

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
AUGUST 16, 2007
9 AM**

AGENDA

INVOCATION AND PLEDGE OF ALLEGIANCE

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

- I. PUBLIC COMMENT** (Limited to Non-Public Hearing Items)

- II. CITIZEN'S ENVIRONMENTAL ADVISORY COMMITTEE**
Report from the Chair – David Jellerson

- III. CONSENT AGENDA**
 - A. Approval of Minutes: July 26, 2007 2
 - B. Monthly Activity Reports 7
 - C. Pollution Recovery Trust Fund Report 18
 - D. Gardinier Settlement Trust Fund Report 19
 - E. Legal Case Summary 20
 - F. Request Authority to Take Appropriate Legal Action Against:
Gas Mart, Inc. and G.W. Partners, Ltd. 24

- VI. PUBLIC HEARING** (Including Public Comment)
Public Hearing Regarding Rulemaking to Adopt the Proposed EPC Wetland
Hybrid Rules within Chapter 1-11 or Eliminate the Wetland Management
Division Rules within the Wetlands Rule Chapters 1-11, Part I and the
Mangrove Trimming and Preservation Rule Chapter 1-14. 25

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.

JULY 26, 2007 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, July 26, 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, Ken Hagan, Al Higginbotham, Jim Norman, Mark Sharpe, and Kevin White.

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.

CHANGES TO THE AGENDA

Chairman Blair called for approval of changes to the agenda. **Commissioner Ferlita moved approval, seconded by Commissioner Sharpe, and carried seven to zero.** Dr. Richard Garrity, EPC Executive Director, explained the changes included the order in which the items on the agenda would be heard. Chairman Blair clarified comments regarding public comment.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report From the Chairman, David Jellerson - Dr. Wayne Echelberger, vice chairman, CEAC, reported the July 9, 2007, meeting focused on a review of pollution recovery fund (PRF) grant applications. Due to discussion surrounding the EPC wetlands program and an update on staff program evaluation, CEAC approved a motion to support EPC staff efforts to evaluate activity of the Wetlands Management Division and recommended the Board not take decisive action to eliminate or reduce the Wetlands Management Division, without providing CEAC and the community the opportunity to review and comment on the proposal. Presentations and review of PRF applications would continue for the next two CEAC monthly meetings.

CONSENT AGENDA

- A. Approval of minutes: June 21, 2007.
- B. Monthly activity reports.
- C. PRF report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary.

Chairman Blair called for approval of the Consent Agenda. **Commissioner Norman moved the Consent Agenda, seconded by Commissioner White, and carried seven to zero.**

COMMISSIONER'S REQUEST

Wetlands Program Discussion With Dr. Garrity Presenting a Proposal to Streamline and Improve EPC's Wetland Regulatory Activities - Dr. Garrity stated action at the last EPC meeting involved looking at the hybrid concept to find ways to streamline, avoid duplication, and come up with cost savings; noted meetings with stakeholders; thanked Commissioner Higginbotham for participation; stated applicants stressed the importance of making decisions on a timely basis; introduced staff members; and gave an overview of benefits of the hybrid approach, as provided in background information.

Commissioner Ferlita suggested trying to determine whether there would be a quorum willing to stay longer than 45 minutes and give each speaker 2 minutes each. **Commissioner Norman moved to extend the workshop to start at 2:00 p.m. in the afternoon instead of 1:30 p.m., continue the meeting to 12 noon and give 1 minute per person until 12 noon, and send a notice to the County Administrator that the meeting would resume for the workshop in the afternoon at 2:00 p.m., seconded by Commissioner Ferlita, and carried seven to zero.**

PUBLIC COMMENT

Chairman Blair called for public comment. The following people spoke in favor: Ms. Denise Layne, Coalition for Responsible Growth, who distributed information; Ms. Vivian Warren, 3010 West Mason Street, Apartment E; and Ms. Janet Hiltz, 10902 Honey Hill Drive.

Mr. Joseph Narkiewicz, 2918 West Kennedy Boulevard, supported good wetlands management and perceived the hybrid proposal would not solve the problem and would raise questions.

The following people spoke in favor: Ms. Ann Paul, Audubon of Florida's Florida Coastal Islands Sanctuaries, who distributed a handout regarding census information on nesting bird colonies within the Alafia Bank Bird Sanctuary; Ms. Ann Hodgson, Regional Director, Florida Coastal Islands Sanctuaries Program, perceived the opportunity to set standards was a vital part of the Planning and Growth Management Department process; Mr. Jay Muffly, County resident; Mr. George Niemann, 4711 Dover Cliff Court; Ms. Marcella Osteen, Balm; Ms. Hannah Shiek, County resident; Ms. Pamela Prysner, 18335 Lithia Town Road; and Ms. Terry Flott, County resident, who distributed information and perceived the development community did not want to follow the rules.

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Mr. Dikrane Kalaydijian, professional engineer, distributed information and noted regulations were in place at the State and national levels and with the Federal Emergency Management Agency.

Mr. Roger Stewart, County resident, spoke in favor and referenced a legislative act noting the EPC Board was charged to uphold the environment and quality of the County.

Mr. Shawn Crocker, Florida Strawberry Growers Association and Florida Farm Bureau Federation, stated benefits were needed in other areas, noted the cost to maintain the Wetlands Management Division, and stated Southwest Florida Water Management District (SWFWMD), Department of Environmental Protection (DEP), Army Corps of Engineers, and the Environmental Protection Agency governed wetland areas.

The following people spoke in favor: Ms. Charlotte Nelson, Plant City; Ms. Vivian Bacca, 413 El Greco Drive; Mr. Chris Hart, Hillsborough County and city of Tampa, who distributed information; Ms. Jadell Kerr, 1314 Oxmoor Court; Ms. Cecilia McKiernan, 402 Columbia Drive; Mr. Jim Wilson, County resident; Mr. Kevin Beckner, County resident; Mr. Steve Daniels, County resident; and Ms. Dena Leavengood, County resident.

Mr. Hayward Chapman, County resident, perceived the issue was belated and discussed the lack of framework.

