

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
COMMISSIONER'S BOARD ROOM  
MAY 17, 2007  
10 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. CITIZEN'S COMMENTS**
- II. CITIZEN'S ENVIRONMENTAL ADVISORY COMMITTEE**  
Report from the Chair – David Jellerson
- III. CONSENT AGENDA**
- |  |    |
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| B. Monthly Activity Reports  | 14 |
| C. Pollution Recovery Trust Fund Report  | 25 |
| D. Gardinier Settlement Trust Fund Report  | 26 |
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| F. Authorize Executive Director to Execute Compliance Contract with FDEP<br>(Petroleum Storage Tank Compliance Contract) | 32 |
- IV. EXECUTIVE DIRECTOR**
- V. COMMISSIONER'S REQUEST**  
Commission Question and Answer Session with Southwest Florida Water  
Management District and EPC (Commissioner Blair) 46

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

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MARCH 7, 2007 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING -  
DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to Consider Arbitration of the Tampa Bay Water (TBW) Proposed Fiscal Year (FY) 2006 Optimized Regional Operations Plan (OROP), scheduled for Wednesday, March 7, 2007, at 2:00 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

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

Chairman Blair called the meeting to order at 2:05 p.m.

Mr. Gordon Leslie, EPC staff, recommended to not arbitrate. Some recovery had been realized due to cutbacks in wellfield pumping, but impacts would continue even under 90 million gallons per day. Maximizing the use of alternative sources was contentious with the OROP, while minimizing the use of groundwater in the central system would be a big benefit in coming years. Staff was hopeful communications would continue with the Southwest Florida Water Management District to help make the OROP better. **Commissioner Sharpe moved the item, seconded by Commissioner Ferlita.** Chairman Blair clarified the motion was to direct staff to not arbitrate the TBW proposed FY 2006 OROP. **The motion carried seven to zero.**

There being no further business, the meeting was adjourned at 2:07 p.m.

READ AND APPROVED: \_\_\_\_\_

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

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

sd

MARCH 15, 2007 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, March 15, 2007, at 10:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

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

The following member was absent: Commissioner Ken Hagan (schedule conflict).

Chairman Blair called the meeting to order at 10:05 a.m., led in the pledge of allegiance to the flag, and gave the invocation.

CITIZENS COMMENTS

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

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson stated the March 5, 2007, CEAC meeting included a review of sunshine laws, discussion on EPC procedures for dealing with community complaints and EPC role in the County building permit process, a presentation on historic landfills in the County, a briefing on wetland setbacks and buffers, and discussion on creation of a technical manual. He noted pollution recovery fund (PRF) applications were posted on the EPC website and applications were due by May 1, 2007.

Presentation of Award to Ms. Ann Paul - Chairman Blair presented a plaque to Ms. Paul for service on CEAC from February 7, 2005, through January 10, 2007. Ms. Paul offered appreciative comments.

CONSENT AGENDA

- A. Approval of minutes: February 15, 2007.
- B. Monthly activity reports.
- C. PRF report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary.
- F. Grant authority to pursue appropriate legal action against Mohammad F. and Donice A. Bhadelia and Dwayne Gillespie.

Chairman Blair called for approval of the minutes. Commissioner Sharpe so moved, seconded by Commissioner Ferlita. (The motion was not voted on.) In response to EPC General Counsel Richard Tschantz, Chairman Blair suggested approving each item separately. Attorney Tschantz explained the Consent Agenda was usually approved as a whole. **Commissioner Norman moved the Consent Agenda, seconded by Commissioner Ferlita, and carried six to zero.** (Commissioner Hagan was absent.)

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SPECIAL PRESENTATION

Presentation by Mr. Wilson Rogers, Live Nation, Regarding Ford Amphitheatre - Dr. Richard Garrity, EPC Executive Director, recalled noise issues relating to the Ford Amphitheatre, which resulted in civil action taken by EPC, and reviewed requirements of a settlement agreement requiring construction of a permanent noise wall, which was completed in February 2007. Mr. Rogers discussed the settlement agreement; provided background information on the Ford Amphitheatre building, including the opening date, concerts, economic impacts, community involvement, construction efforts, and interim measures; noted a reduction in noise complaints; referenced a citizens advisory task force; showed photographs of the noise wall; highlighted local suppliers involved in creating the wall; thanked those involved in the project; covered costs of the project; and perceived Live Nation had fulfilled obligations under the settlement agreement.

Commissioner Sharpe offered laudatory comments regarding efforts to meet obligations and the facility. Commissioner Higginbotham expressed pleasure that efforts were made to keep funds within the local economy, opined requirements were met, and asked about monitoring and if procedures were in writing. Dr. Garrity stated concerts were monitored and referenced efforts to create a manual. In response to Commissioner Higginbotham, Mr. Rogers noted another concert was scheduled for March 25, 2007. Attorney Tschantz stated obligations had been met, and the settlement agreement required measurement and monitoring of sound, which had been done. Responding to Commissioner Higginbotham, Attorney Tschantz said written standards had not been provided to Live Nation; the manual was in the final stages and would be provided to Live Nation for comments before finalization.

Commissioner Norman was impressed by efforts and commitments made by Live Nation. Commissioner White valued detailed reports showing the level of noise complaints; he left the meeting at 10:30 a.m. to attend a funeral. Commissioner Ferlita appreciated efforts, expressed concern regarding comments from Commissioner Higginbotham wanting the manual completed in two weeks, and noted she did not see requirements in the settlement agreement for EPC staff to develop a standard operating procedure (SOP). Dr. Garrity confirmed EPC was following standards, and the manual would dictate SOP for measuring noise countywide. Commissioner Ferlita perceived putting pressure on EPC to finalize the manual was counterproductive and referenced criteria used for monitoring. Commissioner Sharpe wanted to ensure Live Nation received information quickly. Dr. Garrity referenced meetings with Live Nation. Mr. Rogers discussed sound measurement and suggested using something that removed all doubt from the process. At the request of Dr. Garrity, Mr. Jerry Campbell, Director, EPC Air Management Division, discussed the purpose of the technical manual. Commissioner Sharpe wanted to ensure everyone was treated fairly. Dr. Garrity referenced procedures to measure ambient sound to ensure

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Live Nation was not blamed for sounds for which they were not responsible. Commissioner Higginbotham was glad EPC was meeting with Live Nation and perceived the issue was fairness. Chairman Blair thanked current and former EPC Board members for leadership on the issue and commented on the use of local businesses.

#### EXECUTIVE DIRECTOR'S REPORT

Recalling reports on Hillsborough River minimum flow levels, Dr. Garrity stated the Southwest Florida Water Management District (SWFWMD) had recommended an increase in flows, noted EPC staff reports opining the SWFWMD recommendation was not high enough, stated the SWFWMD report was sent to a peer review group who recommended a 20 percent increase in what SWFWMD had recommended, explained EPC perceived that was a positive sign of where things were going with minimum flows, and said staff was reviewing and would transmit technical comments to SWFWMD and keep the EPC Board apprised. Commissioner Norman referenced e-mails regarding minimum flow levels and asked how to get water to the recommended levels. Dr. Garrity expressed hope that all parties would come together on that.

#### ADMINISTRATION

Recommended EPC Board Policies for Adoption - Mr. Tom Koulianos, Director, EPC Finance and Administration, noted adopted polices would be posted on the EPC intranet. Referencing policy language, Mr. Koulianos stated references to the Board of County Commissioners (BOCC) would be substituted with EPC and references to the County Administrator would be substituted with Executive Director. He explained the basis for recommendations and referenced background material showing policies recommended for adoption. EPC staff recommended adoption of the highlighted policies. Regarding Policy 03.04.03.00, revised fee schedule of the Planning and Growth Management Department (PGMD), Commissioner Norman asked if the time frames for permit reviews were being adopted. Mr. Koulianos noted that item would be discussed in a later agenda item. Chairman Blair commended the efforts of Mr. Koulianos. **Commissioner Ferlita moved approval as recommended, seconded by Commissioner Sharpe, and carried five to zero.** (Commissioner White had left the meeting; Commissioner Hagan was absent.)

EPC Fiscal Year (FY) 2008-2009 Budget Submittal Summary - Mr. Koulianos stated the budget had been submitted to the County Administrator, noted no additional positions were requested, and reviewed the budget summary, including capital requests for replacement computer equipment and equipment for the new lab to be opened in FY 2008. He confirmed guidelines established by the BOCC and the County Administrator were followed. Chairman Blair asked about participation of the computers for kids program. Mr. Koulianos stated EPC followed County guidelines, which were to turn surplus property over to the County. He referenced enhancements requested for continuation of the capital improvement

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project for the build-out of the second floor of the EPC building at Sabal Park and a \$10,000 request to come from the PRF for a study on social/economic impacts of artificial reefs. In response to Chairman Blair, Mr. Koulianos recalled funds saved on art. Chairman Blair called for a motion to adopt the budget. **Commissioner Sharpe so moved, seconded by Commissioner Ferlita, and carried five to zero.** (Commissioner White had left the meeting; Commissioner Hagan was absent.) Mr. Koulianos recognized staff who worked on the budget.

LEGAL DEPARTMENT

Alafia River Reclassification Process - Attorney Tschantz referenced a Comprehensive (Comp) Plan proposal related to reclassification of the Alafia River and Tampa Bypass Canal to Class I waters, reviewed proposed language and existing surface water classifications in Hillsborough County, and discussed the reclassification process. Mr. Bob Stetler, EPC staff, highlighted extra protections afforded and what demands would be made on surrounding communities by reclassification. Attorney Tschantz stated information would be reviewed by the Department of Environmental Protection (DEP), and the matter would be considered at a public hearing on April 19, 2007. Commissioner Sharpe asked if there was an explanation of public benefit. Chairman Blair said no scientific data was provided on whether a 30-foot buffer was better than a 15-foot buffer for preserving water.

Tampa Bay Water (TBW) General Counsel Richard Lotspeich stated TBW was already treating water from the Alafia River, noted water in the Alafia River currently met Class I water quality standards except for a few parameters, perceived issues surrounding those few parameters could be addressed and achieved, discussed future protection and the importance of gaining control of land uses that would be in the watershed contributing to a water body, reported TBW wanted to ensure Class I standards continued to be met, noted TBW had a state-of-the-art water treatment plant, referenced problems with water quality parameters TBW could not treat without huge costs, said the goal was to keep those parameters out of the water, reported TBW had secured services to begin providing supporting documentation to be filed with the DEP petition, recalled a land use survey showing 80 percent of land along the Alafia River was in the Environmental Lands Acquisition and Protection Program (ELAPP), opined making the designation correspond with ELAPP lands would support ELAPP goals, explained TBW was in the process of establishing a timetable to meet with stakeholders, and perceived the proposed classification change would not have adverse impacts on existing land uses and dischargers.

