

EPC

8/17/00

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
AUGUST 17, 2000
10 A.M. – 12 NOON**

AGENDA

- I. CITIZEN COMMENTS**
- II. CITIZEN'S ENVIRONMENTAL ADVISORY COMMITTEE**
- Items of Interest
- III. EXECUTIVE DIRECTOR'S COMMENTS**
- IV. CONSENT AGENDA**
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Any person who might wish to appeal any decision made by the Environmental Protection Commission regarding any matter considered at the forthcoming public hearing or meeting is hereby advised that they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based.

Visit our website at <http://epchc.org>

COMMISSION

PAT FRANK
CHRIS HART
JIM NORMAN
JAN PLATT
THOMAS SCOTT
RONDA STORMS
BEN WACKSMAN



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WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

EXECUTIVE DIRECTOR
RICHARD D. GARRITY, Ph.D.

Date: August 15, 2000
To: EPC Board Members
From: Richard D. Garrity, Ph.D., Executive Director
Subject: Key Personnel Changes

I would like to take this opportunity to summarize key personnel changes, which will become effective September 4, 2000.

Sara Fotopulos has agreed to utilize her talents, particularly in coordinating with other agencies, as the Director of Public and Intergovernmental Affairs. I concur that this will be an effective utilization of her efforts.

In order to fill the position of General Counsel, I have selected Richard Tschantz, currently the Water Attorney with the Pasco County Commission. Mr. Tschantz has eighteen years of legal experience, fourteen of which have been in the environmental arena. His litigation experience will add strength to the enforcement abilities of the agency. I have attached Mr. Tschantz's resume and position descriptions of both the General Counsel and Director of Public and Intergovernmental Affairs positions.

I hope you will concur with me in this decision and join me in making Mr. Tschantz feel welcomed in his new position and if you have any questions, please let me know.



PRIVATE LAW PRACTICE**1986 to 1989****RICHARD TSCHANTZ, ATTORNEY AT LAW**
Clearwater, Florida

- **Trial Practice**
 - General civil practice concentrating in family law.
 - Trial practice consisting of criminal defense representation in County, Juvenile and Circuit Court.

ASSISTANT STATE ATTORNEY**1982 to 1986****OFFICE OF THE STATE ATTORNEY**
Pinellas and Pasco County, Florida

- **Prosecution of Criminal Cases**
 - Conducted more than 40 jury trials including drug trafficking and murder trials.
 - Investigated and prosecuted complex "white collar" crimes and child abuse cases.
 - Conducted felony criminal investigations with all levels of law enforcement authorities, recommended filing decisions
 - Presented Capital cases to the grand jury.
 - Prepared search warrants and wire tap applications.
 - Assisted law enforcement in the development of "historical" drug offense investigations.

CREDENTIALS AND EDUCATION**Florida State University College of Law**
Tallahassee, Florida

J.D., 1982. Admission to Florida Bar October 1982
Admission to United States District Court, Middle District of Florida, 1983
Admission to United States Court of Appeals, Eleventh Circuit, 1985
Admission to United States Supreme Court, 1986

Florida State University
Tallahassee, Florida

B.S., Criminology, 1976, Dean's List

Activities and Accomplishments

- Semiannual speaker since 1994 at one of Florida's most recognized Environmental Regulation seminars.
- Elected officer Young Lawyers section of the Clearwater Bar Association, 1987.
Legislative Intern during Law school, Florida House of Representatives, 1981-82.
- Selected as staff member, American Journal of Trial Advocacy during first year of Law school, 1979-80.
- Served as State of Florida Parole and Probation Officer 1977-79.
New Gate Center for Montessori Studies. training and internship, June - October 1999.

References Furnished Upon Request

Summary of Basic Legal Counsel Functions

The EPC General Counsel serves as counsel for the Commission, the Executive Director, and staff in all aspects of agency activities. This requires attending regular and special EPC meetings and occasional BOCC and evening hearings, appearing in state and federal court, administrative hearings and proceedings, and attending meetings with EPC staff, other agencies, citizens and alleged responsible parties. Travel is usually local, but periodically is out of county.

- Representing the Commission at meetings (e.g. administrative process, public records and government in the sunshine) and responding to legal questions and concerns as they arise. In the past this has involved responses during the agency performance audits (now no longer required by the Act), and for environmental issues raised by the Hillsborough Legislative Delegation pertaining EPC.
- Managing associate attorney's and support staff within the Legal Department, budget, performing administrative personnel functions, including oversight and coordination of case management, legal research, and continuing legal education.
- Handling legal aspects of general agency operations:
 - Drafting contracts for Pollution Recovery Fund and ensuring appropriate expenditures, Gardinier Trust Fund, Middle District Fund (administrative processing will be reassigned elsewhere)
 - Followup on existing agency agreements: the TECO trust, the Mediterranean Fruit Fly MOU
 - Administrative support for CEAC (preparing agendas, coordinating space and speakers)
- Assisting agency staff in developing and implementing programs to prevent environmental problems from occurring. This includes:
 - Interpreting, implementing and enforcing federal, state, and local environmental regulations
 - Drafting and adopting rules and amendments
 - Assisting to ensure consistent agency enforcement and implementation policies (e.g. penalties, inspection, timelines, agency document and response formats)
 - Reviewing and drafting agreements: delegation, grants, contracts, MOUs, grants
- Assisting staff in negotiating resolutions when environmental problems and violations occur. This includes:
 - Meeting with staff and alleged violators
 - Reviewing and drafting enforcement documents: contracts, citations, settlement letters and consent orders, mitigation agreements, conservation easements, escrow agreements, demand letters, administrative documents (extensions of time, assignment of hearing officer, dismissals)
 - Reviewing claims of financial inability
 - Assisting staff on legal issues relating to County/EPC Water Team activities: determining legal requirements, sufficiency of factual basis, recommendations for arbitration or administrative challenge

- Handling administrative hearings under Act (84-446), delegation agreements (ch 120), Tampa Bay Water (arbitration)
 - Handling appeals of decisions of the director, permit challenges
 - Handling employee disciplinary proceedings, appeals to Civil Service

- Handling civil litigation, including:
 - Defending agency positions (§1983, takings, appeals to the 2nd DCA)
 - Pursuing petitions to enforce regulations, petitions to enforce order of director
 - Monitoring bankruptcy proceedings involving EPC interests
 - Coordinating with the County Attorney's office in handling vehicular accident claims

- Providing legal support to other agency Criminal Environmental Litigation (Leslie will continue to coordinate legal and technical staff with US and State Attorney's offices, criminal enforcement agencies)

CLASS TITLE: Director of Public and Intergovernmental Affairs
REPORTS TO: Executive Director
AGENCY: Environmental Protection Commission of Hillsborough County
FLSA: Exempt

JOB SUMMARY:

Work with and assist the Executive Director in meeting his obligations under the Special Act (Chapter 84-446, Laws of Florida), and to the Environmental Protection Commission:

- Cooperate with public agencies and work with the Florida Department of Environmental Protection, the Southwest Florida Water Management District, Hillsborough County government, the municipalities of Tampa, Temple Terrace, and Plant City, the US Environmental Protection Agency, and other appropriate agencies and groups interested in preventing air, water and noise pollution, and to maintain and enforce environmental standards;
- To monitor environmental rulemaking and legislation at the state and federal levels to ensure compliance of local regulations and standards;
- Make recommendations for the improvement of the regulation, administration and enforcement of pollution controls in the County;
- Make continuing studies and periodic reports and recommendations for the improvement of air, water and noise in the County, and publish and disseminate information to the public concerning air, and water and noise pollution;
- Publicize the importance of adequate pollution controls, hold public hearings, discussions, forums and institutes, and arrange programs for the presentation of information by experts in the field of air, water and noise pollution, and to study pollution control programs conducted in other areas; and
- Work with the Citizens Environmental Advisory Committee to ensure that the environmental protection needs of the citizenry are met.

ESSENTIAL FUNCTIONS:

- Coordinate with Florida Department of Environmental Protection (DEP), the Environmental Protection Agency (EPA) and the Southwest Florida Water Management District (SWFWMD) to share information regarding existing environmental protection activities, seek delegation of appropriate regulatory programs, and identify methods of cooperation and coordination to improve effectiveness, minimize duplication, promote efficiency and simplify the regulatory burden on the public where appropriate;
- Coordinate with the County, local municipalities, the Port Authority, the Health Department, the Planning Commission and other agencies involved with land use and environmental concerns, to identify methods of cooperation and coordination to improve effectiveness, minimize duplication, promote efficiency and simplify the regulatory burden on the public where appropriate;
- Develop mechanisms for providing relevant scientific and regulatory information regarding the environment and pollution trends affecting Hillsborough County, to Legislative Delegation members for their use and understanding during legislative session deliberations;
- Develop procedures for monitoring proposed environmental regulations and legislation, obtaining technical and legal review, and providing relevant and appropriate agency comments ;

- Coordinate with the Florida Local Environmental Resource Agencies (FLERA), National Association of Local Governmental Environmental Professionals (NALGEP), and entities such as the Florida Association of Counties (FAC) and National Association of Counties (NACo) on environmental issues and trends;
- Develop and maintain a relationship with the local agricultural community, the development community and the business community to provide data and regulatory information and support their efforts toward efficient and effective environmental compliance;
- Develop and maintain a relationship with organizations and citizen groups involved with environmental protection, conservation and land management issues (Future of Florida, Whole Farm, Greenways Task Force, NEP, etc.) to provide data and regulatory information, and to coordinate with and support their efforts to protect and preserve natural resources and quality of life;
- Coordinate with EPC's Citizens Environmental Advisory Committee (CEAC) to make environmental issues, trends and information available in response to questions and concerns, and to facilitate their work in providing citizen recommendations to the Commission;
- Develop mechanisms (press releases, newsletters, workshops, presentations, website, etc.) for providing to the Commission, the Executive Environmental Director, and the public relevant scientific and regulatory information regarding the environment, pollution trends and available solutions;
- Develop mechanisms for providing news, information, appropriate training and education as necessary to agency personnel;
- Coordinate the development and implementation of special projects as they arise having an agency-wide involvement (problem solving, team permitting, etc.) and as directed by the Executive Environmental Director.

MINIMUM QUALIFICATIONS

At least a bachelor's degree from an accredited university, with basic understanding of environmental regulations and administrative and legal procedures;

Working knowledge of governmental structures, relationships, functions, and procedures affecting environmental protection in Florida and the public processes mandated by law;

Working knowledge of EPC, its obligations under its special act, and its administrative programs and functions, and relationships to other governmental entities;

Ability to conceptualize, design and coordinate programs and activities to assess and improve environmental protection; and

Ability to communicate effectively, both verbally and in writing, with scientists, citizens and policy makers; ability to make clear and persuasive public presentations; ability to build alliances with key partners.

Licenses and Certifications:

Must possess a valid driver's license and satisfactory motor vehicle record.

Membership in professional associations preferred.

BEFORE THE ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY, FLORIDA

IN THE MATTER OF:
APPLICATION FOR VARIANCE OR WAIVER
TO EPC RULES
BY LOUIS W. PUTNEY and
JEANIE T. PUTNEY

EPC # LPUTZ00-009

APPLICANTS' AFFIDAVIT IN SUPPORT OF
APPLICATION FOR VARIANCE OR WAIVER

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

BEFORE ME, the undersigned authority, this 15th day of August, 2000, personally appeared LOUIS W. PUTNEY and JEANIE T. PUTNEY, the Applicants in the above styled matter, who being personally known to me, took an oath and being duly cautioned and sworn, depose and say as follows:

1. HISTORY OF PROPERTY. The Appellants purchased the subject property on March 8, 1968, more than 32 years ago. The Appellants have held sole title to the subject property since its purchase and have not sold or developed any portion thereof, or any property adjacent thereto. The property consists of 2.4 acres with 419 feet frontage adjoining the west side of U. S. Highway 301 approximately two miles north of the intersection of Interstate 4 and U. S. Highway 301 and 3.5 miles south of the intersection of Interstate 75 and the Fowler Avenue exit to U. S. Highway 301. The property is part of Clewis Muck Farms subdivision which was filed for record on May 31, 1928. In 1952 U. S. Highway 301 was constructed across Clewis Muck Farms

V-B

subdivision bisecting Farm Track 33, resulting in the subject property fronting on the west side of U. S. Highway 301.