The following people spoke in favor: Ms. Dottie Grover, County resident; Mr. Byron Dean, 819 South Kings Avenue; Mr. Tom LaFountain, 9804 North 54th Street; Ms. Betsey McFarland, 3105 West Grace Street, representing the League of Women Voters, who distributed information; Mr. Jim Selvey, County resident; and Ms. Janet Fowler, intermediary firm.

Ms. Tina Drake, County resident, supported elimination of the EPC Wetlands Management Division and discussed property rights.

The following people spoke in favor: Mr. Terrell Dossey, County resident; Ms. Darlene Hall, County resident; Ms. Lisa Rodriguez, 1808 Lido Drive; Ms. Karla Holding, County resident; Mr. Gregory Hall, County resident; and Ms. Dara Dessart, 1907 Princeton Lakes Drive.

Mr. Tommy Brock, County resident, noted difficult decisions and referenced hardship in dealing with four different agencies.

The following people spoke in favor: Ms. Cam Oberting, representing Taylor Road Civic Association; Mr. Jay Worth Williams, County resident; Ms. Marilyn

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Smith, P.O. Box 66, Sydney; Ms. Beverly Griffiths, chairman, Tampa Bay Group of the Sierra Club; Mr. Edward Schroering, County resident; Ms. Deborah Cope, CEAC member; Ms. Barbara Dowling, P.O. Box 272879, Tampa; Mr. Tom Aderhold, northwest Hillsborough County resident; and Mr. Tom McPherson, 219 East Elm Street; and Mr. Michael Peterson, on behalf of the Greater Tampa Association of Realtors, who submitted a letter.

Mr. Frank Matthews, Hopping Green and Sams, representing Mr. Stephen Dibbs, stated half-acre isolated wetlands were regulated for off-site water quality and regulated at the State and federal level.

Mr. Jim Harvey, 2226 Greenwich Drive, spoke in favor, perceived Florida should look like Florida and not the suburbs, and stated wetlands added value and could not be replaced. Comments included costs to protect and repair damage to wetlands, quality of life and drinking water, loss of stringent standards and isolated wetlands, citizen inquiries and complaints, inadequate monitoring of land trusts, removal of safeguards, health hazards, protection of natural resources, and protection of the Florida Aquifer.

BOARD DISCUSSION

EPC General Counsel Richard Tschantz explained action to eliminate the Wetlands Management Division or acceptance of the rule changes to the hybrid proposal would require a ten-day notice for public hearing and could be taken at the next meeting on August 16, 2007. Commissioner Sharpe thanked Dr. Garrity for trying to establish and build a hybrid, discussed the purpose of the hybrid, perceived the hybrid process was an excellent start towards satisfaction, discussed cost savings and protection of the wetlands, and suggested moving forward with preparation on the hybrid proposal. In reply to Commissioner Sharpe, Dr. Garrity offered to provide rule language with implementation of the notice exemptions and miscellaneous permit activity at the next EPC Board meeting. **Commissioner Sharpe made a motion to move forward and give Dr. Garrity the ability to prepare.** Dr. Garrity explained a workshop could be held before the public hearing on August 16, 2007, to receive input from stakeholders and take public comment at the public hearing. **Commissioner Ferlita seconded the motion.** Commissioner Ferlita did not want misconceptions in moving forward and requested clarity. Attorney Tschantz gave options.

Commissioner Higginbotham commented on the hybrid and trying to find a way to address the needs and concerns of the community, noted he would not take action to diminish protection of the environment, perceived the hybrid met the needs of the community, pointed out affects to the agricultural community, and asked that the memorandum for proposed amendment to the hybrid plan regarding

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agriculture be included for consideration. Dr. Garrity thanked Commissioner Higginbotham for participation and helping with stakeholders and the hybrid model, stated he had met with the agricultural community and would consider the memorandum. Commissioner Ferlita pointed out the next meeting should be discussed on how it would be handled and could be addressed at the end of the meeting, noted comments from opponents and proponents, stated the proposal was a compromise, agreed with Commissioner Sharpe regarding addressing issues of duplication and efficiency issues, and referenced stewardship and former Commissioner Jan Platt's comments. Commissioner Hagan made a substitute motion to move forward with both proposals to amend the policy or eliminate a program notice for the August 16, 2007, meeting. The substitute motion died for lack of a second. Commissioner Sharpe clarified the motion. **The motion carried seven to zero.** In response to Chairman Blair, Attorney Tschantz said the format for the meeting could be noticed separately and published for 9:00 a.m.

There being no further business, the meeting was adjourned at 12:25 p.m.

READ AND APPROVED: _____

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____

Deputy Clerk

ssg

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION

July FY 2007

A. Public Outreach/Education Assistance:		
1. Phone Calls:		157
2. Literature Distributed:		<u>1</u>
3. Presentations:		<u>1</u>
4. Media Contacts:		<u>1</u>
5. Internet:		<u>62</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>6</u>
d. Transfers/Extensions:		<u>0</u>
e. General:		<u>3</u>
f. Title V:		<u>1</u>
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected) - (² Counted by Number of Emission Units affected by the Review):		
a. Operating ¹ :		<u>4</u>
b. Construction ¹ :		<u>8</u>
c. Amendments ¹ :		<u>0</u>
d. Transfers/Extensions ¹ :		<u>0</u>
e. Title V Operating ² :		<u>0</u>
f. Permit Determinations ² :		<u>1</u>
g. General:		<u>0</u>
3. Intent to Deny Permit Issued:		<u>0</u>
C. Administrative Enforcement		
1. New cases received:		<u>5</u>
2. On-going administrative cases:		
a. Pending:		<u>5</u>
b. Active:		<u>22</u>
c. Legal:		<u>4</u>
d. Tracking compliance (Administrative):		<u>16</u>
e. Inactive/Referred cases:		<u>0</u>
Total		<u>47</u>
3. NOIs issued:	-7-	<u>7</u>