In response to Commissioner Sharpe, Attorney Lotspeich highlighted parameters that currently did not meet Class I standards. Responding to Commissioner Norman, Dr. Garrity explained no action was requested. Attorney Tschantz clarified language would be included in the Comp Plan if approved at the April 19, 2007, public hearing. Commissioner Norman asked if the information would be taken to the study committee formulated regarding buffers. Attorney

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Tschantz stated those were two separate processes. Dr. Garrity agreed taking the issue to the study committee would be a good idea.

Attorney Lotspeich stated the process would start when TBW filed the petition with DEP and expressed hope to have that filed after a scheduled stakeholders meeting. Commissioner Sharpe wanted to ensure stakeholders were informed and did not want standards included in the process if that would be too expensive or damaging. Chairman Blair agreed. Commissioner Ferlita supported the process. Attorney Lotspeich said the issue would be brought back to the TBW board of directors before the petition was filed. Commissioner Norman was trying to have local people have a say in the process before things were mandated and there was a conflict. Attorney Lotspeich understood the County was under separate time constraints related to the Comp Plan. Attorney Tschantz explained there was a separate Comp Plan issue related to development of a technical manual for buffers around waterways, which would also be considered at the April 19, 2007, public hearing. Attorney Lotspeich reported stakeholder meetings would not be completed until the end of May 2007. Responding to Commissioner Sharpe, Attorney Tschantz reviewed proposed language. At the request of Chairman Blair, Dr. Garrity agreed to meet with TBW and other stakeholders before the April 19, 2007, public hearing.

Review of EPC Legislative Strategy and Process - Attorney Tschantz recalled previous approval of guidelines for staff regarding commenting on bills as they moved through the legislature, reviewed the old policy, and summarized the new policy. **Commissioner Norman moved staff recommendation, seconded by Commissioner Sharpe.** Chairman Blair referenced concerns with weakening the process. **The motion carried five to zero.** (Commissioner White had left the meeting; Commissioner Hagan was absent.)

Dr. Garrity noted Item IX, crematories discussion, and Item X, discussion on fertilizer education program, could be tabled for the next meeting. **Commissioner Norman moved to continue Items IX and X, seconded by Commissioner Sharpe, and carried five to zero.** (Commissioner White had left the meeting; Commissioner Hagan was absent.)

COMMISSIONERS' REQUESTS

Wetlands Program Time Frames - Ms. Jadell Kerr, Director, EPC Wetlands Management Division, reviewed the EPC role in the permitting process and the development community perception that integration into the local jurisdictions would provide a more streamlined process; stated the EPC review was incorporated into ongoing review processes throughout all County jurisdictions and time frames prescribed within the Land Development Code were followed by EPC; highlighted time frames and requirements for PGMD, EPC wetland permitting, State and federal wetland permitting; and discussed future goals and staff recommendation that if time frames were adopted they would be broad to allow EPC to continue working with individual jurisdictions.

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Commissioner Norman clarified questions regarding fee levels and asked if EPC had worked with customers and if those customers supported what was being presented. Ms. Kerr referenced work with PGMD, city of Tampa (Tampa), and other jurisdictions; understood there was no attempt to change time frames in the immediate future; and stated the EPC had an independent fee schedule for review. Commissioner Norman relayed complaints about EPC time frames and perceived individuals would pay more to speed up the process. Dr. Garrity agreed, recalled previous fee increases to hire additional staff, and said EPC was currently meeting 93 percent of all time frames. In response to Commissioner Norman, Ms. Kerr noted EPC was involved in an ongoing process with the Tampa Bay Builders Association (Builders Association) and PGMD, stated she did not know whether time frames were completely addressed, reported the Builders Association recognized responsibility in the permit review process and how applications were submitted, stated the County was trying to put together check lists to know what was received and that applications were processed timely, and mentioned difficulty in keeping staff. Dr. Garrity opined the development community was happy with time frames as long as those were met.

Commissioner Norman suggested giving answers in a shorter time frame even if that meant charging more. Dr. Garrity referenced a meeting scheduled with the development community. In response to Chairman Blair, Dr. Garrity explained EPC was 93 percent on time according to PGMD time frames. Commissioner Higginbotham asked if EPC had met with other municipalities besides Tampa. Ms. Kerr stated the other municipalities were involved in the process. Commissioner Ferlita perceived the item was a work in progress. Ms. Kerr highlighted permits reviewed and staff involved. Chairman Blair opined the County could always do better, wanted to know standards would be met, and suggested a report in 30 days. Dr. Garrity agreed. In response to Ms. Kerr, Chairman Blair asked that the report include the standards to which EPC would adhere. Ms. Kerr confirmed the report should include time frames for the individual jurisdictions. **Commissioner Norman moved to bring back a Consent Agenda item outlining what was said in a report in 30 days, seconded by Commissioner Ferlita, and carried five to zero.** (Commissioner White had left the meeting; Commissioner Hagan was absent.)

Tampa Bay Estuary Program (TBEP) Funding - After noting the TBEP budget had not received an adjustment since FY 1999-2000, a decline in federal dollars, and efforts to invest in Tampa Bay, **Commissioner Norman moved to ask the EPC Chairman to send a letter to the member governments asking each to commit to adjusting the TBEP budget by their particular population and consumer price index for the upcoming years, seconded by Commissioner Sharpe.** Commissioner Norman suggested Dr. Garrity craft the letter on making a positive investment. Commissioner Sharpe thanked Commissioner Norman for leadership on the issue. Commissioner Norman recognized TBEP members. In response to Chairman Blair, Ms. Holly Greening, TBEP, reviewed the mission statement. Dr. Garrity



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referenced a newspaper article on the seagrass decline. Commissioner Ferlita expressed hope that a long-term goal would be to not let that slip by again and continue adding to the TBEP budget. **The motion carried five to zero.** (Commissioner White had left the meeting; Commissioner Hagan was absent.)

There being no further business, the meeting was adjourned at 12:03 p.m.

READ AND APPROVED: \_\_\_\_\_

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

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

kc

APRIL 11, 2007 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to discuss Pending Legislation, scheduled for Wednesday, April 11, 2007, at 1:30 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Brian Blair and Commissioners Rose Ferlita, Ken Hagan, Al Higginbotham, Jim Norman, Mark Sharpe, and Kevin White (arrived at 1:54 p.m.).

Chairman Blair called the meeting to order at 1:33 p.m.

Dr. Richard Garrity, EPC Executive Director, suggested taking public comment. Ms. Terry Flott, Seffner, requested support for EPC to fight pending legislation, wanted to keep the EPC Wetlands Management Division intact, and perceived pending legislation did not guarantee that. Ms. Marcella O'Steen, 15133 Carlton Lake Road, concurred with comments from Ms. Flott. Ms. Vivian Bacca, 413 El Greco Drive, supported the resolution authorizing the EPC chairman to issue a letter opposing the amendment to House Bill (HB) 957 regarding preemption of local wetlands regulations, opined EPC could regulate wetlands better than the State, and pointed out EPC permit times and turnaround times were better than the State. Ms. Mariella Smith, 108 Janie Street, perceived the County had a fiduciary responsibility to support the EPC right to lobby in their defense and asked for support of staff recommendation. Mr. George Niemann, 4711 Dover Cliff Court, supported previous speakers, recalled prior discussions on setbacks, and opined having a local EPC helped in making decisions.

Mr. Stephen Dibbs, 5277 Erlich Road, discussed budgets of the EPC, Southwest Florida Water Management District (SWFWMD), Florida Department of Environmental Protection (FDEP), and Army Corps of Engineers and perceived EPC had conflicting roles with the State.

Mr. Bill Luchsinger, 4207 Woodside Manor Drive, noted the need to protect the environment, opined the County exceeded wetlands regulations, referenced the bottom line for businesses and commitments to maintain wetlands and the environment, quoted former President Thomas Jefferson regarding governance, and opined the County should mandate to not have duplication. Mr. Todd Pressman, 28870 North U.S. Highway 19, Suite 300, Clearwater, discussed duplication of services.

EPC General Counsel Richard Tschantz recalled reapproval of the EPC legislative strategy, noted meetings in Tallahassee, reviewed a presentation regarding HB 957 and an amendment altering the effect of the bill by stating

WEDNESDAY, APRIL 11, 2007

no local government could enact or enforce a wetlands regulatory program unless there was delegation through the State, stated that language essentially eliminated the EPC Wetlands Management Division, noted a similar attempt was defeated last year, reported he had testified in opposition to the amendment, said the Governor had stated he would veto the entire bill if the amendment were included, recognized questions regarding duplication, perceived the matter was a home rule issue, reviewed staff recommendation, and relayed the Citizens Environmental Advisory Committee had voted unanimously to oppose the local preemption language in the bill.

Commissioner Sharpe moved to draft the letter, highlighted discussions held in Tallahassee regarding duplication and property rights, sensed the legislation removed the opportunity for local government to effectively enforce regulations to protect the environment, opined the County needed to have stringent regulations to ensure protection of the aquifer and neighbors, and referenced comments that the County was more efficient than the State. Commissioner Ferlita seconded the motion. (The motion was not voted on.) She agreed with comments from Commissioner Sharpe, recalled speaking at an energy summit hosted by Congresswoman Kathy Castor, and perceived staff recommendation was the appropriate, responsible direction to take.

Chairman Blair referenced campaign promises to make a positive difference, supported the EPC, noted being told the EPC followed State regulations, referenced the SWFWMD mission statement, perceived issues were regulatory and with duplication, read information regarding EPC wetlands protection programs and State requirements, noted no evidence that wetlands were declining and the need to ensure other agencies were doing their job, and opined the EPC job was to enforce State regulations already in place and avoid duplication. After passing the gavel to Vice Chairman Higginbotham, Chairman Blair moved to not support the language of the legislation submitted by EPC but to support the enforcement of State regulation and standards that already protected wetlands. The motion died for lack of a second. Commissioner Higginbotham stated his concerns were not with regulation, recalled admonishment for sending a letter recommending how the legislature should vote, and opined the bill would not pass the Senate.

At the request of Chairman Blair, Mr. Bob Gordon, Director, Public Works Department, discussed issues related to County ditches and explained he supported something that would provide greater latitude to protect public health and a more regimented permitting process similar to that of SWFWMD.