2. HISTORY OF DEVELOPMENT. When the subject property was purchased by the Appellants, it was undeveloped and has remained undeveloped to the present day. The Appellants had reasonable investment-backed expectations for development when they purchased the property, since it has 419 feet frontage on a major highway, U. S. Highway 301, in an area of commercial, and industrial growth and is of sufficient size for development, being 2.4 acres. The State of Florida already owned sufficient right of way (200 feet) to four-lane the highway when the Appellants purchased the property and the Florida Department of Transportation is presently in the process of proceeding with plans and designs for developing the highway adjoining Appellants' property into a four lane divided suburban highway within the existing right of way.

The 66 foot undeveloped right-of-way for Hendry Road adjoining the subject property on the west contains miscellaneous shrubs and red maple trees, the same as Appellants' property, and has a slightly lower elevation. Should this road right-of-way be legally closed, the one-half of the right-of-way adjacent to Appellants' property would vest in the Appellants as adjoining owners. In the event of such closure, Appellants' would dedicate the newly vested property as conservation area. The adjacent 40 foot ditch right-of-way has a lower elevation than Hendry Road, and adjacent to the ditch on the west is a 40 foot drainage easement dedicated by 301 Industrial Park. These three parcels are approximately 975 feet long, as shown on the plat of 301 Industrial Park. This total land area of 3.26 acres constitutes an adjacent off-site conservation area presently in public hands.

3. HISTORY OF ZONING AND REGULATIONS. The subject property is presently zoned AR (agricultural) and is in the Interstate 75 corridor. It is included in Urban Land Use Classification Community Mixed Use-12 (CMU). Appellants have been advised by a Senior Planner in the Hillsborough County Planning Commission Office that, considering the surrounding commercial and industrial zoning, the subject property could reasonably be re-zoned to almost any use, such as commercial, industrial, etc., within Community Mixed Use -12(CMU). Appellants have also been advised by land use attorney James P. LaRussa, a former zoning hearing officer, that the subject property should be re-zoned and Appellants have an excellent chance of, and could reasonably expect to secure a re-zoning of the property to the typical uses set forth in the Community Mixed Use - 12(CMU) Urban Land Use classification within the very near future.

Therefore, Appellants have reasonable expectations of securing a re-zoning of subject property in the near future. Upon approval of Appellants' Natural Resources Permit Application, they will use the property for agricultural purposes within the present AR zoning, specifically a plant nursery, and within one year obtain a re-zoning of the property within the Community Mixed Use -12 (CMU) classification.

After clearing and filling the land in accordance with the Revised Site Plan, and after re-zoning of the property, the Appellants intend to construct mini-storage units as shown on the Revised Proposed Use Plan After Re-Zoning. This use is within the Urban Land Use Classification Community Mixed Use -12 (CMU) and General Business and Commercial zoning regulations, and is entirely compatible with adjoining properties.

At the time Appellants purchased the subject property there were no Federal, state or county laws or regulations governing or restricting the alteration of land, including wetlands, in Hillsborough County. Although the "Hillsborough County Pollution Control Act" (Ch. 67-104, Laws of Florida) was passed by the Florida Legislature and became effective on October 1, 1967, it did not in any way regulate the clearing and filling of land, including wetlands. In fact, in Hillsborough County Environmental Protection Commission vs. Frandorson Properties, 283 So. 2d 65 (2 DCA 1973) the Second District Court of Appeal ruled that this act controlled only air and water pollution, saying, "Nothing, fairly read, forbids the destruction or removal of organic or inorganic materials already present or growing there". Although this Act was amended in 1969 (Ch. 69-1149), 1971 (Ch. 71-681), 1972 (72-563), 1973 (Ch. 73-496), and 1984 (Ch. 84-446), no provision was made to prohibit or regulate the clearing or filling of lands, including wetlands. In fact, the rules of the Environmental Protection Commission (the County Commission of Hillsborough County) pertaining to wetlands adopted May 14, 1985, specifically provided as follows in Rule I-II.03, 4, d: "If the evidence reveals the disturbance [of wetlands] occurred prior to May 14, 1985, the prior activity shall not constitute a violation of this rule [prohibiting alteration of wetlands except when authorized]". It was not until 1985, 17 years after the Appellants purchased the subject property, that the Hillsborough County Environmental Commission adopted rules (Ch. 1-11) restricting the use of wetlands. Effective October 1, 1984 the Warren S. Henderson Wetlands Protection Act was passed by the Florida Legislature -- 16 years after Appellants purchased subject property.

4. **RIGHT TO USE PROPERTY.** When Appellants obtained title to the subject property on March 8, 1968, they had and continue to have the intent and right to clear and fill the subject property to raise its elevation in accordance with neighboring commercial and industrial properties and to use the property as commercial frontage on U. S. Highway 301. The clearing and filling of the property is necessary to conform to the level of U. S. Highway 301 and the properties adjoining the subject property. There has been no development on the property as yet.

5. **PRESENT NATURE AND EXTENT OF PROPERTY.** All of the subject property is considered a wetland on which are growing miscellaneous shrubs and red maple trees. The Appellants own no other property in Hillsborough County except their homestead and have not sold or developed any property near or adjoining the subject property. This is not a "remnant" property.

6. **REASONABLE EXPECTATIONS.** The reasonable expectations of the Appellants under the Florida common law were and continue to be to clear and fill the subject property and, as private property owners, to develop it as a commercial venture. Under Florida common law the Appellants had every right to expect to do this, and the surrounding landowners have been permitted by Hillsborough County to do just that. Even the offices of the Southwest Florida Water Management District, 7601 U. S. Highway 301 North, are located on filled land to the south of Appellants property.

7. **REASONABLE EXPECTATIONS OF NEIGHBORING LANDOWNERS.** Under Florida common law, before and after Appellants purchased their property, many adjoining land owners cleared, filled, and developed their properties for various commercial and industrial uses. Some of such properties are presently occupied by the

following: The Dallas Bull Bar, 8222 U. S. Highway 301 North; The 301 Industrial Park, U. S. Highway 301 and Maislin Drive; Morgan Corporation, 8108 U. S. Highway 301 North; Carpenters Technical Training Center, 7930 U. S. Highway 301 North; Barnes Industrial Plastic Piping, Inc., 7930 U. S. Highway 301 North; Florida Utility Trailers, 7808 U. S. Highway 301 North; Gulf Coast Thermo King, 7802 U. S. Highway 301 North; West Central Signs, Inc., 7720 U. S. Highway 301 North; Gator Ford Trucks, 7520 U. S. Highway 301 North; Tampa Volvo and GMC Trucks, 7520 U. S. Highway 301 North; and Southwest Florida Water Management District, 7601 U. S. Highway 301 North.

8. DIMINUTION IN INVESTMENT-BACKED EXPECTATIONS. Should their application be denied, the Appellants will be effectively deprived of all reasonable economical use and beneficial value of their property without just compensation. The Appellants' reasonable investment-backed expectations were and continue to be to develop the subject property, as previously stated. The property can not be developed or otherwise be put to any productive use unless their application is granted. The Appellants have the ability to fund and secure financing for the development proposed, and have, from time to time, developed plans and secured proposals from development companies such as Florida Structures, Inc., Florida Pre-fab. Inc., and Durastress, Inc.

Since purchasing the subject property Appellants have paid Hillsborough County in ad valorem taxes on the subject property the total sum of \$27,406.90, which sum, with compounded interest at 6% per annum, would now total \$47,584.53. The Hillsborough County Property Appraiser has increased the assessed value of the property from \$2,400, when the property was purchased in 1968, to \$77,428 currently,

although no improvements have been made on the property. The Appellants paid \$3,000 for the property thirty-one years ago. With interest compounded at 6% per annum this amounts to \$18,264 today. Adding the cost of the land to the taxes paid over the past 30 years with interest compounded at 6% per annum, the total cost of the property to the Appellants is presently \$65,848.

To have a value to Appellants in accordance with their reasonable investment-backed expectations when purchased, the land must be cleared and filled and raised to the level of adjoining land and U. S. Highway 301. If the Appellants are permitted to develop their land in accordance with the Revised Site Plan filed with their application it will have a value of approximately \$419,000, or \$1,000 per front foot, after an expenditure of approximately \$150,000 for clearing, filling, and finishing. Recent comparable sales, such as the sale of six acres by the Florida State Fair Authority to the Florida Department of Transportation for \$1 million (\$166,666 per acre), when applied to Appellants' property (2.4 acres with 419' highway frontage) confirm a value of \$400,000, were the property to be cleared and filled. If the Appellants are denied their application the entire value of the property will have been taken from them for a public benefit without just compensation.

9. PROCEDURE. Appellants' property is a "lot of record" as defined in Section II.03.02-II.03.05 of the Hillsborough County Land Development Code and is a "non-conforming lot" having "non-conforming characteristics" as defined in said sections and therefore should be afforded the protections provided in said sections.

The proposed activity and the reasons for the activity are as previously stated herein.

The Appellants will avoid any negative impacts to adjacent properties through the means shown on the Revised Site Plan. In addition, protective barriers will be employed during the clearing and filling process. A 5' berm and a 25' slope covered with grass and vegetation, and retention ponds will be constructed within the filled area as shown on the Revised Site Plan, thus preventing surface water from flowing onto adjoining lands.

Hillsborough County defines "wetlands" as excluding wetlands cleared and filled at the time Appellants purchased their property and for 17 years thereafter, i.e., until May 14, 1985. The facts set forth herein clearly show that Appellants have the legal right to clear and fill the subject property as requested in the application. Their vested private property rights beginning before the passage of any restrictive state or county laws or regulations and continuing unbroken to the present time entitle them to the granting of their application. To deny their application would be to deny the Appellants all economically viable, beneficial, and reasonable uses of their property. A denial of this permit would be a violation of the Appellants' equitable and legal rights under the fifth and fourteenth amendments of the U. S. Constitution as well as Article I, Sections 2 and 9, and Article X, Section 6, of the Florida constitution and would be a taking of such property without due process and without just compensation, would deny the Appellants of the equal protection of the laws and would inflict extensive damages upon the Appellants. Therefore, their application should be approved.

10. The legal description of the property which is the subject of their application (hereinafter "subject property") is as follows, to wit:

That part of Farm Tract 33 CLEWIS MUCK FARMS,
according to the map or plat thereof, as the same is recorded

in Plat Book 25, page 88, of the public records of Hillsborough County, Florida, lying West of Highway #301;

and the Hillsborough County Tax Assessor's Folio Number for said property is #61490.0000.

11. The entire tract of the subject property is a wetland, as defined in 1-11.02.2.h, Rules of the Hillsborough County EPC, and has been delineated as 100% EPC jurisdictional wetland, primarily a red maple swamp.

12. The subject property in its present state as a wetland provides public environmental benefits to the people of Hillsborough County and the State of Florida, including, but not limited to certain of those defined in 1-11.06.1, Rules of the Hillsborough County EPC, to wit:

- a. Receive, store and discharge surface water runoff so as to contribute to hydrological stability and control of flooding and erosion; ...
- c. Recharge the groundwater;
- d. Provide filtration and uptake of nutrients and pollutants from surface water runoff; ...
- j. Increase rainfall production through available evaporative surfaces.

13. Reasonable use of the subject property by the Appellants cannot be accomplished without affecting the wetland which covers the entire property.

14. If the Appellants are denied a permit by Hillsborough County to clear and fill the subject property, they will have been effectively deprived of all reasonable use and beneficial value of such property.

15. The proposed project encroaches on 100 percent of the wetlands as shown in the revised site plan.

16. It is not possible for Appellants to make reasonable use of the subject property while minimizing impacts to the wetlands.

