Systems) Best Management Practices Implementation Program

Applicant: **Florida Department of Agriculture & Consumer Services (FDACS)**

Project Details Section 403.067, F.S. directs the establishment and implementation of Florida's Total Maximum Daily Load (TMDL) program to restore impaired water bodies. Section 570.085, F.S. directs the FDACS to establish agricultural water conservation and water quality improvement cost share programs and BMP manuals to support the implementation of BMPs. The manuals are verified by the Florida Department of Environmental Protection, adopted in rule, and require growers to sign a "Notice of Intent" (NOI) to implement BMPs. Enrolling in the NOI program provides growers with a "Presumption of Compliance" (POC) from state water quality standards. It also enables growers/producers to receive technical assistance, education materials, and makes them eligible for cost share incentives where funding is available. At the present time, several BMP manuals have been developed and adopted that can be applied in Hillsborough County, such as our statewide Container Nursery and Vegetable and Agronomic Crop Manuals. A Specialty Fruit and Nut Manual as well as a manual for cow-calf operations are currently being developed and also could be applied to agricultural operations within the county.

It is expected that the educational, technical, and cost share incentives provided by the MiniFARMS program will lead to reduced nutrient and pesticide runoff and leaching, improved irrigation management, reduced off-site transport, and overall reduced nonpoint source pollution.

PRF Request: \$50,000.00

Project Manager: Jessica McCoy (OAWP)

Total Cost: \$79,200.00

Phone: 813-985-7481

EPC Staff Recommendation: Approve

Staff Notes: This project captures the smaller agricultural operations in the county with parcels less than 100 irrigated acres and promotes implementation of water quality and quantity BMP's. Staff feels this is a program that is already established and successful and recommends approval provided that applicants are proven to be within regulatory compliance (particularly with EPC).

CEAC Recommendation Approve

CEAC Notes: CEAC voted unanimously (9-0-0) in favor of supporting EPC staff's recommendation to approve this project.

A08-13 Petrol Mart, Inc. Tank Removal

Applicant: **EPC**

Project Details This project proposes to remove 4 abandoned UST's at 627 South Collins St., Plant City. Contamination has been present on site since at least 1998 and the tanks have been out of service since 2002. The property has been abandoned by a dissolved corporation and no responsible party is available. The EPC has a \$116,000 judgement lien and court authority to complete the appropriate work and add that amount to the lien. Provided the closure and assessment as well as the potential remedial action do not exceed the value of the property, EPC staff expects to recover its costs.

PRF Request: \$75,000.00

Project Manager: Sheila Luce

Total Cost: \$75,000.00

Phone: 813-627-2600

EPC Staff Recommendation: Approve

Staff Notes: This project proposes to remove a potential threat to the groundwater and soils of the county by removing 4 underground storage tanks and to determine the current, underlying site conditions.

CEAC Recommendation Approve

CEAC Notes: CEAC voted 8-1-0 in favor of supporting EPC staff's recommendation to approve this project.

2008 Project Requests for Pollution Recovery Funds

A08-14 Restoration of Seagrass Damage Caused by Boating Impacts in the Cockroach Bay Aquatic Preserve

Applicant: **Coastal Resources Group, Inc**

Project Details The three projects objectives are:
1-synthesis of all available seagrass restoration information and monitoring for Florida
2-to establish test restoration sites within a protected area of the CBAP and outside of a protected area in the same vicinity to examine rates of recovery for a minimum of two growing seasons
3- the production of a final peer reviewed 'Manual of Best Practices for Seagrass Restoration in Tampa Bay V.2' that could be further updated at the end of the additional two years of monitoring.
The accomplishment of these three objectives would be in accordance with the completed Seagrass Management Action Plan prepared by EPCHC and specifically address action 3, 4, and 5.