WEDNESDAY, APRIL 11, 2007

Responding to Commissioner Sharpe, Ms. Jadell Kerr, Director, EPC Wetlands Management Division, spoke regarding citizen complaints received on a monthly basis, permit review and mitigation, EPC involvement in the land development review process, differences in the EPC review and other agency reviews, issues brought up by Mr. Gordon, and an agreement to expedite reviews. Commissioner Sharpe sensed EPC was trying to protect the local government's opportunity to have more stringent rules than the State and noted the importance of protecting the environment. Ms. Kerr responded to queries from Chairman Blair regarding County ditches and the role of SWFWMD and FDEP. Commissioner Ferlita agreed residents would not get a quick response if things were changed and opined the EPC Board had a responsibility to weigh-in on pending legislation. Responding to Commissioner Ferlita, Attorney Tschantz discussed the creation of the EPC.

Commissioner Hagan recalled comments regarding duplication and questioned the appropriateness of having a report from the Public Works Department on duplication due to overlapping jurisdictions. Commissioner Norman wanted to hear comments from SWFWMD and FDEP regarding their effectiveness. Dr. Garrity perceived SWFWMD and FDEP did a good job, noted problems with rivers and streams not meeting State standards, and opined the EPC wetlands program did a better job of protecting and preserving wetlands. In response to Commissioner Ferlita, Dr. Garrity agreed work done by EPC together with the Planning and Growth Management Department could be similar to SWFWMD reviews and that was a good area to look into. Chairman Blair referenced comments from Dr. Garrity that EPC needed to enforce State water standards. **Commissioner Hagan moved to direct the Public Works Department to meet with FDEP and SWFWMD and come back with a report regarding any duplication of services that might be created by those overlapping jurisdictions and come back with information regarding permitting criteria, time frames, and differing standards that might be imposed between the different agencies, seconded by Commissioner White.**

Commissioner Sharpe agreed looking at the process was reasonable but stressed the importance of sending a letter opposing the amendment to HB 957. Commissioner Ferlita agreed. Discussion ensued regarding time left to comment on legislation, a performance audit by SWFWMD stating Hillsborough County should work with EPC to take on duties, a memorandum of understanding with SWFWMD for monitoring and delineation, suggestions to look at delegation options along with duplication, and obligations of each agency. **The motion carried five to two; Commissioners Ferlita and Sharpe voted no.**

WEDNESDAY, APRIL 11, 2007

Commissioner Sharpe moved to submit a letter to the State signaling opposition to the amendment to HB 957, seconded by Commissioner Ferlita. (The motion was no voted on.) Commissioner Norman and Attorney Tschantz confirmed the motion was inappropriate due to previous action. Commissioner Ferlita clarified that did not preclude individual EPC Board members from lobbying on the matter.

There being no further business, the meeting was adjourned at 2:44 p.m.

READ AND APPROVED: \_\_\_\_\_

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

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

kc

MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION

April FY 2007

A. Public Outreach/Education Assistance:		232
1. Phone Calls:		<u>27</u>
2. Literature Distributed:		<u>1</u>
3. Presentations:		<u>3</u>
4. Media Contacts:		<u>60</u>
5. Internet:		<u>0</u>
6. Host/Sponsor Workshops, Meetings, Special Events		<u>0</u>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		<u>1</u>
b. Construction:		<u>4</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>1</u>
e. General:		<u>2</u>
f. Title V:		<u>1</u>
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected) - ( <sup>2</sup> Counted by Number of Emission Units affected by the Review):		
a. Operating <sup>1</sup> :		<u>3</u>
b. Construction <sup>1</sup> :		<u>3</u>
c. Amendments <sup>1</sup> :		<u>0</u>
d. Transfers/Extensions <sup>1</sup> :		<u>0</u>
e. Title V Operating <sup>2</sup> :		<u>0</u>
f. Permit Determinations <sup>2</sup> :		<u>0</u>
g. General:		<u>2</u>
3. Intent to Deny Permit Issued:		<u>1</u>
C. Administrative Enforcement		
1. New cases received:		<u>7</u>
2. On-going administrative cases:		
a. Pending:		<u>12</u>
b. Active:		<u>14</u>
c. Legal:		<u>4</u>
d. Tracking compliance (Administrative):		<u>21</u>
e. Inactive/Referred cases:		<u>0</u>
	Total	<u>51</u>
3. NOIs issued:		<u>2</u>

4. Citations issued:	<u>0</u>
5. Consent Orders Signed:	<u>0</u>
6. Contributions to the Pollution Recovery Fund:	\$500.00
	<u>0</u>
7. Cases Closed:	<u>0</u>
D. Inspections:	
1. Industrial Facilities:	<u>24</u>
2. Air Toxics Facilities:	
a. Asbestos Emitters	<u>0</u>
b. Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>2</u>
c. Major Sources	<u>5</u>
3. Asbestos Demolition/Renovation Projects:	<u>14</u>
E. Open Burning Permits Issued:	<u>4</u>
F. Number of Division of Forestry Permits Monitored:	<u>196</u>
G. Total Citizen Complaints Received:	<u>68</u>
H. Total Citizen Complaints Closed:	<u>54</u>
I. Noise Sources Monitored:	<u>7</u>
J. Air Program's Input to Development Regional Impacts:	<u>0</u>
K. Test Reports Reviewed:	<u>26</u>
L. Compliance:	
1. Warning Notices Issued:	<u>10</u>
2. Warning Notices Resolved:	<u>3</u>
3. Advisory Letters Issued:	<u>35</u>
M. AOR's Reviewed:	<u>1</u>
N. Permits Reviewed for NESHAP Applicability:	<u>3</u>

**FEES COLLECTED FOR AIR MANAGEMENT DIVISION**  
**April FY 2007**

	<b>Total Revenue</b>
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>\$2,800.00</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>\$200.00</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>\$2,200.00</u>
(b) for structure greater than 50,000 sq ft	<u>\$300.00</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>\$2,400.00</u>
9. Enforcement Costs	<u>\$0.00</u>



ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION  
APRIL, 2007

A. ENFORCEMENT

1. New Enforcement Cases Received:		6
2. Enforcement Cases Closed:		4
3. Enforcement Cases Outstanding:		65
4. Enforcement Documents Issued:		8
5. Recovered costs to the General Fund:	\$	493.00
6. Contributions to the Pollution Recovery Fund:	\$	500.00
<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Tampa Bay Bucs	Placement of C/S in service	\$ 500.00
Training Facility	without acceptance letter	

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:		30
a. Facility Permit:		3
(i) Types I and II		0
(ii) Types III		3
b. Collection Systems-General		13
c. Collection Systems-Dry Line/Wet Line:		14
d. Residuals Disposal:		0
2. Permit Applications Approved:		33
a. Facility Permit:		3
b. Collection Systems-General:		12
c. Collection Systems-Dry Line/Wet Line:		18
d. Residuals Disposal:		0
3. Permit Applications Recommended for Disapproval:		1
a. Facility Permit:		0
b. Collection Systems-General:		1
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:		1
a. Facility Permit:		0
b. Collection Systems-General:		1
c. Collection Systems-Dry Line/Wet Line:		0
d. Residuals Disposal:		0

6. Permit Applications Outstanding:	72
a. Facility Permit:	11
b. Collection Systems-General:	37
c. Collection Systems-Dry Line/Wet Line:	24
d. Residuals Disposal:	0
7. Permit Determination:	3
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
<b>C. INSPECTIONS - DOMESTIC</b>	
1. Compliance Evaluation:	10
a. Inspection (CEI):	2
b. Sampling Inspection (CSI):	4
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	4
2. Reconnaissance:	38
a. Inspection (RI):	9
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	27
d. Enforcement Inspection (ERI):	2
3. Engineering Inspections:	55
a. Reconnaissance Inspection (RI):	2
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	13
e. Post Construction Inspection (XCI):	39
f. On-site Engineering Evaluation:	1
g. Enforcement Reconnaissance Inspection (ERI):	0
<b>D. PERMITTING/PROJECT REVIEW - INDUSTRIAL</b>	
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:	0
b. General Permit:	1

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:	1
2. Permits Recommended to DEP for Approval:	2
3. Special:	
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	82
a. Phosphate:	15
b. Industrial Wastewater:	33
c. Others:	34
<b>E. INSPECTIONS - INDUSTRIAL</b>	
1. Compliance Evaluation:	12
a. Inspection (CEI):	12
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	16
a. Inspection (RI):	4
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	12
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	2
a. Compliance Evaluation (CEI):	2
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0
<b>F. INVESTIGATION/COMPLIANCE</b>	
1. Citizen Complaints:	
a. Domestic:	34
(i) Received:	12
(ii) Closed:	22
b. Industrial:	11
(i) Received:	7
(ii) Closed:	4

2. Warning Notices:	
a. Domestic:	20
(i) Issued:	13
(ii) Closed:	7
b. Industrial:	2
(i) Issued:	2
(ii) Closed:	0
3. Non-Compliance Advisory Letters:	16
4. Environmental Compliance Reviews:	120
a. Industrial:	14
b. Domestic:	106
5. Special Project Reviews:	0
<b>G. RECORD REVIEWS</b>	
1. Permitting:	7
2. Enforcement:	7
<b>H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:</b>	
1. Air Division:	81
2. Waste Division:	0
3. Water Division:	11
4. Wetlands Division:	0
5. ERM Division:	162
6. Biomonitoring Reports:	5
7. Outside Agency:	31
<b>I. SPECIAL PROJECT REVIEWS:</b>	
1. DRIs:	1
2. ARs:	0
3. Technical Support:	0
4. Other:	2

**MEMORANDUM**

**DATE:** May 8, 2007

**TO:** Tom Koulianos, Director of Finance and Administration

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

**SUBJECT:** **WASTE MANAGEMENT'S APRIL 2007  
AGENDA INFORMATION**

**A. ADMINISTRATIVE ENFORCEMENT**

1. New cases received	4
2. On-going administrative cases	118
a. Pending	10
b. Active	53
c. Legal	6
d. Tracking Compliance (Administrative)	34
e. Inactive/Referred Cases	15
3. NOI's issued	2
4. Citations issued	0
5. Consent Orders and Settlement Letters Signed	0
6. Civil Contributions to the Pollution Recovery Fund	\$1,000.00
7. Enforcement Costs collected	\$2,946.00
9. Cases Closed	1