17. The Appellants have not proposed any creation mitigation plan or any off-site mitigation, either upland preservation or wetland mitigation. The Appellants cannot comply with EPC Rule 1-11.09, so as to permit a creation mitigation plan or off-site mitigation, because the subject property and its reasonable use do not fall within any of the provisions of said rule concerning adequate protection, to wit:

(1) Paragraph One. The adverse impact to the environmental benefits would not be temporary. No reasonable use of the property could be made that would be temporary.

(2) Paragraph Two. The subject property is not a "previously altered wetland".

(3) Paragraph Three. The reasonable use of the subject property does not permit the adverse impact to be confined to such a small area as to be of nominal consequence.

(4) Paragraph Four. The reasonable use of the subject property does not permit the adverse impact to have a limited effect on the existing environmental benefits of the wetland, and since the wetlands are 100% of the subject property, there is no adjoining portion of the wetland of the same type of wetland to provide the same environmental benefits.

(5) Paragraph Five. The adverse impact of the reasonable use of the subject property on the wetland is not offset by the benefit of the development to the public, such as the construction of a public road or other public works.

(6) Paragraph Six. The reasonable use of the subject property does not permit the adverse impact to the site to be prevented by appropriate precautions.

(7) Paragraph Seven. The subject property is not a "previously altered wetland", and there are no uplands to be preserved. Appellants own no other real property in proximity to the subject wetland upon which they could create mitigation wetlands. If the subject property were a "previously altered wetland", and since the subject property is a forested wetland, this section would require Appellants to purchase three times the acreage (7.2 acres) of valuable uplands.

18. On November 16, 1999, the EPC Executive Director (EPC) duly provided notice of the denial to request to impact wetlands on the subject property.

19. On November 30, 1999, the Appellants filed a timely Notice of Appeal challenging the EPC Executive Director's decision to deny the impact. Applicants' appeal was heard on April 4, 2000, by a hearing officer who recommended it be denied on May 11, 2000. Applicants filed exceptions to the Hearing Officer's Report on May 18, 2000, which were heard on June 15, 2000. The Final Order of the Commission denying the Appeal was signed on June 28, 2000.

ADMISSIONS BY EPC

Pursuant to the Appellant's Request for Admissions served on February 16, 2000, the EPC has admitted the following numbered admissions:

11. When the Tampa By-pass Canal was dug, hundreds of acres of wetlands were filled with the dirt obtained from the canal.

12. Exhibit number 2 attached to the Revised Statement of Appellants shows hundreds of acres of wetlands as they existed on January 21, 1968, that were later filled with dirt from the Tampa By-pass Canal.

13. Exhibit number 3 attached to the Revised Statement of Appellants shows the development of hundreds of acres of former wetlands, as they existed in February, 1997.

14. Exhibits 2 and 3 attached to the Revised Statement of Applicants shows Appellants' subject property as within the area described in Request for Admissions number 12 and 13.

16. The subject property is located in the midst of extensive industrial and commercial zoning and development.

17. The subject property is bordered on the North and South by former wetlands that have been cleared and filled, and on the East and West by public road rights of way.

18. The subject property consists of 2.4 acres with 419 feet frontage adjoining the West side of the U.S. Highway 301 right-of-way.

21. The subject property is totally undeveloped, and is not a "remnant" site.

23. The 301 Industrial Park property and the Dallas Bull property adjacent to the subject property, as well as at least 6 businesses south of the subject property, are on former wetlands that have been cleared and filled.

25. The subject property in its present state as a wetland provides public environmental benefits to the people of Hillsborough County and the State of Florida.

FURTHER AFFIANTS SAYETH NOT.


LOUIS W. PUTNEY, Affiant


JEANIE T. PUTNEY, Affiant



SHERRAL JORGENSEN, Notary Public

My Commission Expires:



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing, Applicants' Affidavit in Support of Application for Variance or Waiver, has been furnished by Hand Delivery to Richard Garrity, Executive Director of the Hillsborough County Environmental Protection Commission, 1900 9th Avenue, Tampa, Florida 33605, and T. Andrew Zodrow, Esquire, 1900 9th Avenue, Tampa, FL 33605, Attorney for EPC, this 16th day of August, 2000.


LOUIS D. PUTNEY, ESQUIRE
Florida Bar No.: 239976
4805 South Himes Avenue
Tampa, Florida 33611
(813) 831-3376
Attorney for Appellants

MAY 3, 2000 - SPECIAL ENVIRONMENTAL PROTECTION COMMISSION MEETING

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to discuss involvement in Tampa Bay Water (TBW) Projects, scheduled for Wednesday, May 3, 2000, at 2:30 p.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Pat Frank, Chris Hart, Jim Norman, Thomas Scott, Ronda Storms, and Ben Wacksman.

Chairman Platt called the meeting to order at 2:30 p.m.

EPC Assistant Counsel Kristin Bennett presented the following items, as discussed in the Board of County Commissioners Regular Meeting, and requested action by the EPC Board:

1. The environmental resource permit, which had been submitted to and approved by the TBW board on April 17 for the Brandon urban dispersed wells project (BUDW). Commissioner Storms moved staff recommendation, seconded by Commissioner Wacksman, and carried six to zero. (Commissioner Hart was out of the room.)
2. The Army Corps of Engineers permit application modification for the BUDW permit. Commissioner Wacksman moved staff recommendation, seconded by Commissioner Storms, and carried six to zero. (Commissioner Hart was out of the room.)
3. EPC staff sought authorization to initiate arbitration of a TBW staff request for an emergency waiver of water use permit conditions. Commissioner Frank moved approval, seconded by Commissioner Scott, and carried six to zero. (Commissioner Hart was out of the room.)

There being no further business, the meeting was adjourned at 4:35 p.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

JUNE 7, 2000 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to consider the Arbitration of Tampa Bay Water (TBW) Project Involving Changes to Facility Quantity Table for Wellfield Operations, scheduled for Wednesday, June 7, 2000, at 2:45 p.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Pat Frank, Chris Hart, Jim Norman, Thomas Scott, Ronda Storms, and Ben Wacksman.

Chairman Platt called the meeting to order at 4:07 p.m.

Mr. Gordon Leslie, EPC staff, recommended the EPC follow the action taken that day by the Board of County Commissioners and not arbitrate the changes. Commissioner Norman so moved, seconded by Commissioner Wacksman, and carried six to one; Commissioner Frank voted no.

There being no further business, the meeting was adjourned at 4:08 p.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

jp

JUNE 15, 2000 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, June 15, 2000, at 10:00 a.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Pat Frank, Chris Hart (arrived at 10:06 a.m.), Jim Norman, Thomas Scott (arrived at 10:07 a.m.), Ronda Storms (arrived at 10:23 a.m.), and Ben Wacksman.

Chairman Platt called the meeting to order at 10:04 a.m. Following the pledge of allegiance to the flag, Commissioner Frank asked for a moment of silent prayer.

CITIZENS WISHING TO APPEAR - NONE

CONSENT AGENDA

- A. Approval of Minutes: May 18 and 23, 2000
- B. Monthly Activity Reports
- C. Legal Department Monthly Report
- D. Pollution Recovery Trust Fund
- E. Gardinier Settlement Trust Fund
- F. Trust Fund Agreement regarding the Department of Environmental Protection (DEP) Settlement with Tampa Electric Company
- G. Modification to Staffing Requirements (Hillsborough Independent Monitoring Program)

Commissioner Norman moved the Consent Agenda, seconded by Commissioner Wacksman, and carried six to zero. (Commissioner Storms had not arrived.)

LEGAL DEPARTMENT

Request Authority to Take Appropriate Legal Action Against Windemere Utility Company - EPC Counsel Sara Fotopulos asked for authority to take appropriate legal action. Commissioner Norman was pleased that EPC was taking a position against Windemere Utility. Commissioner Norman moved approval, seconded by Commissioner Wacksman, and carried six to zero. (Commissioner Storms had not arrived.)

Request Authority to Take Appropriate Legal Action Against Manhattan Oil Company - Commissioner Norman moved approval, seconded by Commissioner Wacksman, and carried six to zero. (Commissioner Storms had not arrived.)

THURSDAY, JUNE 15, 2000 - DRAFT MINUTES

PUBLIC HEARING

Consider Hearing Officer's Recommended Order: Putney Appeal -- At the request of Chairman Platt, EPC Assistant Counsel Kristin Bennett explained the appeal process and summarized the case. The issue was whether the EPC executive director, pursuant to the EPC Special Act and Wetland Rule, Chapter 111, had authority to issue authorization to the Putneys to impact wetlands on their property. The hearing officer concluded that by not offering any mitigation, the Putneys did not demonstrate that the environmental benefit of the wetlands would be adequately protected. Therefore, the executive director did not have authority to grant the requested authorization to impact the wetlands. The hearing officer recommended the EPC enter a final order denying authorization to impact wetlands on the Putney property.

Attorney Bennett recommended EPC allow ten minutes to each party to present their arguments and that the parties be permitted to rebut public comment, if public comment were heard. Chairman Platt asked if any members of the public wanted to comment; there was no response. Commissioner Norman moved to give ten minutes to each side and that comment was limited to the record, which had not been before the EPC. Commissioner Scott seconded the motion, which carried six to zero. (Commissioner Storms had not arrived.)

Attorney Louis D. Putney, representing the appellants, Louis W. Putney and Jeanne T. Putney, said the property had been purchased by the Putneys in 1968 when no regulations controlled the destruction or filling of wetlands. At that time the public policy was to fill and develop wetland properties. The rights purchased with the land included the right to fill the land. The property was 2.4 acres and 99.4 percent wetlands. Local rules that applied could not alter the constitutional rights of the parties, and the parties asserted those rights were not being protected in the process. Attorney Putney alleged the EPC rules, as enforced by the EPC executive director, denied the appellants their right to any use of the property. Over the years, the Putneys had paid more than \$50,000 in property taxes for that property. Attorney Putney proposed the permit be granted to fill the property.

EPC Assistant Counsel Andrew Zodrow said the recommended order could only be altered, modified, or rejected if there was an affirmative finding that the finding of fact was not based on competent, substantial evidence. He declared Attorney Putney had not provided a demonstration that wetland impacts would be adequately protected. Based on Wetland Rule 1-11.07, the

THURSDAY, JUNE 15, 2000 - DRAFT MINUTES

applicant was required to demonstrate wetland impacts were adequately mitigated, which was why the EPC executive director denied the application. Constitutional issues raised by Attorney Putney could be argued once agency action was finalized based on the rules. If the Putneys were denied reasonable economic use of the property, Attorney Putney could claim an adverse condemnation case in circuit court. Attorney Zodrow pointed out that Wetland Rule 1-11 acknowledged an applicant could impact wetlands where needed to provide a reasonable use of the property. The main issue was whether the executive director had authority to allow the impacts to occur. Under the wetland rule, the executive director did not have that authority.

In reply to Commissioner Wacksman, Attorney Zodrow outlined legal remedies available to the appellant. He confirmed for Commissioner Frank that administrative action by the EPC was required for the appellant to have access to the courts. Commissioner Frank had reviewed the evidence and saw no reason to dispute the factual determination upon which the hearing officer based the conclusion and moved to adopt the recommendation of the hearing officer. Commissioner Storms seconded the motion, which carried seven to zero. Attorney Bennett requested authority for Chairman Platt to sign the administrative order. Commissioner Wacksman so moved, seconded by Commissioner Storms, and carried seven to zero.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Items of Interest - Mr. Larry Padgett, CEAC chairman, said CEAC had received a presentation by Cargill on the expansion of its gypsum plant and gypsum pile and liquid sulphur versus dry sulphur. CEAC was attempting to be more proactive than in the past.

DIRECTOR'S SECTION

Review and Approve Contract for New Executive Director, Dr. Richard Garrity - Chairman Platt said the EPC had requested Ms. Sharon Wall, Director, Human Resources, to negotiate a contract with Dr. Garrity. Ms. Wall explained the contract had been based on the existing contracts with Mr. Roger Stewart, EPC Executive Director, and County Administrator Daniel A. Kleman. Ms. Wall outlined the contract, which was for three years, effective July 1, 2000, with a base salary of \$106,000. The contract defined the job description and duties, stipulated six months severance pay, and defined time measurement for performance evaluation.