4.	Citations issued:	<u>0</u>
5.	Consent Orders Signed:	<u>1</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$2,250.00</u>
7.	Cases Closed:	<u>2</u>
D.	Inspections:	
1.	Industrial Facilities:	<u>30</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>16</u>
c.	Major Sources	<u>5</u>
3.	Asbestos Demolition/Renovation Projects:	<u>20</u>
E.	Open Burning Permits Issued:	<u>1</u>
F.	Number of Division of Forestry Permits Monitored:	<u>443</u>
G.	Total Citizen Complaints Received:	<u>59</u>
H.	Total Citizen Complaints Closed:	<u>50</u>
I.	Noise Sources Monitored:	<u>11</u>
J.	Air Program's Input to Development Regional Impacts:	<u>4</u>
K.	Test Reports Reviewed:	<u>38</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>8</u>
2.	Warning Notices Resolved:	<u>40</u>
3.	Advisory Letters Issued:	<u>1</u>
M.	AOR's Reviewed:	<u>28</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>1</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
July FY 2007

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$0.00</u>
(b) all others	<u>\$0.00</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	<u>\$0.00</u>
(b) class A2 facility - 5 year permit	<u>\$0.00</u>
(c) class A1 facility - 5 year permit	<u>\$0.00</u>
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$1,800.00</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>\$800.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$240.00</u>
4. Non-delegated permit revision for an air	<u>\$0.00</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$0.00</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	<u>\$3,200.00</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>\$900.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$2,500.00</u>
8. Open burning authorization	<u>\$1,800.00</u>
9. Enforcement Costs	<u>\$375.00</u>

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



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

Executive Director
 Richard D. Garrity, Ph.D.

M E M O R A N D U M

DATE: August 7, 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 JULY 2007
 AGENDA INFORMATION**

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	3
2. On-going administrative cases	116
a. Pending	5
b. Active	52
c. Legal	9
d. Tracking Compliance (Administrative)	32
e. Inactive/Referred Cases	16
3. NOI's issued	0
4. Citations issued	0
5. Consent Orders and Settlement Letters Signed	5
6. Civil Contributions to the Pollution Recovery Fund	\$3,500.00
7. Enforcement Costs collected	\$6,601.00
9. Cases Closed	1

B. SOLID AND HAZARDOUS WASTE

1. FDEP Permits (received/reviewed)	0/2
2. EPC Authorization for Facilities NOT requiring DEP permit	2/1
3. Other Permits and Reports	
a. County Permits	3/1
b. Reports	57/51
4. Inspections (Total)	67
a. Complaints	23
b. Compliance/Reinspections	22
c. Facility Compliance	22
d. Small Quantity Generator	197
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	27/25
b. Warning Notices Issued/Closed	1/2
c. Compliance letters	91
d. Letters of Agreement	0
e. Agency Referrals	0
6. Pamphlets, Rules and Material Distributed	286

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	41
b. Installation	10
c. Closure	07
d. Compliance Re-Inspections	31
2. Installation Plans Received/Reviewed	07/12
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	03/06
b. Closure Reports Received/Reviewed	04/15
4. Enforcement	
a. Non-compliance Letters Issued/Closed	21/38
b. Warning Notices Issued/Closed	03/02
c. Cases referred to Enforcement	02
d. Complaints Received/Investigated	00/00
e. Complaints Referred	00
5. Discharge Reporting Forms Received	06
6. Incident Notification Forms Received	05
7. Cleanup Notification Letters Issued	06
8. Public Assistance	200+

D. STORAGE TANK CLEANUP

1. Inspections	32
2. Reports Received/Reviewed	104/96
a. Site Assessment	13/10
b. Source Removal	03/04
c. Remedial Action Plans (RAP's)	08/09
d. Site Rehabilitation Completion Order/ No Further Action Order	01/01
e. Active Remediation/Monitoring	59/55
f. Others	20/17
3. State Cleanup	
a. Active Sites	NO LONGER
b. Funds Dispersed	ADMINISTERED

E. RECORD REVIEWS - 23

F. PUBLIC INFORMATION PROJECTS - 2

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
JULY, 2007**

A. ENFORCEMENT

1. New Enforcement Cases Received:	7
2. Enforcement Cases Closed:	2
3. Enforcement Cases Outstanding:	68
4. Enforcement Documents Issued:	10
5. Recovered costs to the General Fund:	\$ 610.00
6. Contributions to the Pollution Recovery Fund:	\$ 1,000.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Little Manatee Isles	DW Effluent Discharges/ Operation without a permit	\$ 1,000.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	32
a. Facility Permit:	4
(i) Types I and II	0
(ii) Types III	4
b. Collection Systems-General	15
c. Collection Systems-Dry Line/Wet Line:	13
d. Residuals Disposal:	0
2. Permit Applications Approved:	32
a. Facility Permit:	5
b. Collection Systems-General:	10
c. Collection Systems-Dry Line/Wet Line:	17
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
4. Permit Applications (Non-Delegated):	0
a. Recommended for Approval:	0
5. Permits Withdrawn:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0

6. Permit Applications Outstanding:	78
a. Facility Permit:	12
b. Collection Systems-General:	44
c. Collection Systems-Dry Line/Wet Line:	22
d. Residuals Disposal:	0
7. Permit Determination:	5
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
C. INSPECTIONS - DOMESTIC	108
1. Compliance Evaluation:	14
a. Inspection (CEI):	2
b. Sampling Inspection (CSI):	8
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	4
2. Reconnaissance:	53
a. Inspection (RI):	8
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	42
d. Enforcement Inspection (ERI):	3
3. Engineering Inspections:	41
a. Reconnaissance Inspection (RI):	2
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	1
d. Preconstruction Inspection (PCI):	12
e. Post Construction Inspection (XCI):	26
f. On-site Engineering Evaluation:	0
g. Enforcement Reconnaissance Inspection (ERI):	0
D. PERMITTING/PROJECT REVIEW - INDUSTRIAL	50
1. Permit Applications Received:	1
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:	0
2. Permits Recommended to DEP for Approval:	2
3. Special:	2
a. Facility Permits:	0
b. General Permits:	2
4. Permitting Determination:	0
5. Special Project Reviews:	45
a. Phosphate:	7
b. Industrial Wastewater:	23
c. Others:	15
E. INSPECTIONS - INDUSTRIAL	27
1. Compliance Evaluation:	10
a. Inspection (CEI):	10
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	11
a. Inspection (RI):	7
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	4
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	6
a. Compliance Evaluation (CEI):	6
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0
F. INVESTIGATION/COMPLIANCE	
1. Citizen Complaints:	
a. Domestic:	27
(i) Received:	14
(ii) Closed:	13
b. Industrial:	10
(i) Received:	5
(ii) Closed:	5