**B. SOLID AND HAZARDOUS WASTE**

1. FDEP Permits (received/reviewed)	0/1
2. EPC Authorization for Facilities NOT requiring DEP permit	3/1
3. Other Permits and Reports	
a. County Permits	0/2
b. Reports	93/100
4. Inspections (Total)	308
a. Complaints	26
b. Compliance/Reinspections	27
c. Facility Compliance	30
d. Small Quantity Generator	225
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	28/18
b. Warning Notices Issued/Closed	4/3
c. Compliance letters	106
d. Letters of Agreement	0
e. Agency Referrals	5
6. Pamphlets, Rules and Material Distributed	249

**C. STORAGE TANK COMPLIANCE**

1. Inspections	
a. Compliance	187
b. Installation	12
c. Closure	08
d. Compliance Re-Inspections	22
2. Installation Plans Received/Reviewed	05/06
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	03/05
b. Closure Reports Received/Reviewed	08/05
4. Enforcement	
a. Non-compliance Letters Issued/Closed	92/52
b. Warning Notices Issued/Closed	00/00
c. Cases referred to Enforcement	02
d. Complaints Received/Investigated	00/00
e. Complaints Referred	00
5. Discharge Reporting Forms Received	03
6. Incident Notification Forms Received	03
7. Cleanup Notification Letters Issued	03
8. Public Assistance	200+

**D. STORAGE TANK CLEANUP**

1. Inspections	28
2. Reports Received/Reviewed	112/92
a. Site Assessment	14/9
b. Source Removal	04/12
c. Remedial Action Plans (RAP's)	14/12
d. Site Rehabilitation Completion Order/ No Further Action Order	02/02
e. Active Remediation/Monitoring	55/39
f. Others	23/29
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

**E. RECORD REVIEWS - 23**

**F. PUBLIC INFORMATION PROJECTS - 0**

**EPC WETLANDS MANAGEMENT DIVISION  
BACKUP AGENDA  
April 2007**

A. General	Totals
1. Telephone Conferences	818
2. Unscheduled Citizen Assistance	92
3. Scheduled Meetings	265
4. Correspondence	552
B. Assessment Reviews	
1. Wetland Delineations	43
2. Surveys	38
3. Miscellaneous Activities in Wetland	51
4. Impact/ Mitigation Proposal	34
5. Tampa Port Authority Permit Applications	46
6. Wastewater Treatment Plants (FDEP)	1
7. DRI Annual Report	3
8. Land Alteration/Landscaping	3
9. Land Excavation	1
10. Phosphate Mining	8
11. Rezoning Reviews	35
12. CPA	4
13. Site Development	67
14. Subdivision	84
15. Wetland Setback Encroachment	0
16. Easement/Access-Vacating	0
17. Pre-Applications	49
18. On-Site Visits	196
C. Investigation and Compliance	
1. Complaints Received	34
2. Complaints Closed	37
3. Warning Notices Issued	19
4. Warning Notices Closed	10
5. Complaint Inspections	58
6. Return Compliance Inspections	42
7. Mitigation Monitoring Reports	48
8. Mitigation Compliance Inspections	47
9. Erosion Control Inspections	57
D. Enforcement	
1. Active Cases	19
2. Legal Cases	2
3. Number of "Notice of Intent to Initiate Enforcement"	4
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	7
6. Administrative - Civil Cases Closed	0
7. Cases Referred to Legal Department	2
8. Contributions to Pollution Recovery	\$11,447
9. Enforcement Costs Collected	\$1,915



**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
POLLUTION RECOVERY TRUST FUND  
AS OF 04/30/07**

Balance as of 10/01/06	*		\$1,933,214
Interest Accrued		62,115	
Deposits	FY07	195,343	
Disbursements	FY07	(\$175,622)	
Intrafund Transfer 910		(\$1,041,903)	
Interfund Transfer 910		\$37,169	
Total			\$1,010,316
Water & Coastal Area Restoration & Maint.		2,808	
 Pollution Recovery Fund Balance			 \$1,007,508

**Old Encumbrances**

Water Drop Patch/Girl Scouts		3,023	
Artificial Reef Program		79,908	
Pollution Prevention/Waste Reduction (101)		19,758	
PRF Project Monitoring		24,046	
Total		126,735	

**FY2006 Approved Projects**

HCC Land Based Sea Grass Nursery		20,000	
Seagrass Restoration & Longshore Bar Recovery		75,000	
Nature's Classroom Phase III		188,000	
2005 State of the River		4,727	
Seawall Removal Fort Brooke Park		100,000	
Analysis of Sources of Fecal Indicator Bacteria		125,000	
Pollution Monitoring Pilot Project		45,150	
Industrial Facilities Stormwater Inspection Program		28,885	
Agriculture Pesticide Collection		24,000	
Knights Preserve		35,235	
Agriculture Best Mgmt Practice Implementation		150,000	
Oyster Reef Shoreline		30,000	
Nitrogen Emission/Deposition		40,906	
Lake Thonotosassa Muck Removal		75,000	
Erosion Control/Oyster Bar Habitat Creation		75,000	
Tank Removal		25,000	
Total		1,041,903	

Total of Encumbrances \$ 126,735

Minimum Balance 120,000

Balance Available 04/30/07 \$760,773

**\* 10-002-910 Projects included in 10/01/06 Balance**

Brazilian Pepper (92)	\$	26,717	
COT Parks Dept/Cypress Point (97)		100,000	
Bahia Beach Restoration (contract 04-03)		150,000	
Tampa Shoreline Restoration		30,000	
Field Measurement for Wave Energy		51,251	
Water & Coastal Area Restoration & Maint.		5,285	
Port of Tampa Stormwater Improvement		45,000	
Natures Classroom Capital Campaign		44,000	
Total	\$	452,253	

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



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

Executive Director  
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION  
 OF HILLSBOROUGH COUNTY  
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND  
 AS OF APRIL 30, 2007

Fund Balance as of 10/01/06	\$ 280,512
Interest Accrued	7,204
Disbursements FY07	34,707

Fund Balance	\$ 253,009
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Encumbrances Against Fund Balance:

SP627 Tampa Bay Scallop Restoration	\$ 22,613
SP630 E.G. Simmons Park	100
SP636 Fantasy Island	4,208
SP634 Cockroach Bay ELAPP Restoration	226,088
Total of Encumbrances	\$ 253,009

Fund Balance Available April 30, 2007	\$ - 0 -
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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** May 17, 2007

**Subject:** Legal Case Summary for May 2007

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

**Division:** Legal Department

**Recommendation:** None, informational update.

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

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

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

**List of Attachments:** May 2007 EPC Legal Case Summary

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**May 2007**

**A. ADMINISTRATIVE CASES**

**NEW ADMINISTRATIVE CASES [ 0 ]**

**EXISTING ADMINISTRATIVE CASES [ 5 ]**

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

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

**Mantua Manufacturing Company** [LEPC06-027]: On September 27, 2006 Mantua Manufacturing Co., a metal coating operation that emits air pollutants, filed a petition for administrative hearing challenging the Notice of Permit Denial that was issued to them on September 19, 2006. The parties are negotiating a possible settlement. (RM)

**Daniel A. and Celina Jozsi** [LEPC06-031]: On October 17, 2006, the Jozsis filed a Notice of Appeal and Objection to an Amended Consent Order entered on September 27, 2006. The Legal Department has issued a letter acknowledging the appeal. A mediation was conducted on February 27, 2007. The mediation resulted in an impasse. The parties conducted a final hearing on the week of April 2, 2007. The Hearing Officer's Recommended Order is due no later than May 16, 2007. The matter will then be transferred back to the Commission for adoption of a Final Order at the June 2007 regular meeting. (AZ)

**Martin Marietta Aggregates vs. EPC** [LEPC07-005]: On March 9, 2007 Martin Marietta Aggregates filed a Petition for Administrative Hearing challenging the EPC's Notice of Denial regarding air construction permit number 0571214-005-AC. (RM)

**RECENTLY RESOLVED ADMINISTRATIVE CASES [ 1 ]**

**EPC vs. USACOE and Florida Department of Environmental Protection** [LEPC05-005]: On February 11, 2005 EPC requested additional time to file an appeal of the FDEP's intent to issue an Environmental Resource Permit (ERP) permitting the dredging and deepening of the Alafia River Channel. The FDEP provided the EPC until March 16, 2005 to file the appeal. On February 17, 2005, the EPC board authorized the EPC Legal Department to file the appeal challenging the proposed FDEP permit. The EPC filed its request for a Chapter 120, F.S. administrative hearing challenging the conditions imposed in the permit on March 16, 2005. The parties have sought an additional extension of time to continue negotiations. The parties resolved the case through entry of a modified permit with conditions that satisfied all parties. (AZ)

## B. CIVIL CASES

### NEW CIVIL CASES [ 1 ]

**Bengal Petroleum #111 and #112, Inc.**[LEPC07-011]: Authority to take appropriate action against Bengal Petroleum to seek appropriate penalties and recover administrative costs for previously existing violations was granted on April 19, 2007. The Respondent has failed to agree to a negotiated settlement for the previous existing violations and the EPC Waste Management Division is seeking penalties. (AZ)

### EXISTING CIVIL CASES [ 9 ]

**Tampa Bay Shipbuilding** [LEPC04-011]: Authority to take appropriate action against Tampa Bay Shipbuilding for violations of permit conditions regarding spray painting and grit blasting operations, exceeding the 12 month rolling total for interior coating usage and failure to conduct visible emission testing was granted on March 18, 2004. The parties are conducting settlement negotiations. (RT)

**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. (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 are scheduled to attend a court ordered mediation on May 15 and 16, 2007. (AZ)

**Jozsi, Daniel A. and Celina v. EPC and Winterroth** [LEPC05-025]: Daniel A. and Celina Jozsi requested an appeal of a Consent Order entered into between James Winterroth and the EPC Executive Director. The appeal was not timely filed and the EPC dismissed the appeal. On December 8, 2005, the Jozsis appealed the order dismissing the appeal to the circuit court. The appeal was transferred to the Second District Court of Appeal (2DCA). The EPC transferred the record to the 2DCA on Aug. 24, 2006. On Sept. 27, 2006 the EPC and James Winterroth entered into an Amended Consent Order. The Jozsis were provided the right to challenge the Amended Order. The Jozsis filed an appeal of the Amended Consent Order on Oct. 17, 2006 (see related case LEPC06-031). On Oct. 19, 2006 the EPC filed a Motion to Dismiss the 2DCA appeal. The Court denied the Motion to Dismiss the appeal. The Appellants filed the initial brief and the Appellees EPC and James Winterroth requested additional time to file their answer brief. The request for additional time was based on the Court's order requiring the record be supplemented. The parties have all filed briefs and are waiting for a decision by the Court. (AZ)