THURSDAY, JUNE 15, 2000 - DRAFT MINUTES

Commissioner Frank asked if severance pay would apply if Dr. Garrity did not renew the contract. Ms. Wall replied that had not been discussed; however, she opined that would be the same as a resignation, requiring three months notice. Dr. Garrity agreed with that interpretation and would not expect severance pay. Ms. Wall would add that language. Commissioner Hart referenced Section 7, page 5, and noted the time needed for transition. However, he suggested stating the goals would be developed collaboratively between EPC and Dr. Garrity, and the annual evaluation would be done annually in October. Ms. Wall said the language could be strengthened to address those concerns. Dr. Garrity agreed. In reply to Commissioner Wacksman about the one-year renewal, Ms. Wall explained that provision was to insure a contract if EPC did not address the contract by the expiration date. Ms. Wall clarified for Commissioner Scott that the senior management program was part of the contract, Section 14, page 7. Commissioner Wacksman moved the contract with the amendments mentioned by Commissioners Frank and Hart. Commissioner Scott seconded the motion, which carried seven to zero.

Chairman Platt called a recess at 10:50 a.m. and reconvened the meeting at 11:10 a.m.

COMMISSIONERS' SECTION

Chairman Platt acknowledged Ms. Leslie J. Friedsam, who had been a television reporter in the 1960s and 1970s and had covered Mr. Stewart in the tumultuous days of his being removed from and reinstatement to office. Chairman Platt welcomed everyone to the ceremony honoring Mr. Stewart on the occasion of his retirement and introduced his family members. The ceremony included a video retrospective and comments and presentations from State Representative Rob Wallace, Legislative Delegation chairman; Mayor Fran Barford, city of Temple Terrace; Ms. Deborah Getzoff, district manager, DEP; Mr. Gene Heath, assistant executive director, Southwest Florida Water Management District; Commissioner Hart, chairman, Tampa Bay Regional Planning Council/Agency on Bay Management; Ms. Pam Iorio, Supervisor of Elections; Mr. Larry Padgett, CEAC chairman; Ms. Elinor Paladine and Ms. Carol Iriq, Suncoast Girl Scouts; County Administrator Daniel A. Kleman; Ms. Marilyn Smith, County resident; and remarks by EPC Board members. On behalf of the EPC Board, Chairman Platt presented an autographed book of Clyde Butcher's photographs to Mr. Stewart. Mr. Tom Koulianos, Director, Finance and Administration, EPC, unveiled the sign for the Roger P. Stewart Environmental Center. A reception for Mr. Stewart was held outside the Boardroom following the ceremony.

THURSDAY, JUNE 15, 2000 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 11:58 a.m.

READ AND APPROVED: _____

CHAIRMAN

ATTEST:

RICHARD AKE, CLERK

By: _____

Deputy Clerk

sw

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
JUNE

A.	Public Outreach/Education Assistance:	<u>0</u>
B.	Industrial Air Pollution Permitting	
	1. Permit Applications Received (Counted by Number of Fees Received):	
	a. Operating:	<u>9</u>
	b. Construction:	<u>5</u>
	c. Amendments:	<u>0</u>
	d. Transfers/Extensions:	<u>2</u>
	e. General Permits	<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 Except for Title V Facilities where it is Counted by Number of Emission Units affected by the Applicant's Request):	
	a. Operating ¹ :	<u>8</u>
	b. Construction ¹ :	<u>0</u>
	c. Amendments ¹ :	<u>2</u>
	d. Transfers/Extensions ¹ :	<u>4</u>
	e. Title V Operating ² :	<u>6</u>
	f. Permit Determinations ² :	<u>4</u>
	3. Intent to Deny Permit Issued	<u>0</u>
C.	Administrative Enforcement	
	1. Documents Issued:	
	a. Notice of Intent to Initiate Enforcement	<u>1</u>
	b. Citation	<u>0</u>
	c. Emergency Order	<u>0</u>
	2. Total Cases Initiated:	<u>0</u>
	3. Cases Resolved:	<u>0</u>
	4. Cases Referred to Legal Department:	<u>0</u>
	5. Consent Orders Signed:	<u>5</u>
	6. Contributions to the Pollution Recovery Fund: <u>\$13,950.00</u>	

<u>Organization Name</u>	<u>Violation</u>	<u>Amount</u>
a. Int'l Ship Repair & Marine Services	Failure to confine PMs from grit blasting activities	\$3,300
b. Nitram, Inc.	NOx Emissions, VE's	\$6,150
c. Prestige Gunitite Inc.	C.O. Violation; VE's Improper maint/circumvention	\$4,500

D.	Inspections:	
1.	Industrial Facilities:	<u>2</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>22</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>37</u>
E.	Open Burning Permits Issued:	<u>7</u>
F.	Number of DOF Permits Monitored:	<u>93</u>
G.	Total Citizen Complaints Received:	<u>59</u>
H.	Total Citizen Complaints Closed:	<u>55</u>
I.	Noise Sources Monitored:	<u>5</u>
J.	Air Program's Input to DRI's:	<u>3</u>
K.	Test Reports Reviewed:	<u>15</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>19</u>
2.	Warning Notices Resolved:	<u>35</u>
3.	Advisory Letters Issued:	<u>16</u>
M.	AOR's Reviewed	<u>51</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
JUNE

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$ -0-</u>
(b) all others	<u>\$ -0-</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	<u>\$ -0-</u>
(b) class A2 facility - 5 year permit	<u>\$ -0-</u>
(c) class A1 facility - 5 year permit	<u>\$ -0-</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>\$5,640</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>\$7,040</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$ 80</u>
4. Non-delegated permit revision for an air pollution source	<u>\$ -0-</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$ -0-</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	<u>\$2,070</u>
(b) for structure greater than 50,000 sq ft	<u>\$ -0-</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$ 580</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$ 800</u>
8. Open burning authorization	<u>\$2,975</u>
9. Enforcement Costs	<u>\$1,218.23</u>

JULY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION

A.	Public Outreach/Education Assistance:	<u>0</u>	
B.	Industrial Air Pollution Permitting		
1.	Permit Applications Received (Counted by Number of Fees Received):		
	a. Operating:	<u>6</u>	
	b. Construction:	<u>4</u>	
	c. Amendments:	<u>0</u>	
	d. Transfers/Extensions:	<u>0</u>	
	e. General	<u>3</u>	
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected - ² Except for Title V Facilities where it is Counted by Number of Emission Units affected by the Applicant's Request):		
	a. Operating ¹ :	<u>5</u>	
	b. Construction ¹ :	<u>4</u>	
	c. Amendments ¹ :	<u>1</u>	
	d. Transfers/Extensions ¹ :	<u>50</u>	
	e. Title V Operating ² :	<u>1</u>	
	f. Permit Determinations ² :	<u>2</u>	
	g. Letter of Authorizations	<u>2</u>	
3.	Intent to Deny Permit Issued	<u>0</u>	
4.	General Permits	<u>0</u>	
C.	Administrative Enforcement		
1.	Documents Issued:		
	a. Notice of Intent to Initiate Enforcement	<u>0</u>	
	b. Citation	<u>0</u>	
	c. Emergency Order	<u>0</u>	
2.	Total Cases Initiated:	<u>0</u>	
3.	Cases Resolved:	<u>3</u>	
4.	Cases Referred to Legal Department:	<u>1</u>	
5.	Consent Orders Signed:	<u>1</u>	
6.	Contributions to the Pollution Recovery Fund:	<u>\$7,600</u>	
	<u>Organization Name</u>	<u>Violation</u>	<u>Amount</u>
a.	Tampa Bay Shipbuilding & Repair	MACT Violations	\$4,000
b.	C.F. Industries	Emission Exceedance	\$3,600

D.	Inspections:	
1.	Industrial Facilities:	<u>8</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>0</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>30</u>
E.	Open Burning Permits Issued:	<u>13</u>
F.	Number of Department of Forestry Permits Monitored:	<u>450</u>
G.	Total Citizen Complaints Received:	<u>61</u>
H.	Total Citizen Complaints Closed:	<u>69</u>
I.	Noise Sources Monitored:	<u>5</u>
J.	Air Program's Input to Development Regional Impacts:	<u>8</u>
K.	Test Reports Reviewed:	<u>30</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>12</u>
2.	Warning Notices Resolved:	<u>13</u>
3.	Advisory Letters Issued:	<u>8</u>
M.	Annual Operating Reports Reviewed	<u>25</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$ -0-</u>
(b) all others	<u>\$ -0-</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	<u>\$ -0-</u>
(b) class A2 facility - 5 year permit	<u>\$ -0-</u>
(c) class A1 facility - 5 year permit	<u>\$ -0-</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>\$2,200</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>\$2,600</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$ 240</u>
4. Non-delegated permit revision for an air pollution source	<u>\$ -0-</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$ -0-</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	<u>\$1,035</u>
(b) for structure greater than 50,000 sq ft	<u>\$ -0-</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$ -0-</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$1,400</u>
8. Open burning authorization	<u>\$5,525</u>
9. Enforcement Costs	<u>\$ -0-</u>

COMMISSION
PAT FRANK
CHRIS HART
JIM NORMAN
JAN PLATT
THOMAS SCOTT
RONDA STORMS
BEN WACKSMAN



ADMINISTRATIVE OFFICES, LEGAL &
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TELEPHONE (813) 272 - 5530

WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272 - 5788

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272 - 7104

EXECUTIVE DIRECTOR
RICHARD D. GARRITY, Ph.D.

MEMORANDUM

DATE: August 9, 2000

TO: Tom Koulianos, Director of Finance and Administration

FROM: Joyce H. Moore, Executive Secretary, Waste Management Division through
Hooshang Boostani, Director of Waste Management

SUBJECT: WASTE MANAGEMENT'S JUNE & JULY 2000 AGENDA INFORMATION

A. ADMINISTRATIVE ENFORCEMENT	JUNE	JULY
1. New cases received	7	1
2. On-going administrative cases		
a. Pending	3	3
b. Active	59	58
c. Legal	12	12
d. Tracking Compliance (Administrative)	15	15
e. Inactive/Referred cases	23	23
f. Criminal Compliance tracking	2	2
3. NOI's issued	9	3
4. Citations issued	0	0
5. Consent Orders signed	8	1
6. Civil Contributions to the Pollution Recovery Fund	\$5,006.64	0
7. Criminal Contributions to the Pollution Recovery Fund	0	0
8. Enforcement Costs collected	\$1,850.82	\$284.94
9. Cases referred to Legal Dept.	0	0
10. Cases Closed	6	5



B. SOLID AND HAZARDOUS WASTE		JUNE	JULY
1.	Permits (received/reviewed)	77/56	66/54
2.	EPC Authorization for Facilities NOT requiring DEP permit	4/5	2/4
3.	Other Permits and Reports		
	a. County Permits	00/00	00/00
	b. Reports	73/50	63/50
4.	Inspections (Total)	248	289
	a. Complaints	48	46
	b. Compliance/Reinspections	33	34
	c. Facility Compliance	11	11
	d. Small Quantity Generator	156	198
5.	Enforcement		
	a. Complaints Received/Closed	48/54	50/56
	b. Warning Notices Issued/Closed	5/1	6/3
	c. Compliance letters	53	39
	d. Letters of Agreement	0	0
	e. DEP Referrals	0	0
6.	Pamphlets, Rules and Material Distributed	445	434
C. STORAGE TANK COMPLIANCE		JUNE	JULY
1.	Inspections		
	a. Compliance	62	75
	b. Installation	10	24
	c. Closure	13	10
	d. Compliance Re-Inspections	24	18
2.	Installation Plans Received/Reviewed	11/11	7/3
3.	Closure Plans & Reports		
	a. Closure Plans Received/ Reviewed	4/4	3/3
	b. Closure Reports Received/Reviewed	11/6	6/11
4.	Enforcement		
	a. Non-compliance Letters Issued/Closed	38/10	42/6
	b. Warning Notices Issued/Closed	1/1	9/1
	c. Cases referred to Enforcement	2	1
	d. Complaints Received/Investigated	1/1	3/2
	e. Complaints Referred	0	0
5.	Discharge Reporting Forms Received	0	1
6.	Incident Notification Forms Received	0	0
7.	Cleanup Notification Letters Issued	2	9
8.	Public Assistance	200+	200+
D. STORAGE TANK CLEANUP		JUNE	JULY
1.	Inspections	10	8
2.	Reports Received/Reviewed	64/60	54/34

a. Site Assessment	27/27	17/16
b. Source Removal	3/1	3/2
c. Remedial Action Plans (RAP's)	3/1	3/2
d. Site Rehabilitation Completion Order/ No Further Action Order	0/2	1/1
e. Others	31/29	25/11
3. State Cleanup		
a. Active Sites	4	5
b. Funds Dispersed	\$0.00	\$0.00
E. RECORD REVIEWS	52	44