2.	Warning Notices:	
	a. Domestic:	18
	(i) Received:	11
	(ii) Closed:	7
	b. Industrial:	3
	(i) Received:	1
	(ii) Closed:	2
3.	Non-Compliance Advisory Letters:	24
4.	Environmental Compliance Reviews:	151
	a. Industrial:	41
	b. Domestic:	110
5.	Special Project Reviews:	1
G. RECORD REVIEWS		
1.	Permitting:	3
2.	Enforcement:	7
H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:		
1.	Air Division:	52
2.	Waste Division:	0
3.	Water Division:	16
4.	Wetlands Division:	0
5.	ERM Division:	146
6.	Biomonitoring Reports:	3
7.	Outside Agency:	30
I. SPECIAL PROJECT REVIEWS:		
1.	DRIs:	5
2.	ARs:	0
3.	Technical Support:	5
4.	Other:	0

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

A. General	Totals
1. Telephone Conferences	653
2. Unscheduled Citizen Assistance	82
3. Scheduled Meetings	205
4. Correspondence	497
B. Assessment Reviews	
1. Wetland Delineations	38
2. Surveys	59
3. Miscellaneous Activities in Wetland	44
4. Impact/ Mitigation Proposal	23
5. Tampa Port Authority Permit Applications	42
6. Wastewater Treatment Plants (FDEP)	2
7. DRI Annual Report	3
8. Land Alteration/Landscaping	2
9. Land Excavation	1
10. Phosphate Mining	9
11. Rezoning Reviews	30
12. CPA	13
13. Site Development	77
14. Subdivision	73
15. Wetland Setback Encroachment	8
16. Easement/Access-Vacating	0
17. Pre-Applications	32
18. On-Site Visits	179
C. Investigation and Compliance	
1. Complaints Received	41
2. Complaints Closed	72
3. Warning Notices Issued	10
4. Warning Notices Closed	7
5. Complaint Inspections	53
6. Return Compliance Inspections	39
7. Mitigation Monitoring Reports	12
8. Mitigation Compliance Inspections	19
9. Erosion Control Inspections	51
D. Enforcement	
1. Active Cases	34
2. Legal Cases	2
3. Number of "Notice of Intent to Initiate Enforcement"	3
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	10
6. Administrative - Civil Cases Closed	6
7. Cases Referred to Legal Department	2
8. Contributions to Pollution Recovery	\$6,800.00
9. Enforcement Costs Collected	\$290.00

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 07/31/07**

Balance as of 10/01/06	*		\$1,933,214
Interest Accrued		92,750	
Deposits	FY07	291,065	
Disbursements	FY07	(\$235,689)	
Intrafund Transfer 910		(\$1,045,733)	
Interfund Transfer 910		\$37,169	
Total			\$1,072,776
Water & Coastal Area Restoration & Maint.		2,808	

Pollution Recovery Fund Balance \$1,075,584

Old Encumbrances

Water Drop Patch/Girl Scouts		3,023	
Artificial Reef Program		36,580	
Pollution Prevention/Waste Reduction (101)		18,450	
PRF Project Monitoring		8,615	
Total		66,668	

Save Our Canals

	\$	3,830	
Experimental Land Based Seagrass 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		1,045,733	

Total of Encumbrances \$ 66,668

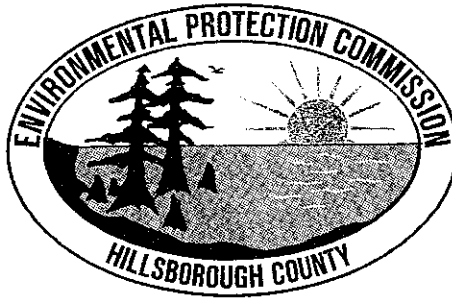
Minimum Balance 120,000

Balance Available 07/31/07 **\$888,916**

* 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
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 Rose V. Ferlita
 Ken Hagan
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 Legal 627-2602 Wetlands 627-2630
 Water 627-2670 ERM 627-2650
 Air 627-2660 Lab 272-5157

Executive Director
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION
 OF HILLSBOROUGH COUNTY
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
 AS OF JULY 31, 2007

Fund Balance as of 10/01/06	\$ 280,512
Interest Accrued	10,517
Disbursements FY07	(46,553)

Fund Balance	\$ 244,476
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Encumbrances Against Fund Balance:

SP627 Tampa Bay Scallop Restoration	\$ 10,767
SP636 Fantasy Island	4,208
SP634 Cockroach Bay ELAPP Restoration	229,501

Total of Encumbrances	\$ 244,476
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Fund Balance Available July 31, 2007	\$ - 0 -
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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 16, 2007

Subject: Legal Case Summary for August 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: August 2007 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
August 2007

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [4]

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

Irshaid Oil, Inc. [LEPC06-006]: On March 15, 2006, Mr. Nasser Irshaid filed a request for extension of time to file an appeal to challenge a Citation of Violation and Order to Correct issued by EPC on February 28, 2006, regarding waste issues. The Legal Dept. granted the request and provided the Appellant with a deadline of June 19, 2006 in which to file an appeal. On June 8, 2006 Appellant filed a second request for extension of time. It was determined that the request did not show good cause and the request was denied. Mr. Irshaid had until July 19, 2006 to file an appeal. On July 10, 2006 Mr. Irshaid filed an insufficient Notice of Appeal which was dismissed with leave to amend. Mr. Irshaid had until July 28, 2006 to file an amended appeal. Mr. Irshaid filed an appeal on July 18, 2006. A Hearing Officer was appointed on August 14, 2006. The Case Management Conference was held on Sept. 6, 2006. The Case was held in abeyance until May 24, 2007 since that time, a status conference has been scheduled for July 31, 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 was entered on May 31, 2007. The parties have the opportunity to file exceptions to the Hearing Officer's recommendation and then responses to the exceptions. The matter will then be transferred back to the Commission for adoption of a Final Order at the September 20, 2007 land use meeting. (AZ)

RECENTLY RESOLVED ADMINISTRATIVE CASES [1]