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

**Ryaid Suleiman, et al. (Kings Food Mart)** [LEPC06-026]: Authority was granted on September 26, 2006 to pursue appropriate legal action against Respondents Ryaid Suleiman,, Siham Jaber, Nader Jaber, Nina Jaber, Maher Jaber and Thaeer Jaber for violations of the EPC Storage Tank Rule. Citations were entered against the respondents on March 29, 2005. No appeal of the citations was filed and they became final orders of the Commission. The EPC Legal Dept. is preparing to file a lawsuit to compel compliance with the Final Orders. (AZ)

**Hendry Corporation** [LEPC06-033]: On November 16, 2006, the EPC Board authorized the EPC to file a lawsuit against the Hendry Corporation for multiple violations of state air pollution regulations and for failure to comply with a Consent Order regarding ship repair facility operation and maintenance. The parties are negotiating a settlement. (RM)

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

**Bayside Home Builders, Inc** [LEPC07-008]: Authority to take appropriate action against the parties was granted by the Commission on February 15, 2007, for failure to comply with a Consent Order payment schedule for asbestos

violations. (RM)

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

**Dwayne Gillispie and Donice Bhadelia** [LEPC06-032]: On November 13, 2006 the Plaintiffs filed and served a lawsuit against three EPC employees for alleged violations of federal civil rights. Plaintiffs are also seeking a declaratory judgment in federal court concerning EPC wetland regulations. The EPC Legal Department filed motions to dismiss each EPC employee defendant on December 8, 2006. On December 18, 2006 the Plaintiffs amended their lawsuit to include the EPC as a defendant. The Legal Department re-filed the motions to dismiss the individual lawsuits and the EPC is waiting for the court to respond. The three employee defendants also requested the court sanction the Plaintiffs for the frivolous lawsuits. The Plaintiffs did not serve the lawsuit against the EPC until March 1, 2007. The EPC filed a motion to dismiss the case in March 2007. On May 4, 2007, the Plaintiffs filed a notice of dismissal based on the entry of a settlement. (AZ / RT)

**Dwayne Gillispie and Donice and Mohammad F. Bhadelia** [LEPC07-007]: Authority to take appropriate action against the parties was granted by the Commission on March 15, 2007 for unresolved chapter 1-11 wetland violations. The parties settled the case. See above case. (AZ)

**Integrated Health Services** [LIHSF00-005]: IHS, a Delaware corporation, filed for bankruptcy and noticed EPC as a potential creditor. IHS is a holding company that acquired a local nursing home, which operation includes a domestic wastewater treatment plant that is not in compliance. The Debtor filed a motion requesting that utility companies be required to continue service so that their residents can continue without relocation. The case was closed after resolution and payment of a civil penalty. (RT)

### **C. OTHER OPEN CASES [ 9 ]**

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)

**Alcoa Extrusions, Inc.** [LEPC06-007]: On March 20, 2006, Alcoa Extrusions, Inc. filed a request for an extension of time to file a petition for an administrative hearing concerning a Title V draft Air permit. The Legal Dept. granted the extension request and the Petitioner has until May 22, 2006 to file a petition. On May 10, 2006, the petitioner filed a second request for an extension of time, the request was granted and the petitioner had until August 21, 2006 to file a petition in this matter. On August 10, 2006, Petitioner filed a third request for an extension of time. The request was granted and the Petitioner had until November 20, 2006 to file a petition. A fourth request for an extension of time was entered on November 10, 2006. The request was granted and petitioner has until February 19, 2007 to file a petition. The Petitioner filed a fifth request for extension of time. The request was granted and Petitioner has until March 21, 2007 to file a petition regarding this matter. The permit was issued to Alcoa Extrusions on April 5, 2007. On April 23, 2007 Petitioner withdrew the extension request and the case has been closed. (RT)

**James Hardie Building Products, Inc.** [LEPC06-018]: On June 1, 2006, James Hardie Building Products, Inc. filed a request for an extension of time to file a Petition for Administrative Hearing regarding a combined Air operation and Construction permit. The request was granted and the Petitioner has until August 4, 2006 to file a petition in this matter. Due to ongoing settlement talks, a extensions has been approved through February 23, 2007. Petitioner filed a request for an additional extension of time to respond to a recently issued draft permit. The request was granted and Petitioner has until March 30, 2007 to file a petition in this matter. (RM)

**Sun Tampa East, LLC d/b/a Tampa East RV Resort** [LEPC06-029]: On October 2, 2006 Tampa East RV Resort filed a request for an extension of time to file a petition for administrative hearing with regard to a Notice of Permit Denial. Petitioner has until February 12, 2007 to file a petition in this matter and the parties are negotiating a settlement. Petitioner has filed a request for an additional extension of time. The request was granted and Petitioner has until March 29, 2007 to file a petition in this matter. Petitioner filed an additional request for extension of time to provide an opportunity to review comments and resolve any remaining issues with the draft permit. The request was granted and Petitioner has until May 14, 2007 to file a petition in this matter. (RM)

**Hendry Corporation** [LEPC06-035]: On December 1, 2006, the EPC issued a Notice of Violation to Hendry Corporation for multiple violations of state air pollution regulations at their ship repair facility. Hendy requested an extension of time and the EPC has granted extensions through March 5, 2007. The parties are negotiating a settlement. (RM)

**Kinder Morgan Operating LP "C"** [LEPC07-003]: On January 19, 2007 Kinder Morgan Operating LP "C" filed a request for an extension of time with regard to draft air permit #0570024-013-AC. An extension of time was granted through March 26, 2007. The issues were resolved, a second extension request was withdrawn on April 11, 2007, and the permit will issue and this legal matter is closed. (RM)

**In re: SWFWMD Waiver Request** [LEPC07-006]: In accordance with Chapter 1-11, Rules of the EPC, the Southwest Florida Water Management District (SWFWMD) filed a permit application to impact wetlands at the Flatwoods Recreation Site and Lower Hillsborough Oak Ridge Wet Crossings Projects. SWFWMD must mitigate for its impacts, but they do not want to place a conservation easement on the mitigation. On February 14, 2007 SWFWMD requested a waiver of section 1-11.08(6)(e), Rules of the EPC. This rule requires a permanent conservation easement for a mitigation area which alone or cumulatively exceeds 0.5 acres. A public hearing will be held April 19 to consider granting the waiver as the land is maintained as conservation lands by the SWFWMD already, thus making the need for a conservation easement unnecessary. The waiver order was approved and executed.

**In re: Mosaic Fertilizer, LLC (Lonesome Mining Unit 19) Variance Request** [LEPC07-009]: In accordance with Chapter 1-2, Rules of the EPC, Mosaic Fertilizer, LLC filed a request for a variance from the application of Rule 1-11.08(6)(e) requiring a conservation easement over wetland mitigation for a drag line crossing. The matter will be set for a public hearing in June 2007. (AZ)

**Tampa Armature Works, Inc.** [LEPC07-010]: On April 18, 2007 Petitioner filed a request for extension of time to file a petition for administrative hearing regarding an Air Operating Permit. The request was granted and the Petitioner has until June 19, 2007 to file a petition in this matter. (RM)



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** May 17, 2007

**Subject:** FDEP Contract No. GC513 and GC682

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

**Division:** Waste Management Division

**Recommendation:** Authorize the Executive Director to terminate Contract No. GC513 and execute Contract No. GC682.

**Brief Summary:** Termination of Contract No. GC513 effective 6/30/07 and execution of a ten year contract between the Florida Department of Environmental Protection and the Environmental Protection Commission effective July 1, 2007 through June 30, 2017.

**Financial Impact:** Full funding provided by Florida Department of Environmental Protection.

**Background:** Since 1988 the FDEP has contracted with the EPC to implement a pollutant storage tank system compliance verification program for Hillsborough County. The contract is renewed every ten years and is being submitted to the Board for approval. The Storage Tank Compliance Department performs inspections on approximately 1300 regulated storage tank systems which include compliance, installation, closure and discharge inspections.



**DEP CONTRACT NO. GC682  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AGREEMENT FOR STORAGE TANK SYSTEM  
COMPLIANCE VERIFICATION PROGRAM  
FOR HILLSBOROUGH COUNTY**

**CONTRACTOR**

**HILLSBOROUGH COUNTY ENVIRONMENTAL  
PROTECTION COMMISSION  
Hillsborough County Environmental  
Protection Commission Office  
3629 Queen Palm Drive  
Tampa 33619**

FEID NO.: 59-6000661

In consideration of the mutual benefits to be derived herefrom, the Florida Department of Environmental Protection ("DEP" or "Department") does hereby retain Hillsborough County Environmental Protection Commission ("CONTRACTOR") for the specific purposes and duties as outlined herein within Hillsborough County and the parties do hereby agree as follows:

**INTRODUCTION**

1. To assist the CONTRACTOR in complying with the terms and conditions established herein, standard program terminology used throughout this Contract is defined and provided in Attachment A, Standard Contract Definitions, attached hereto and made a part hereof.
2. It is hereby understood and agreed that all references in this Contract to Florida Statutes (F.S.) and the Florida Administrative Code (F.A.C.) shall be for the laws, rules and guidance documents in effect at the time work is performed by the CONTRACTOR.

**SCOPE OF SERVICES**

3. Perform compliance inspections within the jurisdictional (geographical) boundaries of the specified counties, including facilities registered to the CONTRACTOR as required by an executed Task Assignment(s) at the following Chapter 376, F.S., facilities: storage tanks regulated pursuant to Sections 376.30 – 376.317, F.S. (excluding cattle dip vats, dry-cleaning facilities and designated Brownfields) and Chapters 62-761 and 62-762, F.A.C., including mineral acid tanks regulated by the DEP in accordance with Sections 376.320 - 376.326, F.S. In addition, perform closure inspections, installation inspections, discharge inspections, re-inspections, and emergency response activities, as applicable, in accordance with each Task Assignment. All inspections shall be performed by an individual(s) in a position equivalent to an Environmental Specialist I level or higher. Beginning on the effective date of this Contract, the CONTRACTOR is authorized to enter private property in order to carry out inspections pursuant to Sections 403.091 and 403.858, Florida Statutes.
4. Inspection Priorities. Inspections should be performed in accordance with each executed Task Assignment in the following priority order:
  - A. Perform a discharge inspection at all facilities with known or suspected discharges involving free product within twenty-four (24) hours of receipt of notification. Prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate, and as directed by the DEP Task Manager.