ACTIVITIES REPORT
WATER MANAGEMENT DIVISION

JUNE, 2000

A. ENFORCEMENT

1. New Enforcement Cases Received:	<u>4</u>	
2. Enforcement Cases Closed:	<u>0</u>	
3. Enforcement Cases Outstanding:	<u>46</u>	
4. Enforcement Documents Issued:	<u>1</u>	
5. Warning Notices:	<u>8</u>	
a. Issued:	<u>7</u>	
b. Resolved:	<u>1</u>	
6. Recovered costs to the General Fund:	\$ <u>2,687.18</u>	
7. Contributions to the Pollution Recovery Fund:	<u>\$30,683.33</u>	

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Aunt Carole's Home	Operation w/out permit	\$150.00
b. Country Road Park	Expired permit	\$200.00
c. Paradise Palms/Starlite MHP	Disposal problem	\$30,000.00
d. Hughes Hard Chrome	Industrial wastewater discharge	\$333.33

B. PERMITTING - DOMESTIC

1. Permit Applications Received:	<u>39</u>	
a. Facility Permit:	<u>7</u>	
(i) Types I and II	<u>1</u>	
(ii) Type III	<u>6</u>	
b. Collection Systems-General:	<u>14</u>	
c. Collection Systems-Dry Line/Wet Line:	<u>18</u>	
d. Residuals Disposal:	<u>0</u>	
2. Permit Applications Approved:	<u>49</u>	
a. Facility Permit:	<u>16</u>	
b. Collection Systems-General:	<u>13</u>	
c. Collection Systems-Dry Line/Wet Line:	<u>20</u>	
d. Residuals Disposal:	<u>0</u>	
3. Permit Applications Recommended for Disapproval:	<u>0</u>	
a. Facility Permit:	<u>0</u>	
b. Collection Systems-General:	<u>0</u>	
c. Collection Systems-Dry Line/Wet Line:	<u>0</u>	
d. Residuals Disposal:	<u>0</u>	
4. Permit Applications (Non-Delegated) Recommended for Approval:	<u>0</u>	
5. Permits Withdrawn:	<u>0</u>	

6. Permit Applications Outstanding:	40
a. Facility Permit:	<u>22</u>
b. Collection Systems-General:	<u>6</u>
c. Collection Systems-Dry Line/Wet Line:	<u>10</u>
d. Residuals Disposal:	<u>0</u>
C. INSPECTIONS - DOMESTIC	<u>67</u>
1. Compliance Evaluation:	<u>11</u>
a. Inspection (CEI):	<u>0</u>
b. Sampling inspection (CSI):	<u>9</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>2</u>
2. Reconnaissance:	<u>35</u>
a. Inspection (RI):	<u>16</u>
b. Sample Inspection (SRI):	<u>1</u>
c. Complaint Inspection (CRI):	<u>17</u>
d. Enforcement Inspection (ERI):	<u>1</u>
3. Special:	<u>21</u>
a. Diagnostic Inspection (DI):	<u>0</u>
b. Residual Site Inspection (RSI):	<u>0</u>
c. Preconstruction Inspection (PCI):	<u>6</u>
d. Post Construction Inspection (XCI):	<u>15</u>
D. PERMITTING - INDUSTRIAL	
1. Permit Applications Received:	<u>0</u>
a. Facility Permit:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
b. General Permit:	<u>0</u>
c. Preliminary Design Report:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
2. Permits Recommended to DEP for Approval:	<u>0</u>
3. Permit Applications Outstanding:	<u>34</u>
a. Facility Permits:	<u>33</u>
b. General Permits:	<u>1</u>
E. INSPECTIONS - INDUSTRIAL	<u>7</u>
1. Compliance Evaluation:	<u>3</u>
a. Inspection (CEI):	<u>3</u>
b. Sampling Inspection (CSI):	<u>0</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>0</u>

2. Reconnaissance:	
a. Inspection (RI):	<u>4</u>
b. Sample inspection (SRI):	<u>1</u>
c. Complaint Inspection (CRI):	<u>0</u>
	<u>3</u>
F. CITIZEN COMPLAINTS	
1. Domestic:	
a. Received:	<u>13</u>
b. Closed:	<u>5</u>
	<u>8</u>
2. Industrial:	
a. Received:	<u>7</u>
b. Closed:	<u>2</u>
	<u>5</u>
3. Water Pollution:	
a. Received:	<u>24</u>
b. Closed:	<u>12</u>
	<u>12</u>
G. RECORD REVIEWS	
1. Permitting:	<u>2</u>
2. Enforcement:	<u>0</u>
H. ENVIRONMENTAL SAMPLES ANALYSED FOR:	
1. Air Division:	<u>115</u>
2. Waste Division:	<u>0</u>
3. Water Division:	<u>161</u>
4. Wetlands Division:	<u>0</u>
I. SPECIAL PROJECT REVIEWS	
1. DRI's:	<u>4</u>
2. Permitting:	<u>0</u>
3. Enforcement:	<u>0</u>
4. Other:	<u>0</u>
J. WATER QUALITY MONITORING SPECIAL PROJECTS	
1. Data Review	<u>0</u>
2. Special Sampling	<u>0</u>
3. Biomonitoring/Toxicity Reviews (DW)	<u>4</u>
4. Biomonitoring/Toxicity Reviews (IW)	<u>1</u>
5. Other	<u>1</u>
K. TAMPA PORT AUTHORITY/DEP DREDGE & FILL	<u>0</u>

AR06.00

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION**

JULY, 2000

A. ENFORCEMENT

1. New Enforcement Cases Received:	1	
2. Enforcement Cases Closed:	1	
3. Enforcement Cases Outstanding:	45	
4. Enforcement Documents Issued:	5	
5. Warning Notices:	10	
a. Issued:	4	
b. Resolved:	6	
6. Recovered costs to the General Fund:	\$ 0	
7. Contributions to the Pollution Recovery Fund:	\$683.33	

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Country Road Park	Expired permit	\$200.00
b. Hughes Hard Chrome	Ind. wastewater discharge	\$333.33
c. Northwest Regional Library	Constr. w/out permit	\$150.00

B. PERMITTING - DOMESTIC

1. Permit Applications Received:	30	
a. Facility Permit:	2	
(i) Types I and II	0	
(ii) Type III	2	
b. Collection Systems-General:	17	
c. Collection Systems-Dry Line/Wet Line:	11	
d. Residuals Disposal:	0	
2. Permit Applications Approved:	30	
a. Facility Permit:	2	
b. Collection Systems-General:	16	
c. Collection Systems-Dry Line/Wet Line:	12	
d. Residuals Disposal:	0	
3. Permit Applications Recommended for Disapproval:	0	
a. Facility Permit:	0	
b. Collection Systems-General:	0	
c. Collection Systems-Dry Line/Wet Line:	0	
d. Residuals Disposal:	0	
4. Permit Applications (Non-Delegated) Recommended for Approval:	0	
5. Permits Withdrawn:	0	
6. Permit Applications Outstanding:	36	
a. Facility Permit:	22	
b. Collection Systems-General:	7	
c. Collection Systems-Dry Line/Wet Line:	7	
d. Residuals Disposal:	0	

C. INSPECTIONS - DOMESTIC	<u>67</u>
1. Compliance Evaluation:	<u>15</u>
a. Inspection (CEI):	<u>4</u>
b. Sampling inspection (CSI):	<u>11</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>0</u>
2. Reconnaissance:	<u>32</u>
a. Inspection (RI):	<u>10</u>
b. Sample Inspection (SRI):	<u>1</u>
c. Complaint Inspection (CRI):	<u>21</u>
d. Enforcement Inspection (ERI):	<u>0</u>
3. Special:	<u>20</u>
a. Diagnostic Inspection (DI):	<u>0</u>
b. Residual Site Inspection (RSI):	<u>0</u>
c. Preconstruction Inspection (PCI):	<u>0</u>
d. Post Construction Inspection (XCI):	<u>20</u>
D. PERMITTING - INDUSTRIAL	
1. Permit Applications Received:	<u>0</u>
a. Facility Permit:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
b. General Permit:	<u>0</u>
c. Preliminary Design Report:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
2. Permits Recommended to DEP for Approval:	<u>3</u>
3. Permit Applications Outstanding:	<u>31</u>
a. Facility Permits:	<u>30</u>
b. General Permits:	<u>1</u>
E. INSPECTIONS - INDUSTRIAL	<u>15</u>
1. Compliance Evaluation:	<u>4</u>
a. Inspection (CEI):	<u>4</u>
b. Sampling Inspection (CSI):	<u>0</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>0</u>
2. Reconnaissance:	<u>11</u>
a. Inspection (RI):	<u>11</u>
b. Sample inspection (SRI):	<u>0</u>
c. Complaint Inspection (CRI):	<u>0</u>

F. CITIZEN COMPLAINTS		
1. Domestic:		<u>25</u>
a. Received:		<u>15</u>
b. Closed:		<u>10</u>
2. Industrial:		<u>0</u>
a. Received:		<u>0</u>
b. Closed:		<u>0</u>
3. Water Pollution:		<u>13</u>
a. Received:		<u>9</u>
b. Closed:		<u>4</u>
G. RECORD REVIEWS		
1. Permitting:		<u>2</u>
2. Enforcement:		<u>1</u>
H. ENVIRONMENTAL SAMPLES ANALYSED FOR:		
1. Air Division:		<u>106</u>
2. Waste Division:		<u>4</u>
3. Water Division:		<u>148</u>
4. Wetlands Division:		<u>17</u>
I. SPECIAL PROJECT REVIEWS		
1. DRI's:		<u>7</u>
2. Permitting:		<u>0</u>
3. Enforcement:		<u>0</u>
4. Other:		<u>0</u>
J. WATER QUALITY MONITORING SPECIAL PROJECTS		
1. Data Review		<u>0</u>
2. Special Sampling		<u>0</u>
3. Biomonitoring/Toxicity Reviews (DW)		<u>13</u>
4. Biomonitoring/Toxicity Reviews (IW)		<u>0</u>
5. Other		<u>0</u>
K. TAMPA PORT AUTHORITY/DEP DREDGE & FILL		<u>0</u>

AR07.00

ASSESSMENT SECTION

A. EPC Wetlands Reviews

1. Wetland Delineations	
a. Wetland Delineations (\$120)	35
b. Wetland Delineation Dispute	3
c. Wetland Line Survey Reviews	38
d. Additional Footage Fees	\$6,258.05
2. Misc. Activities in Wetlands (\$0 or \$100 as applicable)	
a. Nuisance Vegetation	18
b. Other	26
3. Impact/Mitigation Proposal (\$775)	8
4. Mitigation Agreements Recorded	2
5. FDOT Reviews	0