PRF Request: \$105,600.00

Project Manager: Roy "Robin" Lewis

Total Cost: \$182,200.00

Phone: 352-546-4842

EPC Staff Recommendation: Denial

Staff Notes: The project has a great deal of promise, but a large portion of it depends on the establishment of prop-scar repair and control sites within a "protected area" of the Cockroach Bay Aquatic Preserve. Such a protected area does not currently exist and the establishment of a suitable area for this study or for other seagrass management objectives remains uncertain for the moment. The potential need for further funding after the initial two year monitoring period also remains uncertain and could lead to the study being abandoned before seagrass recovery can truly be determined.

CEAC Recommendation Denial

CEAC Notes: CEAC voted unanimously (9-0-0) in favor of supporting EPC staff's recommendation to deny this project.

A08-15 Riverwalk Segment 10 - Nutrient Separating Stormwater Baffle Box

Applicant: **City of Tampa (COT)**

Project Details The principal environmental objective of this project is the installation of a nutrient-separating baffle box at the Brorien Street location to reduce nutrient, sediment and debris-loading into the Hillsborough River and associated flow into Tampa Bay from approximately 9 acres of surface area. The subordinate environmental objectives to this project will be providing stormwater treatment to an area that currently does not provide any prior to discharge into the Hillsborough River.

PRF Request: \$38,500.00

Project Manager: Al Hoel P.E.

Total Cost: \$77,000.00

Phone: 813-274-8462

EPC Staff Recommendation: Denial

Staff Notes: The "nutrient separating" capabilities of this technology is anticipated to be only about 25% effective. The devices are quite effective at removing cups, bottles, cans, trash, etc., but their ability to remove soluble nutrients is far less effective. For these nutrient loads, more traditional methods of stormwater retention/detention may be more effective and technically appropriate.

CEAC Recommendation Denial

CEAC Notes: CEAC voted 8-1-0 in favor of supporting EPC staff's recommendation to deny this project. Concerned mostly with who's responsibility it is to pay for it since it is a COT project.

2008 Project Requests for Pollution Recovery Funds

A08-16 Site Assessment and Removal of Two 55-gallon Drums of Contaminated Soil

Applicant: **Miley's Radiator Shop**

Project Details Miley's Radiator Shop is a facility that repairs automotive radiators. The process involves draining all waste from the radiator prior to performing any repair work. On December 11, 1996 Environmental Protection Commission (EPC) staff investigated a complaint at the referenced facility. During the investigation, EPC staff observed that radiator wastes were discharged into a concrete containment area with a drain that was connected to an onsite septic tank system. EPC staff also observed two 55 gallon drums that contained dark colored solids. Mr. Calvin Miley stated that the solids were generated from washing out radiators. The solids collected in the concrete basin and he occasionally scraped them up and placed them inside the drums. Based on the investigation and information provided by Mr. Miley, EPC required that a Preliminary Contamination Assessment Plan (PCAP) be submitted and a waste determination on the solids in the drums be performed to classify the material for proper disposal. Laboratory results were received and indicate that the solids are hazardous for lead. The PCAP has never been submitted.

PRF Request: \$25,000.00

Project Manager: Calvin Miley

Total Cost: \$25,000.00

Phone: 813-241-6324

EPC Staff Recommendation: Approve

Staff Notes: This project will remove an identified source of lead pollution (two 55 gallon drums of contaminated soils) and provide a site assessment of a radiator repair facility located at 4324 E. 7th Ave. in Tampa. The owner of the facility, Mr. Calvin Miley has been demonstrated to be financially unable to comply with EPC enforcement and has volunteered to have a lien placed on the property for possible PRF reimbursement in the future.

CEAC Recommendation Approve

CEAC Notes: CEAC voted 7-2-0 in favor of supporting EPC staff's recommendation to approve this project.