- B. Perform a discharge inspection at all facilities with known or suspected discharges within ten (10) working days of receipt of notification. Prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate, and as directed by the DEP Task Manager.
  - C. Perform all closure inspections at known storage tank system closure activities.
  - D. Perform all installation inspections of known new installations to ensure that the system or system component is properly constructed and installed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.
  - E. Perform routine compliance inspections and required re-inspections of facilities listed on each executed Task Assignment based on resources and priorities. Facilities not inspected during the current executed Task Assignment, will be prioritized to be inspected during the subsequent Task Assignment. This list will include all facilities with at least one single-walled regulated system.
  - F. Re-inspections should be performed as needed to verify compliance of items identified as requiring a re-inspection, as referenced in the "Storage Tank System Program Violation List" (Guidance Document A). All violations, regardless of severity, which solely involve notification or reporting, will not require a re-inspection, unless otherwise required in Guidance Document A. The CONTRACTOR will not be required to perform a re-inspection if the CONTRACTOR and the DEP's Task Manager agree that it is unwarranted.
5. Site inspections responsibilities shall include:
- A. Contacting facility owners or operators, verbally or in writing, to schedule compliance inspections, installation inspections, closure inspections, discharge inspections, and re-inspections. The DEP Task Manager may require written notification of inspections if verbal methods have proven unsatisfactory.
  - B. With the exception of CONTRACTOR-owned/operated facilities, meeting with the owners, operators, and/or other authorized representatives of all regulated facilities for the purpose of determining compliance with Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F.S.
  - C. Distributing registration forms to all unregistered facilities that become known to the CONTRACTOR as they are discovered, performing compliance inspections at all unregistered facilities that are subject to Chapters 62-761 and/or 62-762, F.A.C., as they are discovered, and taking appropriate measures where required to bring these facilities into compliance.
  - E. Completing all inspection reports using the Florida Inspection Reporting for Storage Tanks (FIRST) database and in accordance with the minimum standards referenced in the "FIRST User's Guide" (Guidance Document B).
  - F. Responding to complaints by performing a complaint investigation, documenting actions taken and maintaining appropriate copies of all complaint information as directed by the DEP Task Manager.
  - G. Responding to requests for public assistance both in the office and during inspections.
  - H. Completing Storage Tank System Leak Autopsy Report Forms in electronic format and submitting them to the DEP Contract Manager within ten (10) days of the Discharge Inspection. Submit the complete electronic form with comments, the Discharge Reporting Form (DRF) and photographs.

- I. Completing an Underwriters Laboratories (UL) Flex-Pipe Incident Notification Form upon the discovery of any structural or material compatibility problems involving Flex-Pipes and submitting them to the DEP Contract Manager within ten (10) days of discovery. A copy should also be submitted to UL.
6. Perform Level 1 and Level 2 enforcement actions in accordance with Attachment C, Petroleum Storage Tank System Compliance Enforcement Actions, attached hereto and made a part hereof.
  7. Assessment of Performance Levels.
    - A. The CONTRACTOR shall perform inspections as directed in the previously stated Priority Order in paragraph 4, above, and assess performance levels monthly to determine its progress towards completion of each Task Assignment. Upon discovery of any problems that would delay or prevent the timely progress and completion of each Task Assignment, the CONTRACTOR shall notify the DEP Task Manager.
    - B. Following the effective date of each Task Assignment, the CONTRACTOR should have completed the following percentage of the required routine compliance inspections unless otherwise indicated in the Task Assignment:
      - (1) After four (4) months, thirty-three percent (33%) of inspections should have been completed.
      - (2) After eight (8) months, sixty-six percent (66%) of inspections should have been completed.
      - (3) After twelve (12) months, one hundred percent (100%) of inspection should have been completed.
    - C. If the actual number of required routine compliance inspections falls below twenty percent (20%) for the fourth month, thirty percent (30%) for the fifth month, forty percent (40%) for the sixth month, forty-eight percent (48%) for the seventh month, fifty-seven percent (57%) for the eighth month, sixty-five percent (65%) for the ninth month, seventy-three percent (73%) for the tenth month or eighty-two percent for (82%) the eleventh month, then the CONTRACTOR shall submit a Corrective Action Plan, within ten (10) days of receipt of a written request from the DEP Task Manager, to the DEP Task Manager describing the steps that will be taken to meet the terms of the Task Assignment.
    - D. If there is any indication that other required inspections or activities are not being performed, the DEP Task Manager may request the submission of a Corrective Action Plan.
    - E. The DEP Task Manager shall be responsible for reviewing the plan and notifying the CONTRACTOR if the plan is approved or in need of revision.
    - F. If the CONTRACTOR does not successfully implement the Plan as approved by the DEP Task Manager for the remaining months of the Task Assignment, the DEP may withhold further payment of monthly invoices until such time as the CONTRACTOR comes into compliance with those performance levels as outlined in paragraph 7.B., above.
    - G. A completion rate of 100 percent is required for those activities described in Paragraph 3, above, and as set forth in each Task Assignment, unless otherwise indicated in the Task Assignment.
    - H. In the event the CONTRACTOR is unable to meet 100% performance levels set forth in the Task Assignment, the DEP reserves the right to seek cost recovery according to the percentage of the amount identified in each executed Task Assignment, unless failure of the

CONTRACTOR to perform is documented to be beyond the foreseeable control of the Contract (i.e. a force majeure event).

8. The DEP shall authorize the CONTRACTOR to provide services under this Contract utilizing the Task Assignment Notification Form, attached hereto and made a part hereof as Attachment B. The CONTRACTOR acknowledges that no work shall be performed until a Task Assignment authorizing work has been fully executed by the DEP and the CONTRACTOR. If, during the term of an executed Task Assignment, a modification of the Task Assignment is needed, the DEP may issue a new Task Assignment Form clearly marked with the original task number and the appropriate amendment number, detailing the revised description of the work to be performed. As with the original Task Assignment, all amendments to Task Assignments must be executed by both the DEP and the CONTRACTOR prior to the work being performed.

### CONTRACTOR RESPONSIBILITIES

9. The CONTRACTOR shall administer the compliance verification program, provide technical assistance, and perform level 1 and Level 2 enforcement actions. Data generated from all inspections conducted under the direction of the DEP shall be entered into FIRST prior to the submittal of an invoice to the District. The CONTRACTOR shall also conduct "Discharge Prevention Response Certificate (DPRC) Inspections" (Guidance Document H) at all applicable facilities pursuant to Rule 62N-16.032, F.A.C.
10. The CONTRACTOR shall comply with all provisions of this Contract, verify facility compliance with Chapter 376, F.S., Chapters 62-761, 62-762, and 62N-16.032, F.A.C., and be knowledgeable of the differences between the state and federal environmental statutes and rules applicable to underground storage tanks.
11. The CONTRACTOR shall require that qualified individuals perform field inspections and that they receive training on Chapters 62-761, 62-762, and 62N-16.032, F.A.C., Chapter 376, F.S., RCRA Subtitle I standards and DEP enforcement procedures.
12. The CONTRACTOR shall provide a sufficient number of qualified staff to satisfactorily complete all the responsibilities included in this Contract. All individuals hired after the effective date of this Contract shall possess qualifications equivalent to DEP position levels as specified in this Contract.
13. All field inspectors and enforcement personnel shall attend and complete scheduled storage tank inspector training courses and pass any examinations. If the employee fails to pass, the employee may take the examination at the next offered training class. During this period the employee may continue to perform inspections. However, subsequent failure to provide certified inspectors will result in a reduction of the fixed price negotiated in the Task Assignment.
14. The CONTRACTOR shall determine the accurate latitude and longitude coordinates for each facility inspected using DEP-approved procedures (Source Water Assessment Program (SWAP) Webpoint) and ensure the proper entry of this data into the DEP inspection database.
15. The CONTRACTOR shall review closure reports filed by facility owners or operators to insure that the DEP's "Storage Tank System Closure Requirements" (Guidance Document C) have been followed. In cases where these requirements have not been met, the CONTRACTOR shall initiate Level 1 and Level 2 enforcement actions to compel compliance. In cases where these requirements have been met and none of the of DEP's cleanup target levels have been exceeded, the CONTRACTOR shall issue a Closure Report Review Letter for the system or component described in the Closure Report indicating the Closure Report meets the requirements of Chapter 62-761 and/or 62-762, F.A.C. In cases where cleanup target levels have been exceeded, follow further direction from the DEP Task Manager.

16. The CONTRACTOR shall maintain files on regulated facilities for inspection reports, noncompliance letters, warning letters, or any other related enforcement documentation, telephone logs and written correspondence from the facility that may not be available in FIRST. In the event a case referral to the DEP District Office for further enforcement is necessary, a case summary, a copy of any documents pertinent to the case that are not available in FIRST, and a letter of referral shall be submitted to the DEP District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document I).
17. Facility files must be kept until the site has been determined closed. Once the facility has been closed for five (5) years, the records shall be sent to the DEP Contract Manager in Tallahassee for preservation, unless the CONTRACTOR is subject to more stringent local record retention requirements. Copies can be maintained by the CONTRACTOR at the CONTRACTOR's expense. If, for any reason, the DEP's contractual arrangement with the CONTRACTOR to perform the inspection program (through this Contract or any future contracts) ceases, the CONTRACTOR shall return all original facility files to the DEP Task Manager within 30 calendar days of Contract expiration or termination.
18. The CONTRACTOR shall provide complete copies of discharge packages (discharge reporting form, discharge inspection report, Site Assessment Request letter (if required)) to the DEP Task Manager and DEP Contract Manager within thirty (30) days of receipt of the reported discharge.
19. The CONTRACTOR shall provide attendance of at least one program staff member at scheduled meetings and at scheduled teleconferences, including the Tanks Conference. The DEP Task Manager may authorize attendance at a location other than the District Office. The CONTRACTOR shall provide attendance of additional staff members as requested by the DEP.
20. The CONTRACTOR shall maintain a current set of the reference standards as contained in Chapters 62-761 and 62-762, F.A.C.
21. The CONTRACTOR shall ensure that all field personnel receive the health and safety training required to meet OSHA standards (an initial 24 or 40 hour course within 6 months of employment under this Contract, followed by an annual 8 hour refresher course).
22. The CONTRACTOR shall supervise the Local Compliance Program with an individual at a minimum equivalent to the DEP's Environmental Specialist III personnel category.
23. The CONTRACTOR shall perform all clerical activities for the above-mentioned tasks, by an individual at a minimum equivalent to a Secretary Specialist level or higher.
24. The CONTRACTOR shall provide copies of applicable rules, inspection forms, and other program/public assistance information to the public and regulated interests. However, this provision does not authorize photocopying of reference documents in violation of copyright law.
25. The CONTRACTOR shall use recycled paper for all program correspondence and documents.
26. The CONTRACTOR shall maintain financial books, records, and documents directly pertinent to performance under this Contract in accordance with generally accepted accounting principles consistently applied. All books, records, and documents pertinent to performance under this Contract shall be maintained for the entire term of this Contract and for five years following the expiration or termination of this Contract. The DEP, the State, or their authorized representatives shall have access to such records for audit purposes during the entire term of this Contract and for five years following the expiration or termination of this Contract. A penalty of 8.3% of the current Task Assignment amount will be assessed for each year that shows insufficient record keeping.