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. On July 10, 2007 the Petitioner filed a Withdrawal of Petition for Administrative Hearing based on the imminent issuance of an acceptable permit. The permit has been issued and the case has been closed. (RM)

B. CIVIL CASES

NEW CIVIL CASES [0]

EXISTING CIVIL CASES [11]

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. A Final Order was issued on June 1, 2007, and it was not appealed, the EPC is preparing a complaint. (RM)

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

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

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. The EPC is preparing a lawsuit to compel compliance. (RM)

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

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

Rusty's Pallet Services, Inc. [LEPC07-019]: On June 21, 2007 authority was granted to take appropriate action

against Rusty's Pallet Services, Inc. to compel compliance with the Rules of the EPC regarding an ongoing dust nuisance caused by the business activities and to seek appropriate penalties and administrative costs. The facility has until August 13 to settle or the EPC will prepare a complaint. (RM)

RECENTLY RESOLVED 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. A lawsuit was filed on June 25, 2007. The defendant entered into a settlement agreement and agreed to pay \$10,000 in penalties and an additional \$3,600.00 in administrative costs. The EPC Legal Department will file a voluntary dismissal upon payment of the money. (AZ)

C. OTHER OPEN CASES [8]

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

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

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. Multiple extensions of time have been granted. A recent additional request for extension of time to file a petition for hearing was denied and the Petitioner has until approximately June 7 to file a petition in this matter. A petition was filed, but the parties are still negotiating. (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. Hendry requested an extension of time and the EPC had granted extensions through March 5, 2007. The parties are negotiating a settlement. (RM)

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 had until June 19, 2007 to file a petition in this matter. (RM)

Agrium U.S., Inc. [LEPC07-012]: On May 3, 2007 Petitioner filed a request for extension of time to file a petition for administrative hearing regarding an Air Operating Permit denial. The request was granted and the Petitioner had until July 6, 2007 to settle or file a petition in this matter. A second request for extension of time was filed by the Petitioner. The request was granted and petitioner has until September 4, 2007 to settle or file a petition. (RM)

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

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

Southern HealthCare Management, LLC d/b/a Bayshore Pointe Nursing & Rehab Center [LEPC07-017]: On May 31, 2007, Appellant filed an extension of time to file a Notice of Appeal regarding an Air Mgmt. Division citation issued to the facility for noise violations from its emergency generator. The request was granted and Petitioner has until August 15, 2007 to file a Notice of Appeal. A second extension request was filed on August 3 and the parties are negotiating. (RM)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 16, 2007

Subject: Request for authority to take appropriate legal action against Gas Mart, Inc. and G.W. Partners, Ltd. 2

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

Division: Waste Management Division

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

Brief Summary: On August 8, 2005, a discharge of petroleum product was discovered during a Closure assessment Report at property located at 2203 South Alexander Street, Plant City, Hillsborough County, Florida. Site cleanup activities have not been initiated or completed. Site clean-up activities at a minimum include a Site Assessment and the submittal of a Site Assessment Report to EPC per Chapter 62-770, Florida Administrative Code and Chapter 1-7, Rules of the EPC.

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

Background: In August 2005, a spill bucket was replaced at a Chevron retail vehicular refueling station (Facility) located at 2203 South Alexander Street, Plant City, Hillsborough County, Florida. A spill bucket closure assessment report was submitted to EPC on September 9, 2005. The report identified petroleum contaminant concentration exceeding soil cleanup target levels. The property is owned by G.W. Partners Ltd. 2 and the Facility is operated by Gasmart, Inc. EPC sent letters on September 27, 2005, November 23, 2005 and December 15, 2005 to Kenneth Wood, President of Gasmart, managing member of G.W. Partners, Ltd. 2 and Registered Agent for both companies advising that a Site Assessment Report must be submitted within 270 days of discovery of the discharge. No responses were received.

On April 26, 2006, EPC staff issued Citations of Violation and Orders to Correct to Gasmart, Inc. and G.W. Partners, Ltd. 2 for failing to initiate and complete site rehabilitation activities in accordance with Chapter 62-770, Florida Administrative Code and Chapter 1-7, Rule of the EPC. No response was received and no positive response to telephone calls has been received.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 16, 2007

Subject: Public Hearing Regarding Rulemaking to Adopt the Proposed EPC Wetland Hybrid Rules within Chapter 1-11 or Eliminate the Wetland Management Division Rules within the Wetlands Rule Chapters 1-11, Part I and the Mangrove Trimming and Preservation Rule Chapter 1-14.

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

Division: EPC Legal Department and Wetlands Management Division

Recommendation: Conduct a Public Hearing; approve the Wetland Hybrid Proposal; adopt the associated Hybrid Wetland Rules for Adoption into Chapter 1-11.

Brief Summary: On July 26, 2007, the Executive Director presented the Hybrid Wetlands Protection Proposal and the Environmental Protection Commission (EPC) Board took public comment. At the same meeting the Commission instructed staff to schedule an August 16, 2007 rulemaking public hearing for two alternative options; the Hybrid Proposal and the Wetland Division Elimination proposal. This meeting is a final public hearing to consider adoption of amendments to the Wetlands Rule, Chapter 1-11 and the Mangrove Trimming and Preservation Rule, Chapter 1-14, Rules of the EPC. One proposed amendment, the Hybrid Proposal, modifies section 1-11.09 and adopts sections 1-11.10 and 1-11.11 which incorporate exemptions, noticed exemptions and miscellaneous activities permits into Chapter 1-11. The intent of these changes is to streamline the permitting process, codify exemption timeframes, clarify what activities do not need mitigation or a reasonable use showing, and provide multiple rule-based exemptions. The alternative proposal, intended to eliminate the functions of the Wetland Management Division, provides for the repeal of Part I of Chapter 1-11 (wetland permitting and enforcement) and Chapter 1-14 (mangrove permitting and enforcement).