A08-17 Wetland Restoration Potentials on County-owned Lands

Applicant: **Environment and Health, Integrated inc**

Project Details The principal environmental objectives of this project are to: (a) identify readily restorable isolated wetland systems on County-owned lands; (b) rank these; (c) begin a program for the restoration of these sites. A subordinate environmental object of this project is to provide an accounting of the increase in wetland acreage and improvements in wetland quality so as to potentially be able to claim wetland mitigation credits for certain County projects that may cause unavoidable damage to wetlands in future years. The problems which seek to be ameliorated by this project involve the wide-spread, significant reductions in both acreage and conditions of many isolated wetlands within the County boundaries. Dr. Emery is currently finishing a research project for the Southwest Florida Water Management District in which he was to study unimpacted wetlands as well as varying levels of impacted systems. He determined that there are relatively few unimpacted isolated wetlands remaining within the County. Other work done by EHI for Hillsborough County and EPC indicates that multiple isolated wetlands have been impacted, at least in part, as a result of past ditching activities (this in no way should be taken to mean that there are not other factors impacting the wetlands as well). Many of these ditches could be easily filled in, or blocked, to allow for rehydration of the affected wetland, with no offsite impacts or changes to offsite flow patterns.

PRF Request: \$120,000.00

Project Manager: Scott Emery

Total Cost: \$150,000.00

Phone: 813-966-5607

EPC Staff Recommendation: Approve

Staff Notes: This project stands to gather some valuable information for the Wetlands Management Division staff and proposes actual wetland restoration in addition to the development of a list of county-owned wetlands that, with cost effective and minimal effort, could be restored. The applicant will work with EPC staff to establish a list of 30 isolated wetlands on county property that have the greatest potential for restoration and then take the top five candidates and actually re-establish their historic hydrology using various methods of ditch blocking, berms, or other appropriate devices specific to each wetland location. In addition, the five sites that are restored will receive UMAM and WAP scores as a means of evaluating the process with before & after data.

CEAC Recommendation Approve

CEAC Notes: CEAC voted 8-1-0 in favor of supporting EPC staff's recommendation to approve the project. Concerned with change in budget going from a list of 50 to a 25 list plus 5 complete projects and the affect on adjacent properties.

2008 Project Requests for Pollution Recovery Funds

A08-18 Communities Learning Over (CLOVER)

Applicant: **TAKE CHARGE!!! Lifestyle Management, Inc**

Project Details The CLOVER Project is a youth-driven, multi-faceted, environmental health program which emphasizes the 4 pronged model approach of R.E.A.R.,- Recruitment, Education, Action, Reaction. Recruiting interested youth, educating these youth as to what human habits are in need of changing to prevent pollution to improve individual and community health, taking action in the community armed with the environmental knowledge gained, and mentor others as reaction of human behaviors' improvement toward the environment become evident.

PRF Request: \$50,000.00

Project Manager: Dotti Groover

Total Cost: \$60,000.00

Phone: (813) 932-9019

EPC Staff Recommendation: Denial

Staff Notes: This project is a strictly educational effort that seems to lack focus. It proposes to educate youth on such diverse topics as: algae blooms, respiratory irritants, second-hand smoke, ground and surface water pollution, and wetlands.

CEAC Recommendation Denial

CEAC Notes: CEAC Voted unanimously (9-0-0) in favor of supporting EPC staff's recommendation to deny the project.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: Florida Gas Transmission Phase VIII Request to intervene and become a party

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

Division: Legal Department

Recommendation: Authorize the Executive Director, through the Legal Department, to intervene in the Federal Energy Regulatory Commission certification proceeding to allow the EPC to become a party to protect the interest of Hillsborough County's environment.

Brief Summary: Florida Gas Transmission (FGT) plans to expand its existing natural gas pipeline system from Alabama to Florida. The proposed project, known as FGT Phase VIII Expansion Project, will involve adding additional and redundant pipelines and new and upgraded compressor stations. By authorizing the EPC to intervene, the EPC will have full party status to participate in any administrative hearing, but the EPC hopes that EPC comments regarding various environmental issues will be considered by Federal Energy Regulatory Commission (FERC), especially when that agency authorizes FGT to route the pipeline through or around wetlands in Hillsborough. The BOCC took similar action to authorize the County to intervene under agenda item A-11 of the BOCC meeting dated October 1, 2008.