27. The CONTRACTOR shall maintain a separate account (Trust Fund or Cost Center) within the CONTRACTOR's accounting system for the receipt and disbursement of funds provided under this Contract so as to trace and monitor Inland Protection Trust Fund (IPTF) expenditures.
28. The CONTRACTOR shall provide a Statement of Revenue, Expenses and Fund Balance utilizing the "Guidelines for Preparing Year End Financial Statement" (Guidance Document G) for the period of the executed Task Assignment within forty-five (45) days of payment of the twelfth invoice for the current Task Assignment. If the CONTRACTOR fails to timely provide a Statement of Revenue, Expenses and Fund Balance within the forty-five (45) day period, the CONTRACTOR will be assessed a five percent (5%) penalty based on the current Task Assignment amount. The penalty amount will be subtracted from Invoice Number 12 in the current Task Assignment Year. The CONTRACTOR is still obligated to provide the Statement of Revenue, Expenses and Fund Balance to the DEP even if the CONTRACTOR provides this statement after the 45-day deadline and is assessed the five percent (5%) penalty.
29. If the CONTRACTOR's fund balance is less than or equal to ten percent (10%) of its current year Task Assignment, the CONTRACTOR may retain the surplus provided that such surplus must be used pursuant to the provisions of this Contract, the Task Assignment and Section 376.3071, F.S. If the CONTRACTOR's fund balance is greater than ten percent (10%) of its current year Task Assignment amount, the CONTRACTOR shall refund to the DEP any and all amounts in excess of ten percent (10%) of the current year Task Assignment amount. However, the CONTRACTOR can submit to the DEP, with the Fund Balance Report, a written proposal to retain the funds that exceed the ten percent (10%) of the current year Task Assignment. The DEP, at its sole discretion, will then determine whether the CONTRACTOR may retain the funds greater than ten percent (10%) of the current year Task Assignment.
30. The CONTRACTOR shall not allocate funding to non-program activities outside the scope of this Contract or any Task Assignment. Sections 376.3071 and 376.11, F.S., prohibit the use of IPTF and Florida Coastal Protection Trust Fund (FCPTF) moneys for purposes other than those specified in these sections.
31. Access to DEP databases shall be made by using an Internet connection. Therefore, the CONTRACTOR is responsible for subscribing to and paying for all charges related to use of the services of a reputable Internet service provider. The CONTRACTOR must have a dedicated Internet line for FIRST.
32. Guidance Documents. The CONTRACTOR agrees that the services required under this Contract shall be performed in accordance with the guidance documents listed below in accordance with the provisions of this Contract. The CONTRACTOR acknowledges that these documents may be amended and the services required under this Contract shall be performed in accordance with the versions in effect at the time work is performed by the CONTRACTOR. The CONTRACTOR hereby acknowledges receipt of the following guidance documents:
  - A. Guidance Document A -- Storage Tank System Program Violation List
  - B. Guidance Document B -- Florida Inspection Reporting for Storage Tanks (FIRST) User Requirements
  - C. Guidance Document C -- Storage Tank System Closure Requirements
  - D. Guidance Document D -- Compliance Verification Program Local Program Review Form
  - E. Guidance Document E -- Contractual Services Invoice
  - F. Guidance Document F -- Level of Effort Guidance
  - G. Guidance Document G -- Guidelines for Preparing Year End Financial Statement
  - H. Guidance Document H -- Discharge Prevention Response Certificate (DPRC) inspections
  - I. Guidance Document I -- Guidelines for Case Referrals
  - J. Guidance Document J -- DEP Directive 923: Settlement Guidelines for Civil and Administrative Penalties

33. The CONTRACTOR shall provide a written response to the Program Review findings conducted in accordance with paragraph 42, below, and at a minimum, provide details on any corrective actions that will be implemented.
34. The CONTRACTOR shall submit a satisfactory Corrective Action Plan to the DEP Task Manager upon notification of a score below seventy-five (75) on the Program Review within fourteen (14) calendar days of notification of the score. Because a score below 75 reflects an unacceptable level of performance, if the CONTRACTOR receives a score below 75, a penalty of 8.3% of the current Task Assignment amount will be assessed. The penalty amount will be subtracted from Invoice Number 12 in the current Task Assignment Year.
35. The CONTRACTOR is responsible for the professional quality, technical accuracy, and coordination of all reports and other services furnished by the CONTRACTOR under this Contract. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its reports and other services.

#### **DEP RESPONSIBILITIES**

36. The DEP shall administer the "Storage Tank Training Course" to provide inspector training for all CONTRACTOR inspectors and enforcement personnel.
37. The DEP shall serve in an advisory capacity to the CONTRACTOR. The DEP shall make legal interpretations of DEP rules, which shall be binding with respect to the CONTRACTOR's ordinances to the extent that those ordinances adopt the provisions of Chapters 62-761 and 62-762, F.A.C., as required by this Contract.
38. The DEP shall review completed inspection reports when and as deemed necessary.
39. The DEP shall provide program and regulatory guidance for the CONTRACTOR. The DEP shall provide training in new technology and program management changes at the Annual Program and Supervisors' Meetings.
40. The DEP shall conduct enforcement activities for violations of Chapters 62-761 and 62-762, F.A.C., when case referrals are properly made and forwarded to the District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document I).
41. The DEP shall provide information to the CONTRACTOR about DEP registered storage tank system equipment, alternate procedures (waivers, variances, or registrations), licensed Pollutant Storage Systems Contractors (PSSC), and Registered Precision Tank Testers.
42. At least once annually, the DEP shall perform a Program Review using the "Compliance Verification Program Local Program Review Form" (Guidance Document D), and provide a copy of the Program Review findings to the CONTRACTOR upon completion of the Program Review. The CONTRACTOR shall be notified at least fourteen (14) calendar days prior to a review of the CONTRACTOR's hard copy facility files so that the CONTRACTOR may make arrangements to have files and personnel available for the review as needed. The DEP may conduct inspections, including accompanied inspections and follow-up inspections, at any reasonable time. In addition, the DEP may also conduct facility file reviews through FIRST at any time. The DEP Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the CONTRACTOR. The DEP Task Manager may forgo a Program Review for the next Task Assignment for a CONTRACTOR that receives a score of 95 or greater on the Program Review during the current Task Assignment.

## TERM OF CONTRACT

43. This Contract shall become effective on the date of execution or July 1, 2007, whichever is later; and shall remain in effect until June 30, 2017. In accordance with Section 287.058(2), F.S., the CONTRACTOR shall not be eligible for reimbursement for services rendered prior to the execution date of this Contract and the execution of a Task Assignment. The DEP anticipates Task Assignments will be executed no later than July 1 of each year detailing the requirements for the next twelve (12) month period. Task Assignment performance periods may not extend beyond the completion date of the Contract established above. This Contract may be renewed for an additional term not to exceed the original Contract period or three (3) years, whichever is longer. Renewal of this Contract shall be in writing and subject to the same terms and conditions of this Contract. All renewals are contingent upon satisfactory performance by the CONTRACTOR and the availability of funds.

## NOTICES

44. Any and all notices shall be delivered to the parties at the following addresses:

Contractor  
Hooshang Boostani  
Hillsborough County Environmental  
Protection Commission  
Hillsborough County Environmental  
Protection Commission Office  
3629 Queen Palm Drive  
Tampa, Florida 33619

Department  
Mr. Marshall Mott-Smith  
Department of Environmental Protection  
Bureau of Petroleum Storage Systems  
2600 Blair Stone Road, MS4525  
Tallahassee, Florida 32399-2400

## COMPENSATION

45. For satisfactory performance, DEP agrees to compensate the CONTRACTOR on a fixed price basis as described by each executed Task Assignment. It is hereby understood and agreed by both parties that the compensation provided under this Contract shall not exceed the amount negotiated in each executed Task Assignment for each specified period. The DEP's calculation of the fixed price identified above is outlined in the executed Task Assignment Notification Form.
46. The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature and continuation of other funding presently anticipated.

## PAYMENTS

47. The CONTRACTOR shall submit monthly invoices in the amount specified in the executed Task Assignment. Each invoice shall be submitted using the "Contractual Services Invoice" (Guidance Document E). Each invoice is due no later than the 15th day of the month following the month of services. Travel expenses associated with the annual meeting, Tanks Program Supervisor's Meetings, and travel required for inspections, enforcement re-inspections, district coordination, training and monthly teleconferences are included in the monthly payment schedule and no additional travel expenses will be authorized. Each invoice must be submitted in detail sufficient for pre-audit and post-audit review. A final invoice for each Task Assignment must be submitted as directed by the DEP prior to the completion date of the end of the executed Task Assignment to assure the availability of funding for payment. The DEP shall pay all satisfactory invoices in accordance with Section 215.422, F.S. Two copies of each invoice shall be submitted to:



Department of Environmental Protection  
Southwest District Office  
Attn.: Send to the DEP Task Manager's Attention  
13051 N. Telecom Pkwy  
Temple Terrace, Florida 33637-0926

48. Pursuant to Section 215.422, Florida Statutes, the DEP's Task Manager shall have five (5) working days, unless otherwise specified herein, to inspect and approve the services for payment; the DEP must submit a request for payment to the Florida Department of Financial Services within twenty (20) days; and the Department of Financial Services is given ten (10) days to issue a warrant. Days are calculated from the latter date the invoice is received or services received, inspected, and approved. Invoice payment requirements do not start until a proper and correct invoice has been received. Invoices which have to be returned to a contractor for correction(s) will result in a delay in the payment. A Vendor Ombudsman has been established within the Florida Department of Financial Services who may be contacted if a contractor is experiencing problems in obtaining timely payment(s) from a State of Florida agency. The Vendor Ombudsman may be contacted at 850-410-9724 or 1-800-848-3792.
49. In accordance with Section 215.422, Florida Statutes, the DEP shall pay the CONTRACTOR, interest at a rate as established by Section 55.03(1), Florida Statutes on the unpaid balance, if a warrant in payment of an invoice is not issued within forty (40) days after receipt of a correct invoice and receipt, inspection, and approval of the goods and services. Interest payments of less than \$1 will not be enforced unless a contractor requests payment. The interest rate established pursuant to Section 55.03(1), Florida Statutes may be obtained by calling the Department of Financial Services, Vendor Ombudsman at the telephone number provided above or the DEP's Procurement Section at 850-245-2361.