B. EPC Delegation/Reviews from State/
Regional/ Federal Authorities

1. Tampa Port Authority Permit Apps. (\$50 or \$150 as applicable)	63
2. Wastewater Treatment Plants (FDEP)	26
3. FDEP Wetland Resource Apps.	0
4. FDEP Grandfathered Delineation	0
5. SWFWMD Wetland Resource Apps.	0
6. Army Corps of Engineers	0

	TOTALS
7. Interagency Clearinghouse Reviews	0
8. DRI Annual Report	7
C. Hills. County/ Municipality Permit Application Reviews	
1. Land Alteration/Landscaping (\$100)	2
2. Land Excavation (\$785 or \$650 as applicable)	1
3. Phosphate Mining	
a. Unit Review/Reclamation (\$760)	3
b. Annual Review/Inspection (\$375)	0
4. Rezoning	
a. Reviews (\$85)	41
b. Hearings	1
c. Hearing Prep (hours)	0
5. Site Development/Commercial (\$360)	
a. Preliminary	11
b. Construction	27
6. Subdivision	
a. Preliminary Plat (\$140)	6
b. Master Plan (\$550)	0
c. Construction Plans (\$250)	17
d. Final Plat (\$90)	13
e. Waiver of Regulations (\$100)	0
f. Platted, No-Improvements (\$100)	4
g. Minor - Certified Parcel (\$100)	19
7. As-Builts (\$255)	4

TOTALS

8.	Miscellaneous Reviews (no fees)	
	a. Wetland Setback Encroachment	0
	b. Easement /Vacating	4
	c. NRCS Review	1
9.	Preapplications (no fees)	
	a. Review preparation (hours)	40.85
	b. Meetings/Reports	4
10.	Development Review Committee (no fees)	
	a. Review preparation (hours)	4
	b. Meetings	0
D. Other Activities		
1.	Unscheduled meetings with members of the public (walk-ins)	101
2.	Other Meetings	106
3.	Telephone conferences	941
4.	Presentations	0
5.	Correspondence	244
6.	Correspondence Review (hours)	27.55
7.	Special Projects (hours)	145.6
8.	On-site visits	128
9.	Appeals	0

ADMINISTRATIVE ENFORCEMENT	TOTALS
A. NEW CASES RECEIVED	3
B. ACTIVITIES	
1. Ongoing Cases	
a. Active	56
b. Legal	3
2. Number of "Notice of Intent to Initiate Enforcement"	1
3. Number of Citations Issued	0
4. Number of "Emergency Order of the Director"	0
5. Number of Consent Orders Signed	6
C. CASES CLOSED	
1. Administrative / Civil Cases Closed	4
2. Criminal Cases Closed	0
3. Cases Referred to Legal Dept.	0
D. CONTRIBUTIONS TO POLLUTION RECOVERY	\$8,010.00
E. ENFORCEMENT COSTS COLLECTED	\$1,605.98

INVESTIGATIONS / COMPLIANCE SECTION

A. COMPLAINTS	TOTALS
1. Received	64
2. Return Inspections	102
3. Closed	71
 B. WARNING NOTICES	
1. Issued	28
2. Return Inspections	108
3. Closed	8
 C. MITIGATION	
1. Compliance/Monitoring Reviews	22
2. Compliance Inspections	17
 D. OTHER ACTIVITIES	
1. Case Meetings	2
2. Other Meetings	27
3. Telephone Calls	483
4. File Reviews	32
5. Cases Referred to Enforcement Coordinator	3
6. Letters	70

ADMINISTRATIVE / TECHNICAL SECTIONS

A. SOIL SCIENTIST

1. Case Reviews	10
2. Field Soil Investigations	10
3. Reports or Notes of Soil Investigations	10
4. Special Projects	
- Brandon Urban Dispersed Wells	
- Northern Tampa Bay Phase II Investigation Scope of Work (SWFWMD)	
- A Regional Guidebook for Assessing the Functions of Low Gradient, Blackwater, Riverine Wetlands in Peninsular Florida	

B. ADMINISTRATIVE SUPPORT STAFF

1. File Reviews	7
2. Telephone Assistance	837
3. Letters	280
4. Incoming Projects	128
5. Additional Info / Additional Footage	11 / 15
6. Resubmittals / Revisions	7 / 6
7. Surveys / Data Entry	21 / 575

C. ENGINEERING STAFF

1. Meetings	40
2. Reviews	50
3. Telephone Inquiries	1
5. Field Investigations	7

ASSESSMENT SECTION

A. EPC Wetlands Reviews

1. Wetland Delineations	
a. Wetland Delineations (\$120)	39
b. Wetland Delineation Dispute	1
c. Wetland Line Survey Reviews	40
d. Additional Footage Fees	\$2,094.28
2. Misc. Activities in Wetlands (\$0 or \$100 as applicable)	
a. Nuisance Vegetation	10
b. Other	20
3. Impact/Mitigation Proposal (\$775)	1
4. Mitigation Agreements Recorded	2
5. FDOT Reviews	0

B. EPC Delegation/Reviews from State/
 Regional/ Federal Authorities

1. Tampa Port Authority Permit Apps. (\$50 or \$150 as applicable)	44
2. Wastewater Treatment Plants (FDEP)	28
3. FDEP Wetland Resource Apps.	0
4. FDEP Grandfathered Delineation	0
5. SWFWMD Wetland Resource Apps.	0
6. Army Corps of Engineers	0

TOTALS

7.	Interagency Clearinghouse Reviews	0
8.	DRI Annual Report	0
C. Hills. County/ Municipality Permit Application Reviews		
1.	Land Alteration/Landscaping (\$100)	1
2.	Land Excavation (\$785 or \$650 as applicable)	0
3.	Phosphate Mining	
a.	Unit Review/Reclamation (\$760)	2
b.	Annual Review/Inspection (\$375)	0
4.	Rezoning	
a.	Reviews (\$85)	41
b.	Hearings	0
c.	Hearing Prep (hours)	0
5.	Site Development/Commercial (\$360)	
a.	Preliminary	13
b.	Construction	32
6.	Subdivision	
a.	Preliminary Plat (\$140)	6
b.	Master Plan (\$550)	0
c.	Construction Plans (\$250)	14
d.	Final Plat (\$90)	4
e.	Waiver of Regulations (\$100)	0
f.	Platted, No-Improvements (\$100)	11
g.	Minor - Certified Parcel (\$100)	17
7.	As-Builts (\$255)	4

TOTALS

8. Miscellaneous Reviews (no fees)	
a. Wetland Setback Encroachment	0
b. Easement /Vacating	2
c. NRCS Review	0
9. Preapplications (no fees)	
a. Review preparation (hours)	26
b. Meetings/Reports	0
10. Development Review Committee (no fees)	
a. Review preparation (hours)	2
b. Meetings	0
D. Other Activities	
1. Unscheduled meetings with members of the public (walk-ins)	95
2. Other Meetings	57
3. Telephone conferences	842
4. Presentations	0
5. Correspondence	253
6. Correspondence Review (hours)	27
7. Special Projects (hours)	103.75
8. On-site visits	117
9. Appeals	0

ADMINISTRATIVE ENFORCEMENT	TOTALS
A. NEW CASES RECEIVED	3
B. ACTIVITIES	
1. Ongoing Cases	
a. Active	55
b. Legal	3
c. Inactive	29
2. Number of "Notice of Intent to Initiate Enforcement"	5
3. Number of Citations Issued	0
4. Number of "Emergency Order of the Director"	0
5. Number of Consent Orders Signed	1
C. CASES CLOSED	
1. Administrative / Civil Cases Closed	4
2. Criminal Cases Closed	0
3. Cases Referred to Legal Dept.	0
D. CONTRIBUTIONS TO POLLUTION RECOVERY	\$5,950.00
E. ENFORCEMENT COSTS COLLECTED	\$1,620.00

INVESTIGATIONS / COMPLIANCE SECTION.

A. COMPLAINTS	TOTALS
1. Received	42
2. Return Inspections	82
3. Closed	68
 B. WARNING NOTICES	
1. Issued	30
2. Return Inspections	78
3. Closed	10
 C. MITIGATION	
1. Compliance/Monitoring Reviews	20
2. Compliance Inspections	17
 D. OTHER ACTIVITIES	
1. Case Meetings	3
2. Other Meetings	18
3. Telephone Calls	357
4. File Reviews	13
5. Cases Referred to Enforcement Coordinator	5
6. Letters	46

ADMINISTRATIVE / TECHNICAL SECTIONS .

A. SOIL SCIENTIST

1. Case Reviews	6
2. Field Soil Investigations	6
3. Reports or Notes of Soil Investigations	6
4. Special Projects	
- Brandon Urban Dispersed Wells-EMP	
- Uniform Mitigation Assessment Method (FDEP & WMDs)	
- A Regional Guidebook for Assessing the Functions of Low Gradient, Blackwater, Riverine Wetlands in Peninsular Florida	

B. ADMINISTRATIVE SUPPORT STAFF

1. File Reviews	5
2. Telephone Assistance	633
3. Letters	253
4. Incoming Projects	158
5. Additional Info / Additional Footage	10 / 19
6. Resubmittals / Revisions	11 / 8
7. Surveys / Data Entry	22 / 696

C. ENGINEERING STAFF

1. Meetings	21
2. Reviews	54
3. Telephone Inquiries	1
5. Field Investigations	3

LEGAL DEPARTMENT MONTHLY REPORT

August 10, 2000

A. ADMINISTRATIVE CASES

NEW CASES | 5 |

DOT []: DOT appealed a citation issued to them for failing to obtain a Director's Authorization prior to excavating solid waste from old landfills at two sites in Hillsborough County. Since DOT indicated that negotiations for settlement were underway, the appeal proceedings will be held in abeyance pending possible settlement. A productive meeting was held on June 20, 2000.

Tampa Bay Organics [LTBOF00-007]: Tampa Bay Organics, a wood recycling facility, filed a Notice of Appeal of EPC's citation for causing a dust nuisance, and for operating an air pollution source without valid permits. The appeal is being held in abeyance pending settlement discussions.

Putney [LPUTZ00-009]: (See related case in RESOLVED CASES) After a Final Order denying an application for authorization to impact wetlands, the Putneys filed an application for a Variance or Waiver from the EPC Wetland Rule Chapter 1-11, asserting a substantial hardship and that the applicants can still achieve the underlying purpose of the Wetland Rule. The Executive Director will recommend denial of the request at the EPC meeting on August 17 for the reasons identified in the proposed Final Order.

Lakeshore Villas Mobile Home Park [LLAKZ00-010]: Lakeshore Villas, an applicant for a permit which EPC proposed to deny, converted its Chapter 120 petition to challenge the denial into a formal Request for Extension of time to file a petition. Applicant was granted until September 29, 2000 to file a petition, giving Lakeshore Villas additional time to resolve the problems identified by EPC staff.

Mike Carter Construction [LWILZ00-011]: Mike Carter Construction filed an appeal of the Executive Director's denial of its request to impact wetlands in the construction of a public storage facility at Wilsky Blvd. and Waters Avenue. Formal processing of the appeal has been temporarily suspended pending negotiations between the parties.

EXISTING CASES | 7 |

FIBA/Bridge Realty [LBRI95-162]: EPC issued a citation to the owner, Bridge Realty, and former tenant, FIBA Corp., for various unlawful waste management practices, and ordered that a contamination assessment must be conducted, a report submitted and contaminated material appropriately handled. Bridge Realty and FIBA appealed. Bridge Realty initiated a limited assessment; staff requested additional information only a portion of which was delivered. However, an alternate remedial plan was approved and we are reviewing the final report.

Woodcock [LWOO98-160]: On April 26, 2000, Mr. Woodcock submitted proposed plans for removal of the vertical seawall and restoration of the impacted wetlands area. Environmental Protection Commission sent a proposed Letter of Agreement formalizing the plans submitted by Mr. Woodcock. Negotiations continue. It is anticipated that the Letter of Agreement will be finalized within the month.