Financial Impact: If the Hybrid Model is approved the EPC budget will be reduced by \$367,859, including five full time equivalent (FTEs) positions. If the Wetlands Management Division is eliminated there will be a reduction of \$2,136,653 to the general fund, including 27 FTEs; a loss of general fund revenues (permitting and other fees) totaling \$1,129,156, resulting in a net reduction of \$1,007,497; a reduction of \$148,137 and 2 FTEs in the Phosphate Severance Tax Fund for Phosphate Mining Impact Review; and an approximate 40% loss of pollution recovery fund money estimated at \$130,000, potentially impacting the Artificial Reef Program and the loss of local pollution control project funding.

Background:

In response to concerns of perceived duplication of state and federal wetland permitting programs, the Environmental Protection Commission (EPC) Board voted 4-3 on June 21, 2007, to eliminate the EPC's Wetland Management Division. However, the Board further authorized staff to explore streamlining the wetland regulatory program, in lieu of elimination. On July 26, 2007, the Executive Director presented the streamlined Hybrid Proposal and the Commission took public comment. At that meeting the Commission instructed staff to bring back a rulemaking public hearing for two alternative options; the Hybrid Proposal and the Elimination Proposal. This meeting is a final public hearing to consider adoption of amendments to the EPC Wetlands Rule, Chapter 1-11 and the Mangrove Trimming and Preservation Rule, Chapter 1-14 and accept or reject the Hybrid Proposal. The public hearing was noticed in the newspaper on August 3, 2007.

1. HYBRID PROPOSAL AND RULES

The streamlined, or Hybrid Proposal, modifies section 1-11.09 and adopts new sections 1-11.10 and 1-11.11 which incorporate exemptions, noticed exemptions, and miscellaneous activities into Chapter 1-11. The codified Miscellaneous Activities in Wetlands permits involve streamlined applications and quicker permit decisions on projects such as construction in certain ditches, construction of boardwalks, docks, pilings, rip rap, aids to navigation, boat lifts, and other similar structures. The new Exemptions section (Standard and Noticed) gives clarity to applicants that many smaller environmental impacts do not require a permit from the EPC as long as they meet the minimal criteria, such as using best management practices to avoid turbidity issues. The exemptions also allow, among other things, maintenance within roadway drainage ditches which contain water only following the occurrence of rainfall and which are not adjacent to wetlands or other surface waters, and development within artificially created stormwater treatment and conveyance systems (including tailwater recovery ponds) designed solely for the purpose of stormwater treatment.

The proposed rules are only the first step in the Hybrid Proposal. The Hybrid will involve additional rulemaking and will involve additional reorganization and tasks outlined in the Hybrid Proposal to be completed within one year.

2. ELIMINATION PROPOSAL AND RULES

An alternate proposal provides for the repeal of Part I of Chapter 1-11 and the repeal of the existing Mangrove Rule, Chapter 1-14. This rulemaking proposal involves the strikethrough of all the permitting and enforcement provisions of Chapter 1-11 (i.e. – Part I), but keeps intact Part II which is the Wetland Recovery Area rule (Part II). Part II of Ch. 1-11 allows the EPC Board (not staff) to designate an area as a sensitive environmental area that needs added protection for a limited time to allow recovery of a resource or species. This rule is administered by the Environmental Resource Management Division, not the Wetland Management Division. This rule section is infrequently used, but it has been used in the past to protect impacted seagrass beds in the bay, thus helping the fish habitat and fishing industry. Only the EPC Board can create or eliminate one of these recovery areas.

In addition to the elimination of the majority of Chapter 1-11, this proposal also requires elimination of the mangrove permitting program in Chapter 1-14 that was delegated down from the DEP to the EPC. This mangrove delegation is an example of permit streamlining and was implemented by the EPC in October of 2006. If the mangrove rule is eliminated, the EPC, by

contract with the DEP, is required to give the DEP 90 days notice and continue to regulate under Ch. 1-14 for those 90 days. After the program is returned to the DEP, the EPC is still required by contract to regulate any mangrove permit the EPC issued.

If the Elimination Proposal is selected, a number of rules and criteria within the County's Land Development Code, the Comprehensive Plan, the Tampa Port Authority, and the land development codes of the City of Tampa, City of Temple Terrace, and Plant City must be amended to extract the EPC from those government's commenting and permitting procedures. The County and cities rely on the EPC Wetland staff to comment on plats, rezoning, construction plans, etc. to ensure applicants have avoided or properly noted wetlands on their plans. Those governments may each be required to hire wetland biologists and/or engineers to ensure the plans are accurate before being recorded in the public record.

In the event Elimination is proposed, the EPC staff recommends a phased approach to shutting down the division in order to allow the Wetlands Management Division to close out ongoing permit and enforcement matters, properly archive all files, comply with ongoing mangrove permitting delegation/contract obligations with the DEP, allow for a smooth transition for the Tampa Port Authority, County PGMD, and the three City equivalent land use departments to address wetland reviews internally and/or to amend their ordinances.

Budgetary Impacts

If the Hybrid Model is approved the EPC budget will be reduced by \$367,859, including five full time equivalent (FTEs) positions. If the Wetlands Management Division is eliminated there will be a reduction of \$2,136,653 to the general fund, including 27 FTEs; a loss of general fund revenues (permitting and other fees) totaling \$1,129,156, resulting in a net reduction of \$1,007,497; a reduction of \$148,137 and 2 FTEs in the Phosphate Severance Tax Fund for Phosphate Mining Impact Review; and an approximate 40% loss of pollution recovery fund money estimated at \$130,000, potentially impacting the Artificial Reef Program and the loss of local pollution control project funding.

3. CONCLUSION

The EPC staff recommends approval of the Hybrid Wetland Proposal and the associated rule amendments to Chapter 1-11.