#### REPORTS AND DELIVERABLES

50. The DEP Task Manager shall review the monthly invoice for accuracy and completeness and review such things as the number of inspections completed in the FIRST application before the monthly invoice is forwarded to the **Bureau of Petroleum Storage Systems** in Tallahassee, Florida for processing. The DEP has ten (10) working days from the receipt of all deliverables and reports to review the work performed by the CONTRACTOR during the invoice period. If the CONTRACTOR fails to perform as directed by the terms of this Contract, the DEP shall return the unpaid invoice and/or reports and deliverables to the CONTRACTOR documenting the areas in which the CONTRACTOR has failed to meet its contractual obligations.

#### EQUIPMENT

51. Upon satisfactory completion of this Contract, the CONTRACTOR may retain ownership of the non-expendable personal property or equipment purchased under this Contract. However, the CONTRACTOR shall complete and sign a Property Reporting Form, DEP 55-212, provided as Attachment D, and forward it along with the appropriate invoice to the DEP's Contract Manager. The following terms shall apply:
  - A. The CONTRACTOR shall have use of the non-expendable personal property or equipment for the authorized purposes of the contractual arrangement as long as the required work is being performed.
  - B. The CONTRACTOR is responsible for the implementation of adequate maintenance procedures to keep the non-expendable personal property or equipment in good operating condition.

- C. The CONTRACTOR is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, non-expendable personal property or equipment purchased with state funds and held in his possession for use in a contractual arrangement with the DEP.
- D. In the event that the DEP determines a need to loan equipment needed for the completion of services under this Contract to the CONTRACTOR, a DEP Property Loan Agreement shall be completed and maintained in the Contract file.
- E. If the CONTRACTOR fails to perform its obligations under this Contract, the CONTRACTOR shall deliver possession and custody of all such equipment to the nearest District Office location, unless otherwise agreed, within thirty (30) calendar days of Contract termination.

## **MANAGEMENT**

- 52. The DEP Contract Manager is Marshall T. Mott-Smith, Phone (850) 245-8842 or Suncom 205-8842. The CONTRACTOR's Contract Manager is Hooshang Boostani, Phone 813-627-2600 or Suncom 514-7300. Each Task Assignment will identify the DEP Task Manager and the CONTRACTOR's Task Manager. All matters relating to a specific Task Assignment shall be directed to the DEP Task Manager for appropriate action or disposition. All matters relating to this Contract shall be directed to the DEP Contract Manager.

## **TERMINATION**

- 53. Either party may terminate this Contract for its convenience by giving the other party thirty (30) days written notice. If termination is effected by the DEP, the CONTRACTOR shall be compensated for work satisfactorily completed and irrevocable commitments made. If termination is effected by the CONTRACTOR, the CONTRACTOR shall be compensated for work satisfactorily completed.
- 54. If the CONTRACTOR fails to perform in a timely and proper manner, in the judgment of the DEP, the DEP may terminate this Contract by thirty (30) days written notice, specifying the effective time/date of termination. In this event, the CONTRACTOR shall be compensated for any work satisfactorily completed.
- 55. This Contract may be terminated by the DEP for refusal by the CONTRACTOR to allow public access to all documents, papers, letters, or other material made or received by the CONTRACTOR in conjunction with this Contract, unless the records are exempt from Section 24(a) of Article 1 of the State Constitution and Section 119.07(1), Florida Statutes.
- 56. It is hereby understood and agreed that in the event the DEP makes a clear determination that the CONTRACTOR has breached this Contract to the extent that the CONTRACTOR is (at the sole discretion of the DEP) inadequate to administer the Storage Tank System Compliance Verification Program, compliance inspections, and preliminary enforcement activities under Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F.S., for regulated storage tank systems in its jurisdiction, or that such program is being carried out in a manner inconsistent with the requirements of this Contract, the DEP may, as an alternative to termination of this Contract, and at the DEP's sole discretion, require corrective measures to be taken by the CONTRACTOR within a reasonable period of time, not to exceed 45 days. In the event the CONTRACTOR fails to take such necessary corrective action within the time required, the DEP may terminate this Contract in accordance with paragraph 54, above.

## **ADDITIONAL PROVISIONS**

- 57. All services shall be performed by the CONTRACTOR to the satisfaction of the Secretary of the DEP or his/her designated representative.

58. The DEP and the CONTRACTOR may at any time, by written order designated to be a change order, make any change in the work within the general scope of the Contract (e.g., specifications, time, method or manner of performance, requirements, etc.). Changes to Task Assignment Notification Forms issued by the DEP shall be evidenced by an amendment to the Task Assignment as described in paragraph no. 8, above. All change orders are subject to mutual agreement of both parties and shall be evidenced in writing. Any change order, which causes an increase or decrease in the CONTRACTOR's cost or time, shall require an appropriate adjustment and modification (amendment) to this Contract.
59. The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, which would conflict in any manner or degree with the performance of services required.
60. The CONTRACTOR warrants that no person or agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees or agencies maintained by the CONTRACTOR for the purpose of securing business.
61. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.
62. The CONTRACTOR shall comply with all federal, state and local rules and regulations in providing services to the DEP under this Contract. The CONTRACTOR acknowledges that this requirement includes compliance with all federal, state and local health and safety rules and regulations.
63. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Contract, shall impair any such right, power or remedy of either party; nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.
64. This Contract is an exclusive contract for services and the CONTRACTOR may not be subcontract, assign, or transfer, in whole or in part, any work under this Contract without the prior written consent of the DEP.
65. Discriminatory Practices.
  - A. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Contract.
  - B. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, and may not submit bids on leases of real property to a public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at 850-487-0915.
66. To the extent required by law, the CONTRACTOR will be self-insured against, or will secure and maintain during the life of this Contract, Workers' Compensation Insurance for all its employees connected with the work under this Contract. In case any work is subcontracted, the CONTRACTOR shall require the subcontractor similarly provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by

the CONTRACTOR. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation statutes, the CONTRACTOR shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the DEP, for the protection of his employees not otherwise protected.

67. For purposes of this Contract, the CONTRACTOR is not authorized to issue variances or waivers pursuant to Section 120.542, F.S., to issue declaratory statements pursuant to Section 120.565, F.S., or the County equivalent of these provisions where the affect would be to issue a variance, waiver or declaratory statement of a state law or rule that has been adopted as a County ordinance.
68. Nothing in this Contract shall be considered an approval by the DEP of equivalent, more stringent or extensive local programs pursuant to Section 376.317, F.S.

#### **LIABILITY**

69. The CONTRACTOR, as an independent contractor and not an agent, representative, or employee of the DEP, agrees to carry adequate liability and other appropriate forms of insurance. The DEP shall have no liability except as specifically provided in this Contract.
70. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S.

#### **SEVERABILITY**

71. In the event one or more provisions of this Contract are declared invalid, the balance of this Contract shall remain in full force and effect.

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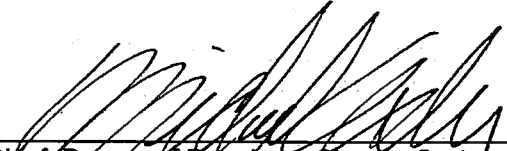
**ENTIRE AGREEMENT**

It is hereby understood and agreed that this Contract states the entire agreement and that the parties are not bound by any stipulations, representations, agreements, or promises, oral or otherwise, not printed in this Contract. This Contract may be modified by written amendment executed by the parties hereto.

HILLSBOROUGH COUNTY ENVIRONMENTAL  
PROTECTION COMMISSION  
Hillsborough County Environmental  
Protection Commission Office

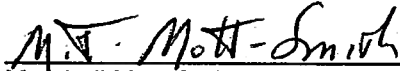
FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_  
\*Title

  
\_\_\_\_\_  
Chief, Bureau of Petroleum Storage Systems

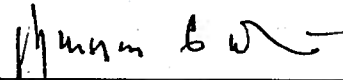
Date: \_\_\_\_\_

Date: 4-20-07

  
\_\_\_\_\_  
Marshall Mott-Smith, DEP Contract Manager

  
\_\_\_\_\_  
DEP Contracts Administrator

Approved as to form/legality:

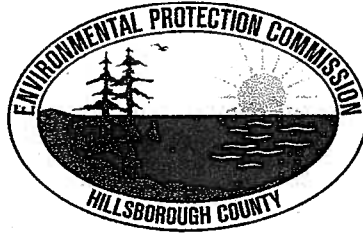
  
\_\_\_\_\_  
DEP Assistant General Counsel

\*For contracts with governmental boards/commissions: If someone other than the Chairman signs this Contract, a resolution, statement or other document authorizing the person to sign the Contract on behalf of the CONTRACTOR must accompany the Contract.

List of Attachments included as part of this Contract:

<u>Attachment</u>	<u>Description (include number of pages)</u>
Attachment A	Standard Contract Definitions (5 pages)
Attachment B	Task Assignment Notification Form (1 Page)
Attachment C	Petroleum Storage Tank System Compliance Enforcement Actions (3 Pages)
Attachment D	Property Reporting Form (1 Page)

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## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** May 17, 2007

**Subject:** Commission Workshop with Southwest Florida Water Management District and Florida Department of Environmental Protection

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

**Division:** Wetlands

**Recommendation:** Informational Only

**Brief Summary:** Commissioner Blair has requested a workshop with the various agencies having regulatory authority over wetland permitting. EPC and Planning and Growth Management staff will participate in the Question and Answer session.

**Financial Impact:** No Financial Impact

**Background:** The Southwest Florida Water Management District (the District) and the Florida Department of Environmental Protection (the Department) have been invited to attend the EPC meeting and engage in a Question and Answer session with the Commission regarding the regulatory authority of the EPC, the District and the Department. EPC and Planning and Growth Management staff will be in attendance to respond to questions regarding the regulatory roles of each agency.

**List of Attachments:** None