Financial Impact: Assuming the EPC only comments on the application, there will be no additional costs. But, if required to participate in an administrative proceeding, litigation costs can vary depending on the length and complexity of the litigation. Should litigation become necessary, staff will come back to the Board for further authorization.

Background: Federal Energy Regulatory Commission (FERC) is the federal agency responsible for approving the siting of interstate natural gas pipeline facilities. Florida Gas Transmission (FGT) plans to expand its existing natural gas pipeline system from Alabama to Florida, known as FGT Phase VIII Expansion Project. According to an FGT informational summary, the project is described as follows:

Florida Gas Transmission is proposing to expand its natural gas pipeline system to meet the growing energy needs of the Gulf Coast and Florida to ensure an adequate, reliable and secure energy supply. Natural gas is the primary fuel for new electric generation plants and most of the natural gas consumed along the Gulf Coast and Florida is used for electric generation. The Phase VIII Expansion will increase Florida Gas Transmission's delivery capacity into Florida by up to 1 billion cubic feet per day. The additional capacity provided by the Phase VIII Expansion will provide enough natural gas to power an estimated 1 million homes daily. The project consists of adding 568 miles of pipeline in Alabama, Mississippi and Florida with approximately 439 miles

built parallel to existing pipelines. The project will add approximately 207,900 horsepower of compression at 8 existing stations with one new compressor station to be built in Okeechobee County, Fla. The project is expected to be completed and in service in the spring of 2011.

The natural gas primarily will come from gas supplies in the Gulf Coast area, new shale developments in Texas, Louisiana and Arkansas, and liquefied natural gas terminals. The Florida Gas Transmission Company's Phase VIII Expansion will build about 568 miles of new underground pipeline in the three states, of which about 439 miles will parallel (or "loop") existing main pipelines, and 129 miles will be built in new easements. Looping is when one pipeline is laid parallel to another and is often used as a way to increase capacity and reliability along a right-of-way beyond what is possible on one line. To accommodate this new capacity, FGT is also planning to construct one new compressor station and upgrading eight compressor stations in Florida.