Kinman [LKIN98-164]: The Kinmans requested an 84-446 administrative review of the EPC Director's Decision upholding the delineation of wetlands on their property, and amended their appeal in December 1998. The Hearing Officer agreed to hold the administrative process in abeyance to give petitioner an opportunity to apply for impacts and for the agency to respond. EPC has sent correspondence to the opposing side regarding status but they have not responded to EPC's request. On July 25, 2000 the EPC filed a Motion for Order to Show Cause why the matter should not be dismissed for failure to prosecute or move forward in any way. EPC is currently awaiting a ruling on the motion.

City of Tampa [LCOTZ99-005]: Appeal of EPC Citation for the improper disposal of street sweeping debris. Parties agreed in June 99 to abate the proceeding for 90 days to develop a plan for the proper disposal of the material. The plan has been reviewed and comments relayed to COT. Respondent submitted additional information and we await DEP's comments.

Cone Constructors, Inc. [LCONB99-006]: (See related case under Civil Cases) Citation for Noise Rule violations during the construction of the SunCoast Parkway was appealed. Proceedings are in abeyance pending settlement.

Presto Food Stores Inc. [LPREZ00-002]: Appeal of a citation regarding out of compliance Underground Storage Tanks. The landowner requested an administrative hearing, asserting a lack of ownership of the UST system. The tenants also claim no ownership. The Hearing Officer continued the pre-hearing conference pending the property owner's efforts to properly close the system. Tanks have been emptied of product. EPC agreed to give the property owner a brief abeyance pending the owner's circuit court litigation against the operator. A Motion for Summary Judgment is currently pending in that case. The landowner has submitted a closure report of the UST system which is under review. In the event the closure application is accepted, the only issue remaining should be establishing and recovering penalties and costs.

Watermark [LWATB98-168]: Appeal of a citation for out-of-compliance Underground Storage Tanks (UST's) at the Kings Point Golf Course. The regulatory deadline for upgrading or properly closing the UST's is passed. The landowner requested an administrative hearing, asserting that extenuating circumstances should be considered. Efforts continue to resolve this matter without having to refer to a hearing officer. Landowner and EPC are currently negotiating a P2 pollution prevention plan in lieu of penalties.

RESOLVED CASES | 2 |

Putney [LPUTZ00-003]: Appeal of Director's denial of request to impact wetlands was referred to Hearing Officer Vanessa Cohn. EPC was granted Summary Disposition and a Recommended Order upholding the Director's decision was issued. On June 15, 2000 the EPC Commission considered the Appellant's Exceptions and the Director's response, and voted to enter a Final Administrative Order adopting the Hearing Officer's Report in its entirety, and denying the request to impact wetlands.

Windemere Utilities [LWIN00-002]: (See related case under Civil Cases) Applicant filed a formal Chapter 120 Administrative Petition challenging the EPC's denial of a permit based on the inadequacy of the treatment plant and disposal system's operating capacity. EPC referred the petition to DOAH and requested assignment of an ALJ. Settlement discussions have resulted in the parties entering into a consent order and permit which establishes a mutually acceptable schedule for bringing the facility into compliance. In addition, penalties of \$16,600 and costs of \$3,187.49 will be paid.

B. CIVIL CASES

NEW CASES | 1 |

Manhattan Oil, William Chiles: | | EPC's Citation for violation of the abandoned underground storage tank regulations was appealed, and then settled in a negotiated Consent Order. However, the conditions of the Consent Order have not been implemented and the site remains out of compliance. The Commission granted authority on June 15, 2000 to appropriate legal action. A pre-litigation letter has been sent and a Complaint is being drafted.

EXISTING CASES | 11 |

Holley, Raymond, et al. [LHOL94-161]: Suit was filed several years ago to compel proper closure for an abandoned underground storage tank, and to obtain civil penalties and costs. The Defendants defaulted, but obtained a judicial stay by filing bankruptcy. The bankruptcy case closed in April, 1998, and EPC renewed its previously filed Motion for Judgment after Default. Although staff tried to work with Defendants as eligible for state assistance under the Abandoned Tank Restoration Plan, Defendants did not cooperate. EPC filed an Amended Motion for Judgment after Default with a supporting affidavit on costs and scheduled a hearing. On July 25, 2000 the Court entered a Default Final Judgment requiring the Defendant to properly close the USTs, pay costs of \$1,240.87, and requiring payment of \$22,100 in penalties if his order for injunctive relief is not complied with.

Slusmeyer [LSLU94-152]: Defendant failed to comply with a prior court order and injunction requiring proper closure of underground storage tanks. Although Defendant verbally agreed and was given until April to comply with the judgment, he failed to do so. EPC asked the court for an order of contempt and injunctive relief. On April 27, the judge took the issue of contempt under advisement and allowed Defendant 60 days to comply with the judgment, after which further sanctions could be sought. The day prior to the hearing on the Renewed Motion for Contempt, the Defendant retained an attorney and a consultant to comply with the judgment. He has been provided a brief additional amount of time to resolve all outstanding issues.

Kings Food Mart [KIN96-159]: Authority granted to compel assessment of reported contamination at a retail gasoline facility, and to compel compliance with leak detection regulations for an existing Underground Storage Tank system. Complaint has been drafted and enclosed with a demand letter on June 13, 2000. After meeting with the legal office and Waste Management staff, the landowner has since applied for petroleum contamination cleanup assistance and has gotten into compliance with other issues. Staff is currently calculating penalties and costs for the past non-compliance so that settlement might occur.

Mulberry Phosphate [LMULF98-166]: Authority granted January 1998, to proceed against Mulberry to recover environmental damages as result of a process water spill from an impoundment system failure. The spill impacted the Alafia River and Tampa Bay. EPC is also seeking recovery of costs of enforcement and civil penalties. EPC is working cooperatively with DEP and NOAA to resolve this case jointly. EPC conducted a damage assessment and evaluation of appropriate restoration, and currently several mitigation projects, in both Hillsborough and Polk, are being reviewed and considered as possible settlement options. Settlement discussions are continuing, and NOAA has a statutory deadline in December of this year.

Stasiak v. EPC [LSTA98-163]: Mortgage holder attempted foreclosure of EPC's interest in certain real property held by virtue of a recorded settlement agreement against the property owner U.S.H. & B. EPC consented to foreclosure as long as our rights to proceeds were protected. U.S.H.&B. filed Chapter 11 Bankruptcy. A plan providing for appropriate resolution has been filed with the Court but various creditors have filed a challenge. EPC staff have been called for depositions between the parties and for testimony before the court. The property is currently in compliance with all regulations and a Consent Order is pending to close the case.

672 Recovery, Inc. [LREC97-155]: EPC provided authority in March 1999 to compel compliance with EPC rules requiring a Director's Authorization for operation of a wood waste processing facility. 672 Recovery, Inc. recently sold the operation and no longer operates the facility. The current owner is operating the facility in compliance with a permit issued by DEP. EPC is still seeking to recover penalties and costs from 672 Recovery, Inc. and staff is reviewing the file to determine amounts. Opposing counsel has been contacted and has agreed to review the citation regarding the EPC's request for costs and penalties.

FDOT & Cone Constructors, Inc. [LCONB99-007]: (*See related case under Administrative Cases*) Authority granted in March 1999, to take appropriate legal action to enforce the agency's nuisance prohibition and Noise Rule violated during the construction of the SunCoast Parkway. A letter has been sent to counsel for Cone Constructors. A signed settlement agreement with payment of associated investigative costs is anticipated shortly. Cone Constructors filed for bankruptcy on July 14, 2000.

Quasem J. v. EPC, et al. [LQAS98-161]: In foreclosing a mortgage on a UST facility, Plaintiff named EPC as a Defendant because of our recorded judgment against the former owner/operator, a relative of the current Plaintiff (*EPC case against Emad Qasem*). EPC has asserted the priority of our judgment lien. Defendant, property owner, HJEM, Inc. filed a motion for summary judgment asserting the Plaintiff's mortgage was entered into fraudulently and that it has priority over all lien holders. EPC responded by asserting the priority of its judgment over the Defendant. HJEM, Inc.'s ownership of the property as the property was sold to HJEM, Inc. subject to EPC's judgment. Hearing on the summary judgment was postponed pending an amended motion for summary judgment.

Georgia Maynard [LMAYZ99-003]: Authority to take appropriate action against Ms. Maynard as owner and operator of an underground storage tank facility was granted, August 1999. A prior Consent Order required certain actions

be taken to bring the facility into compliance, including the proper closure of out-of-compliance tank systems. The requirements of the agreement have not been met. Respondent has asserted willingness to comply, but financial inability. Complaint is being drafted. A pre-litigation letter was sent to Respondent advising of pending action. An attorney representing Ms. Maynard responded by suggesting the matter could be resolved without litigation.

Tampa Scrap Processors, Inc. [LTPA98-157]: Authority granted in August of 1998 to proceed against all responsible parties for violations relating to the management of solid waste, used oil and hazardous waste and to compel a site assessment and a report of the findings. A meeting with the property owner before suit was filed produced a Consent Order signed October 19, 1998. Tampa Scrap failed to comply with the terms of the Consent Order; the Tampa Port Authority is willing to perform the requirements of the settlement. EPC filed suit against Tampa Scrap to protect our rights to legal enforcement of the specific terms of the Consent Order. Tampa Export, a presumed successor entity to Tampa Scrap, has filed for bankruptcy protection. EPC staff will be witnesses in the hearing on Tampa Port Authority's motion to evict Tampa Export and obtain correction.

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 to the Debtors so that their residents can continue without relocation.

RESOLVED CASES [2]

Windemere Utilities [] (*See related case under Administrative Cases*) Staff received Commission approval in June 2000 to take appropriate legal action against the WWTP for operating without a permit and for failing to comply with standards required by law. Subsequent settlement discussions resulted in the parties entering into a consent order and permit which establishes a mutually acceptable schedule for bringing the facility into compliance, and provides for penalties of \$16,600 and costs of \$3,187.49.

Acevedo v. EPC [LACE99-001]: EPC had been named as Defendant in suit filed to recover damages for injuries allegedly sustained as a result of an auto accident involving a vehicle owned by the County. EPC's Response to the Complaint was filed, and the County Attorney's office asked to represent the Commission. A settlement and release of Plaintiff's claims has been reached.

COMMISSION

PAT FRANK
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EXECUTIVE DIRECTOR

RICHARD D. GARRITY, Ph.D.



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ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF JULY 31, 2000

Fund Balance as of 10/01/99		\$1,024,661
Interest Accrued	FY00	51,397
Deposits	FY00	238,443
Disbursements	FY00	119,766
Fund Balance		\$1,194,735
Encumbrances Against Fund Balance:		
(57a) Cypress Head Swamp	8,967	
(14) Wetland Surveys	1,781	
Seagrass Study/Sheriff	27,500	
Art. Reef FY00	17,022	
(53) Clayton Lake	6,007	
(54) Mosi Restoration	963	
(56) Oakview Utilities	74,925	
(55) Riverview Civic Center	39,525	
(61) Thalassea Study	13,245	
(63) McKay Bay	15,000	
(64) Hughes Hard Chrome	3,373	
(71) Seagrass Recovery	- 0 -	
(66) Asbestos Abatement	5,000	
(72) Brooker Creek	1,266	
(75) Adopt A Pond	50,000	
(78) River Crest Restoration	15,000	
(79) Epps Park Restoration	10,000	
(68) Lutz Nature Park	12,405	
(73) Balm Road Scrub	300,000	
(82) Hill. Co. Env. Network	50,000	
Waste Reduction/Tampa	98,657	
Upper Tampa Bay Trail	77,300	
(83) American Lung Assoc.	- 0 -	
Charlie Walker Cons. Cen.	5,000	
Cockroach Bay Turtle	59,920	
Total of Encumbrances		<u>892,856</u>
Minimum Balance	-39-	100,000
Fund Balance Available July 31, 2000		\$201,879



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EXECUTIVE DIRECTOR

RICHARD D. GARRITY, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
AS OF JULY 31, 2000

Fund Balance as of 10/01/99	\$1,579,471
Interest Accrued FY00	70,759
Disbursements FY00	415
Fund Balance	\$1,649,815

Encumbrances Against Fund Balance:

Alafia River, Add. (SWIM/DEP)	8,948
Cockroach Bay Exotic Con. (HCC)	8,618
Alafia River/Wolf Branch	300,000
Ballast Point Seawall Phase II	25,000
Audubon Society Riverview CC	50,000
Oakview Utilities	50,000
Port Redwing	300,000
Davis Tract	199,585
Apollo Beach Habitat Restoration	100,000
Fantasy Island Restoration	50,000
Mechanical Seagrass Planting	50,000
Total of Encumbrances	\$1,142,151

Fund Balance Available July 31, 2000	\$ 507,664
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COMMISSION

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MEMORANDUM

DATE: July 31, 2000

TO: EPC of Hillsborough County Board Members

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

SUBJECT: QUARTERLY STATUS REPORT ON NATIONAL PRIORITIES
LIST SITES IN HILLSBOROUGH COUNTY

This memorandum serves as the quarterly status report concerning the United States Environmental Protection Agency's (USEPA) identified National Priorities List (NPL) sites that are located in Hillsborough County. The NPL sites are also known as Superfund sites. The previous status memorandum was submitted to you on May 1, 2000.