List of Attachments: Updated Hybrid Proposal
FDEP Letter dated August 2, 2007

Supplemental Packet: (Tuesday August 14, 2007)
Proposed changes to Ch. 1-11 for the Hybrid Proposal
Proposed changes to Chps. 1-11 and 1-14 for the Elimination proposal

EPC Wetlands Protection: Improving the Process, Maintaining the Protection

Overview of Benefits of Hybrid Approach

- Significant cost savings of \$367,859
- Consolidates multiple agency approvals
- Reduces applicant's time seeking project approvals
- Addresses minor activities
- New Basis of Review & Applicant Handbook
- Customer Service improvements
- Maintains local government oversight

Proposed Rule Changes for adoption in August 2007

- Exemptions and/or Noticed Exemptions for selected activities such as dredging and filling in artificially created wetlands (examples: upland cut ditches, roadway ditches, cattle watering ponds, and other upland cut open water bodies). Applicable forms will be on the EPC website and will be able to be submitted online.
- Exemptions for maintenance of lawfully constructed and operated water management structures in wetlands including but not limited to fish ponds, ditches, tail-water recovery areas and stormwater systems.
- The wetland rule would be amended to define miscellaneous activities (such as boat ramps, docks, boat lifts, nuisance vegetation removal, boardwalks and aids to navigation) and streamline the approval process. The new advisory board proposed below will help in recommending future categories.
- Complete public workshops, finalize rule language for inclusion in Public Hearing
8/16/07

Result – Clearer rule language defining exemptions with priorities set on higher quality wetlands

Future Proposed Rule Changes

- Establish a Technical Advisory Committee to develop and recommend further changes to exemption and miscellaneous activities rule language for future adoption.
- Develop a local Basis of Review document and an associated Applicant Handbook for implementing Ch. 1-11. Include guidelines for determining “reasonable use”, permitting criteria, conditions for authorizations, environmental criteria, water quality criteria, public interest criteria, mitigation requirements, project specific guidance and to define historic uplands.

- Develop a classification of wetlands based on ecological values of the functions provided by the wetlands to be incorporated into the regulatory process as a guide in determining whether a wetland impact can be approved. In addition, the proposed rule may also consider net environmental benefits to allow enhanced mitigation proposals in determining whether a wetland impact can be approved.
- Agricultural Ground and Surface Water Management (AGSWM) - EPC will coordinate with SWFWMD in the implementation of the AGSWM program for agricultural projects and develop specific rules and standards to incorporate the principles of AGSWM. EPC will consider projects that go through the AGSWM process and receive an exemption from permitting or an Environmental Resource Permit as meeting the EPC reasonable use criteria for impacts. Mitigation will be required for cumulative impacts greater than ½ acre and for individual isolated wetlands greater than ¼ acre.
- Establish by rule, time frames for review activities and post time frames on web.
- Adopt rule amendments that are necessary for obtaining delegations and streamline permitting including:
 - Adoption of portions of the state's Basis of Review
 - Adoption of applicable sections of the state's wetland statute Sec. 373.414, F.S
 - Adoption of applicable portions of Tampa Port Authority's submerged lands management rules

Result – Better guidance for applicants, clearer guidelines, clearer time frames, conformance with delegation agreements

Customer Service Changes

- **Establish Wetlands Advisory Committee.** The committee will consist of an inner circle of technical experts and an outer circle of stakeholders. The technical experts to be selected by the Executive Director such as the proposed Committee Chairman Dr. Tom Crisman (Research Fellow and Professor of Environment at the USF Patel Center for Global Solutions and past Director of the University of Florida Howard T. Odum Center for Wetlands). The committee will review wetland rule amendment proposals, regulatory processes, and evaluate comprehensive wetlands issues over time.

Result – Stakeholder and technical expert input on entire program/guidance

- **Assign EPC wetlands permitting ombudsman.** The ombudsman service is available to assist all applicants but especially small farms and “mom & pop” projects in understanding permitting requirements, obtaining application status, and assisting in contacting staff in other agencies, and ensuring that applicants or citizens have a voice to agency upper management.

Result – Professional assistance to help applicants understand the regulatory process.

UPDATE: Staff person appointed on July 27th 2007, Christina Bryant.

- **Watershed Mitigation Banking & ROMA's (Regional Off-site Mitigation Areas)**
EPC will proactively coordinate with SWFWMD, DEP and ELAPP to develop a mitigation banking strategy for wetland impacts that will encourage a diversity of habitat types in as many of the county's watersheds as possible. Part of the strategy will include clear measures in EPC's rules where mitigation bank credits can be used.
Result – More streamlined permitting procedures and opportunities for more effective and successful mitigation wetlands
- **Establish a formal on-line application form.** Provide for electronic submittals of online applications through the EPC website and develop a wetland application checklist to assist applicants in making a complete submittal.

Process Changes

- **Combined DEP Environmental Resource Permit (ERP), Tampa Port Authority, and EPC authorizations.** Request delegation from the DEP for single family homes, and the associated docks, and shoreline stabilization projects. The delegation will include EPC's stricter standards. Accept delegation from the Tampa Port Authority for minor works permits. This delegation will also utilize EPC standards. These combined delegated programs will roll into one process applicable federal, state, Tampa Port Authority, and local approvals and will include all permitting, compliance and enforcement activities. Included is the continuation of the existing delegated program in which EPC is the sole agency with authorization to issue mangrove trimming permits and associated compliance and enforcement activities. This effort has been determined to be a first of its kind in the State of Florida
Result – 1 stop permitting
- **Phosphate mining reviews.** EPC to continue permitting, compliance and enforcement activities, but work more closely with DEP Bureau of Mining and PGM to coordinate review process and possibly co-process applications. EPC already is extensively involved through "Life of Mine" permits, which extend out to 2026 for significant areas of phosphate mines in Hillsborough County.
Result – Streamlined permitting
- **Development Review Process** (this is coordinated with PGM, City of Tampa, City of Temple Terrace, and City of Plant City for a cradle to grave review)
 1. Conduct a process review to evaluate EPC Development Review activities to determine where the most effective input may occur. The goal will be to work with PGM and the municipalities to streamline the process but improve the product and eliminate redundant reviews.

2. The proposed EPC review will focus on the front end of projects to ensure minimization and avoidance of wetland impacts. A significant savings in staff time is anticipated. Estimated time to complete this task is 4 months.
3. As a result of the process audit, tailor EPC input to the most effective parts of the process with staffing efficiency as a guide.
4. Explore with PGM an instant document dispersal program to eliminate delays of document transfer. Determine the feasibility and cost of obtaining the necessary equipment and training to handle digitally submitted applications, thus eliminating delays in transferring hard copies. Report to the Board.
5. Continue EPC participation in City of Tampa, City of Temple Terrace, and City of Plant City development reviews. These processes can also be reviewed during the audit process.