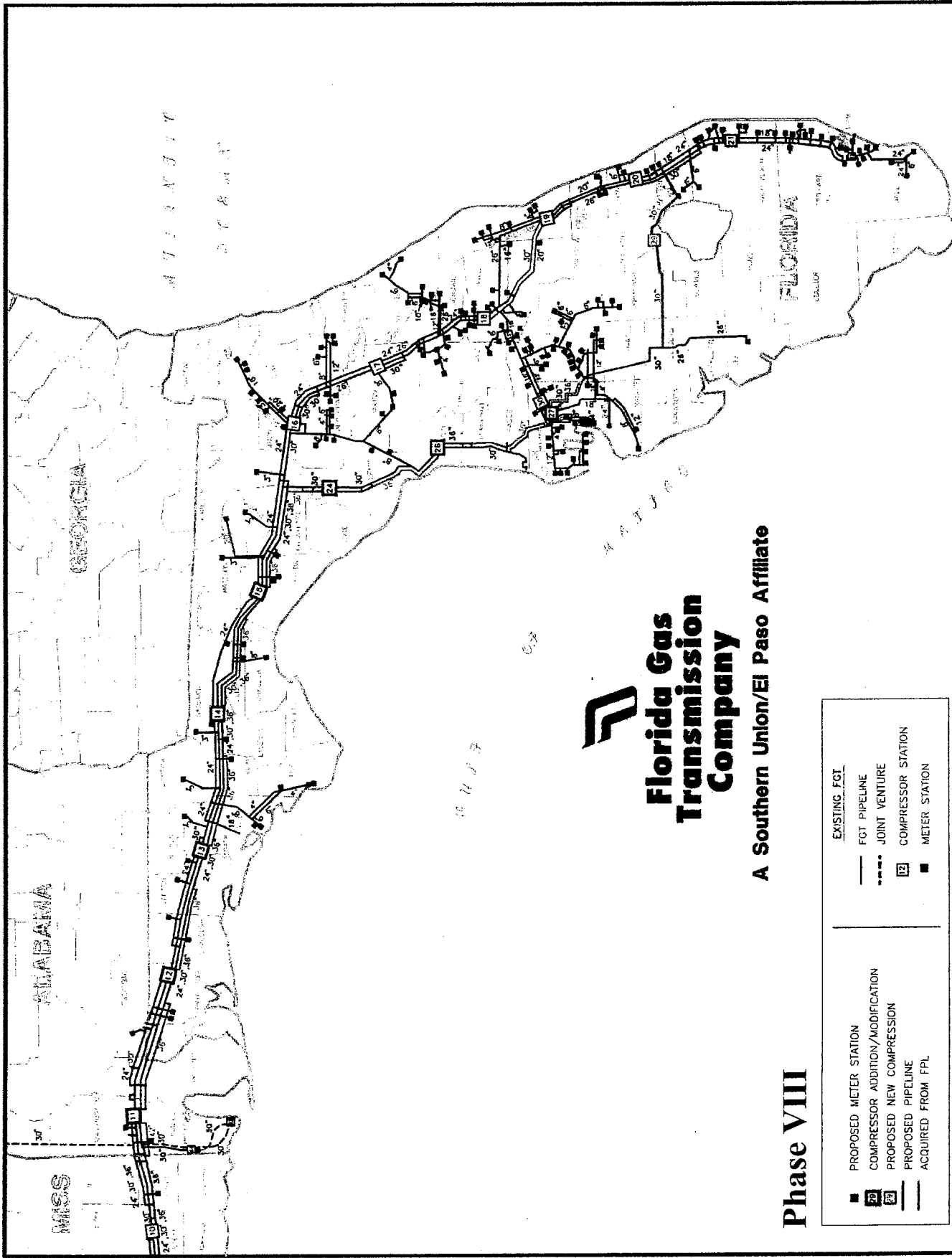
More specific to Hillsborough County, FGT plans on constructing or modifying three projects (see attached map). Proposed Loop 9 is 49.3 miles of 36-inch diameter pipeline in Hernando, Pasco and Hillsborough counties ending at the Thonotosassa compressor station. Proposed Loop 10 is 38.8 miles of 36-inch diameter pipeline in Hillsborough and Polk counties beginning at the Thonotosassa compressor station. Proposed Compressor Station 27 will increase horsepower at existing Thonotosassa compressor station in Hillsborough County. According to the FGT the majority of all the pipelines are built below ground.

FGT must get the certification from FERC prior to construction. FGT plans to build the majority of the parallel pipelines in existing right-of-ways, but the other pipelines will need new easements and may impact other lands. FERC approval will give FGT the power of eminent domain to acquire easements that cannot be negotiated.

On October 31, 2008, FGT filed the "application for a certificate of public convenience and necessity and authority to acquire natural gas pipeline facilities, requesting authorization to construct, own, operate and maintain certain natural gas transmission facilities to provide transportation services." In the next few weeks FERC will notice this application (Docket No. CP09-17-000) and then any interested parties will be authorized to intervene in the proceedings.

By authorizing the EPC to intervene, the EPC will have full party status to participate in any administrating hearing, but the EPC hopes that EPC comments regarding various environmental issues will be considered by Federal Energy Regulatory Commission (FERC), especially when that agency authorizes FGT to route the pipeline through or around wetlands in Hillsborough.