Result – Streamlined but more effective process with expected savings in staff time

- **SWFWMD Coordination**

- Both agencies will continue to conduct project reviews in a way that complements each other's work by emphasizing different criteria for project approval. EPC concentrates on wetlands protection by its more stringent criteria for avoidance and minimization of wetland impacts through a cradle to grave review. SWFWMD reviews wetlands impacts and stormwater management issues through the ERP.
- EPC will supply SWFWMD with early project information from development review as outlined above.
- EPC will attend SWFWMD's regular staff coordination meetings to review projects and maintain consistency.
- EPC will cooperate with PGMD, SWFWMD, and the cities to explore a sharing of electronic submittal information in a form accessible to all parties.
- Continue the Memorandum of Understanding (MOU) between the EPC and SWFWMD for compliance and enforcement of SWFWMD ERP projects and mitigation compliance. Pursuant to the MOU between the two agencies, SWFWMD and the EPC coordinate compliance/enforcement responsibilities for ERP. Prior to issuing the ERP Operating Permit, SWFWMD handles compliance/enforcement on their behalf. After the permit is issued, EPC conducts compliance/enforcement for the mitigation agreements for both agencies.
- EPC will be the first respondent to all complaints on wetlands and water quality violations in the County. The EPC currently has an on-call operation for citizen complaints that operates 24 hours a day, seven days a week.

Result: Greatly increased coordination between EPC and SWFWMD, better guidelines for applicants

- **Army Corps of Engineers (ACOE)**

- Explore feasibility and economics of obtaining a general permit authorization from the ACOE. This would provide ACOE approval for wetland impacts where EPC authorizes the impact through its review.
- Explore feasibility of obtaining ACOE delineation authority.

Result: This would enable streamlined services and 1 stop permitting for additional ACOE wetland permitting

SUMMARY OF RESULTS

- ❖ Streamlined permitting process and faster turnaround time
- ❖ Savings of \$367,859 (Five FTE's)
- ❖ Eliminate multiple reviews
- ❖ Clearer rules for minor activities
- ❖ Consolidates multiple agency approvals
- ❖ Priorities set on wetlands protection
- ❖ Drastically reduces real or perceived duplication
- ❖ Emphasizes customer service
- ❖ Maintains resource protection
- ❖ Many items have short term implementations; full implementation 1 year.

Economic analysis : The economic analysis is provided on attached charts.

**ENVIRONMENTAL PROTECTION COMMISSION
WETLANDS HYBRID PROPOSAL
FY 08**

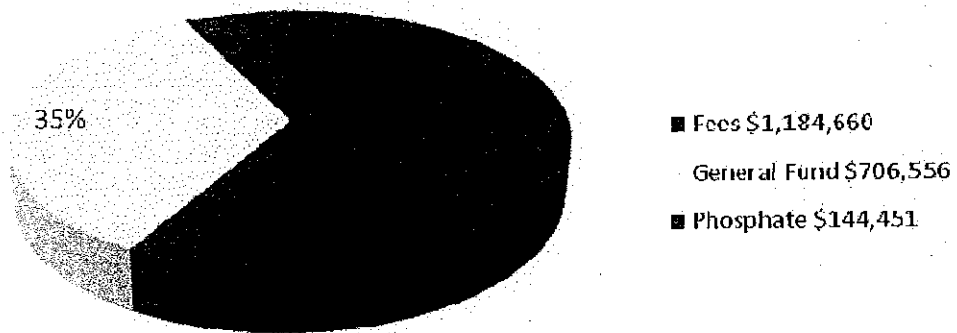
	Budget Submission	Hybrid Proposal	Difference	
Revenues				
Fees	\$1,152,960	\$1,152,960	\$0	
Estimated Additional Revenue Generated by DEP Delegation		31,700	31,700	
Total Revenues	\$1,152,960	\$1,184,660	\$31,700	3%
Expenditures				
Personal Services	\$2,288,847	\$1,942,646	-\$346,201	
Operating Expenditures	122,293	93,021	-29,272	
Total Expenditures	\$2,411,140	\$2,035,667	-\$375,473	16%
FTE Positions	29	24	-5	17%

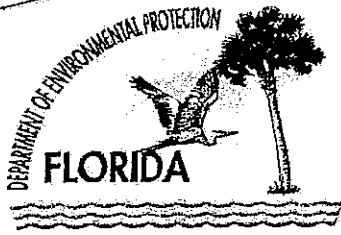
ENVIRONMENTAL PROTECTION COMMISSION WETLANDS HYBRID PROPOSAL

FY 08 Budget Submission



FY 08 Hybrid Proposal





Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kotlikamp
Lt. Governor

Michael W. Sole
Secretary

August 2, 2007

The Honorable Brian Blair
Chairman, Hillsborough County
Environmental Protection Commission
County Center -- 2nd Floor
601 E. Kennedy Boulevard
Tampa, Florida 33602

Dear Mr. Chairman:

The protection and maintenance of Florida's high quality environment is vital to the continuing economic well being of our state and to the quality of life of all Floridians. With increasing growth, budgetary constraints, and competing priorities, the role of regulatory agencies is becoming increasingly complicated and challenging. Wherever possible, state, regional and local authorities need to work on ways to truly combine efforts in delivering sensible but effective environmental protection to our citizens.

I am aware of recent developments surrounding the Hillsborough County Environmental Protection Commission's wetland program. I would like to take this opportunity to express the Florida Department of Environmental Protection's on-going support for enhancing the degree of cooperation and coordination between our two agencies. Presently, the Hillsborough County Environmental Protection Commission (HCEPC) effectively runs the mangrove protection program on behalf of the DEP. Through the efforts of HCEPC director Dr. Rick Garrity, further efficiencies such as expanded delegation of portions of the state Environmental Resource Permitting (ERP) program may be possible. This can be particularly effective where the local knowledge of the HCEPC can provide better service to the people of Hillsborough County through streamlined permitting with no loss of environmental protection.

Local government is certainly familiar with the critical environmental issues within their jurisdictions. It is vital, however, that the regulatory agencies speak with one voice to the greatest extent possible. The Department looks forward to assisting the HCEPC in implementing what I am sure is our mutual goal of improving and maintaining the environment in Hillsborough County.

Sincerely,

Michael W. Sole
Secretary