List of Attachments: FGT Phase VIII map



Florida Gas Transmission Company

A Southern Union/El Paso Affiliate

Phase VIII

<ul style="list-style-type: none"> ■ PROPOSED METER STATION ■ COMPRESSOR ADDITION/MODIFICATION ■ PROPOSED NEW COMPRESSION ■ PROPOSED PIPELINE ■ ACQUIRED FROM FPL 	<ul style="list-style-type: none"> — EXISTING FGT — FGT PIPELINE — JOINT VENTURE ■ COMPRESSOR STATION ■ METER STATION
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EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 13, 2008

Subject: Tom Koulianos Citizens' Conservation Efficiency Award

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

Division: Executive Director

Recommendation: Board Approval

Brief Summary: At the September 16, 2008 EPC Board meeting Commissioner Blair moved and it was passed to establish the Tom Koulianos Citizens' Conservation Efficiency Award. Staff was directed to establish the criteria and bring it back to the Board at the next meeting. The award's purpose, eligibility and evaluation criteria, and nominating procedures are attached.

Financial Impact: No additional funds are required.

List of Attachments: Procedure and Nomination Form for Tom Koulianos Citizens' Conservation Efficiency Award.

Environmental Protection Commission of Hillsborough County
Tom Koulianos Citizens' Conservation Efficiency Award

The Board of the Environmental Protection Commission of Hillsborough County establishes the Tom Koulianos Citizens' Conservation Efficiency Award to recognize individual citizens and/or groups in Hillsborough County who are making significant contributions to conserving natural resources and energy and thus benefiting the environment of Hillsborough County.

Purpose

The purpose of the Tom Koulianos Citizens' Conservation Efficiency Award is to recognize outstanding achievements by individuals, businesses, organizations, and educational institutions for efforts to protect and enhance the natural environment of Hillsborough County by the promotion of the concept of sustainable natural resource management, or for the implementation of successful environmental projects or conservation measures either directly related to resource protection or energy conservation. The award is designed to bring about a greater knowledge and awareness of environmental and conservation practices and projects, and to give proper recognition to those persons and organizations that make outstanding contributions to the natural resources of their community through sustainable practices.

Eligibility

- Any resident or group residing in Hillsborough County committed to protecting public health and preserving our natural surroundings.
- Project or actions must have proven effectiveness or impact over the course of several years.

Evaluation Criteria

Evaluating the award will not be limited to the following criteria but these criteria will be heavily weighted:

- Effectiveness in the long-term protection and enhancement of the environment.
- Relationship between the environmental benefits and economic or energy savings
- Relevance of the educational and outreach efforts to environmental sustainability issues in the community.
- Effectiveness in addressing issues relating to air quality; energy, land, or water conservation; hazardous materials management; or solid waste reduction.

Nominating Procedures

- EPC Board members, EPC staff or the public may submit nominations.
- Nominations are accepted throughout the year and considered annually in November.
- Nomination forms are required for all nominees and must be received by EPC on or before the deadline September 30th of each year. Incomplete or illegible forms cannot be considered.
- No more than three pages of pertinent supporting information may be submitted with the form. It should clearly explain what the nominee accomplished that warrants EPC recognition, and should also cite facts and figures that illustrate the effectiveness of the nominee's efforts. The opening paragraph should serve as a critical portion of the nomination.

The Citizens Environmental Advisory Committee (CEAC) will review all nominations and recommend the winner(s) to the EPC Board based on the information provided. The Board's selection is final. The winner(s) will be presented the award at a ceremony during a regular EPC meeting.



Tom Koulianos Citizen's Conservation Efficiency Award

Nominations are accepted throughout the year and held in Executive Director's office until the due date of September 30th, at which time they are forwarded to the Citizens Environmental Advisory Committee (CEAC) for their review and recommendation to the Board.

NOMINATION FORM

Date: _____ Person Initiating Nomination: _____

Telephone: _____

Name of Nominee: _____

Address: _____

Telephone: _____ Fax and/or Email: _____

Reason for Nomination:

Project/Achievement:

Significance or Impact:

Documentation Attached: Yes No

Citizens Environmental Advisory Committee Review

Date Received: _____

Signature: _____ Date: _____
CEAC Chairman

Comments: _____