SCHUYLKILL METALS CORPORATION SITE

The USEPA is still waiting for a response from the Florida Department of Environmental Protection (FDEP) in regard to the USEPA's proposal to delete the site from the NPL. The USEPA has awaited the FDEP's response for about 1-1/2 years. In the interim, the FDEP has sent its proposed draft version of an institutional control for the remedy to the USEPA.

SYDNEY MINE SLUDGE POND SITE

The Phase II intrinsic bioremediation study report has been submitted to and is being reviewed by the USEPA. The USEPA remedial project manager (RPM) states that the FDEP will be sending its comments concerning the Phase II intrinsic bioremediation study report to the USEPA.

KASSAUF-KIMERLING SITE

The USEPA re-states that Kassauf is conducting annual operation and maintenance activities, which include groundwater sampling and a visual inspection of the site. The USEPA is currently working on deleting the site from the NPL. The USEPA Remedial

Project Manager (RPM) states that she is working with the FDEP in regard to the FDEP's comments concerning the USEPA's proposed deletion of the site from the NPL.

HELENA CHEMICAL COMPANY SITE

The Remedial Action (RA) for the contaminated soil is 95% complete; the on-site contaminated soil has been removed and disposed off-site. About 500 cubic yards of off-site contaminated soil will be removed and disposed in the next few weeks. The Remedial Design (RD) for the contaminated groundwater is pending due to groundwater contamination from the nearby Alaric, Inc., site. The groundwater contamination from the Alaric, Inc., site is commingling with the groundwater contamination from the Helena site. The USEPA is conducting additional groundwater contamination investigation work at the Alaric, Inc., site. The USEPA may have to fund the investigation and remediation of the Alaric, Inc., site.

STAUFFER CHEMICAL COMPANY SITE

The treatment of contaminated soil is underway. The groundwater recovery system has been installed, and hookup to the wastewater treatment plant will be completed shortly. The USEPA expects that the groundwater recovery system will be operational in the next couple of weeks.

NORMANDY PARK APARTMENTS SITE

The USEPA states that the Record of Decision (ROD) for the site remedy has been issued. The USEPA is in negotiations with the potential responsible party (PRP) for the implementation of the ROD.

SOUTHERN SOLVENTS, INC. SITE

The collection of field data for the Remedial Design (RD) of Operable Unit #1 (i.e., the contaminated soil and surficial aquifer groundwater) and the Remedial Investigation/Feasibility Study (RI/FS) of Operable Unit #2 (i.e., the contaminated Floridan aquifer groundwater) has been re-scheduled to begin in September 2000.

MRI CORPORATION SITE

The Record of Decision (ROD) for the contaminated soil remedy has been signed. More studies of the contaminated groundwater will be done. A second ROD will be necessary to address the contaminated groundwater remedy. The USEPA is in negotiations with some of the potential responsible parties (PRPs) about the possible participation of the PRPs in the performance of the Remedial Design/Remedial Action (RD/RA) for the site. The USEPA estimates that the Consent Decree can be finalized by mid to late September 2000.

PEAK OIL/BAY DRUMS SITE

EPC staff attempted to interview the USEPA Remedial Project Manager (RPM) but did not receive a response from her by the time that this memorandum was finalized. However, two legal advertisements in the July 28, 2000 edition of the Tampa Tribune included the USEPA's Explanation of Significant Differences. The USEPA has modified

the June 1993 Record of Decision (ROD) due to additional information that was obtained during the Pre-Design Investigation that was conducted from October 1998 to February 1999 and additional modeling of the site that was conducted in March 2000.

REEVES SOUTHEASTERN CORPORATION SITE

The Remedial Action (RA) work plan and the Remedial Design (RD) Modification for the groundwater control structure (essentially a culvert) have been approved by the USEPA. The potential responsible party (PRP) is currently looking for vendors to construct the groundwater control structure. The replacement monitoring well has been installed. All surficial aquifer monitoring wells have been re-sampled. The PRP has submitted a "Modification I" report that the USEPA will review in order to determine whether active pump and treat groundwater remediation is necessary.

TAYLOR ROAD LANDFILL SITE

EPC staff attempted to interview the USEPA Remedial Project Manager (RPM) but did not receive a response from her by the time that this memorandum was finalized. However, the NPL Site Summary on the USEPA Region 4 Superfund website states, "Under the monitored natural attenuation remedy, quarterly groundwater monitoring is being performed, as well as annual trend analysis. A statutory five year review will be performed by August 2003." Also, Hillsborough County reports that it installed compliance ring monitoring wells C-8 and C-9 in April 2000 and that the 270-foot setback line was expanded in these locations. Hillsborough County also reports that two properties are located within the new 270-foot setback and that it "will continue to work towards the connection of these two properties to the County's potable water distribution system."

c: Hooshang Boostani, P.E., EPC
Paul A. Schipfer, P.E., EPC
Carl J. Heintz, P.G., EPC

RDG/cjh

C:\Superfund Quarterly July 2000

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EXECUTIVE DIRECTOR
RICHARD D. GARRITY, Ph.D.

MEMORANDUM

DATE: August 8, 2000

TO: Hooshang Boostani

FROM: Paul Schipfer and Michael McKelvey

SUBJECT: POSITIONS JUSTIFICATION

Effective July 1, 2000, Governor Bush signed the state budget that included a significant increase (from @ \$92 million to @ \$150 million) for petroleum cleanup work under the Inland Protection Trust Fund. Based on this amount, the Florida Department of Environmental Protection (FDEP) determined that it was necessary to address sites with priority scores of at least 30. A search of the FDEP database indicated that there would be a total of 470 eligible sites (priority score ≥ 30) in Hillsborough County for which funding is now available for site rehabilitation activities. This is an increase of 230 sites over our present contract task assignment with the FDEP.

Our current staff level is inadequate to handle the additional sites. Therefore, we have requested to establish the following positions: (1) Professional Engineer, (1) Professional Geologist, (1) Engineer II, (2) Hydrologists and (1) Clerk II. We believe that having staff in these positions will allow us to fulfill our contractual obligation with the FDEP and progress as many sites as possible toward closure status. The funding for all requested positions will come from our contract with the FDEP. No ad valorem or general funding is necessary or requested.



ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY

AGENDA ITEM COVER SHEET

DATE: August 7, 2000
TO: Environmental Protection Commissioners
FROM: Kay Strother, Air Management Division
SUBJECT: Bodden Asphalt Products, Inc. (Bodden Asphalt)
RECOMMENDATION: Ask for authority to pursue appropriate legal action
BACKGROUND: In 1996, EPC staff found Bodden Asphalt operating air pollution sources without a permit after notification by EPC staff that a permit was required. Bodden Asphalt entered into a Consent Order with the EPC in settlement of the violation, and agreed to obtain a permit and pay a \$1,000 penalty. Bodden Asphalt received a permit in March 1997, but only paid \$200 of the penalty amount. Bodden Asphalt allowed the permit to expire in January 1999, but continued to operate without a permit. After notice by EPC staff and the continued operation of the facility without a permit, EPC issued a Citation to Bodden Asphalt for operation without a proper air pollution source permit and failure to pay the balance of the penalty. Bodden Asphalt did not appeal the Citation and continues to operate without the required permit.
ACTION TAKEN BY THE COMMISSION
<input type="checkbox"/> Approved <input type="checkbox"/> Disapproved <input type="checkbox"/> Continued/Deferred Until _____
Other: _____
SPECIAL INSTRUCTIONS: _____
By: _____
MEETING
DATE: _____
DIAGRAM (IF APPROPRIATE)

AGENDA ITEM COVER SHEET

Date: August 17, 2000

Agenda Item: Louis and Jeanie Putney's Application for a Variance or Waiver

Description/Summary:

Louis and Jeanie Putney were denied authorization to impact wetlands located on their property. The Putneys now seek a variance or waiver of EPC Rules 1-11.01, 1-11.05, 1-11.07, 1-11.08, and 1-11.09. To be entitled to a variance or waiver of the rules, the applicants must demonstrate they will suffer a substantial hardship or a violation of the principles of fairness, and they must demonstrate how the purpose of the underlying rule can be, or has been, achieved by other means.

Attachments:

Recommendation Letter from Executive Director
Application for Variance or Waiver
Executive Director's Proposed Final Order

Commission Action Recommended:

1. Consider the Executive Director's recommendation letter and attached Proposed Final Order denying the application.
2. Consider the Putneys' Application for Variance or Waiver.
3. Consider entering a Final Order denying the application based on the lack of competent substantial evidence to support finding a substantial hardship, a violation of the principles of fairness, or that the underlying purpose of the EPC Wetland Rule, Chapter 1-11 can, or has been achieved by other means.

COMMISSION

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EXECUTIVE DIRECTOR

RICHARD D. GARRITY, Ph.D.

August 9, 2000

Ms. Jan Platt, Chairman
Environmental Protection Commission
601 East Kennedy Blvd.
Tampa, FL 33602

Re: Application for Variance or Waiver of Louis and Jeanie Putney
Executive Director's Recommendation
EPC Case No.: LPUTZ00-009

Dear Commissioner Platt:

On July 6, 2000, Louis and Jeanie Putney filed an application for variance or waiver of EPC Wetland Rule 1-11, specifically Wetland Rules 1-11.01, 1-11.05, 1-11.07, 1-11.08, and 1-11.09, with the Environmental Protection Commission of Hillsborough County (EPC). Pursuant to Rules of the Commission, § 1-2.50(4), the Commission must consider the application, the Executive Director's recommendation, and any comments of the public at a regular meeting for which the applicant has published notice. The EPC staff suggests this be heard at the regularly scheduled August meeting. The Commission must then grant or deny the application in a written decision supported by competent substantial evidence.

As the Executive Director, I recommend denial of the subject application for a variance or waiver from the rules. Please find enclosed a copy of the application as well as my proposed Final Order denying the application. In sum, the EPC staff recommends the application for variance or waiver be denied for the following reasons:

First, to show entitlement for a variance or waiver the applicants must demonstrate that they will suffer a substantial hardship by complying with the EPC Wetland Rule Chapter 1-11. There is no evidence to support that finding. In the alternative, the applicants must show how they have been treated unequally, i.e., how "the application of the rule affects them in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule." If the unequal treatment would result in a "violation of the principles of fairness" EPC could allow a variance or waiver if the applicants can successfully fulfill the next step of the analysis. However, the applicants also cannot demonstrate this finding as they are, in fact, asking to be treated differently than other owners of wetlands in Hillsborough County. There is nothing unique about



Ms Jan Platt, Chairman

August 9, 2000

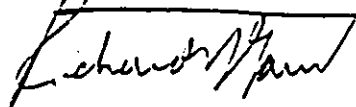
Page 2

their property or EPC's jurisdiction over any activities in the wetlands located on the property that affects them differently than others in Hillsborough County.

If the applicants were able to demonstrate that they would suffer a substantial hardship or the application of the rules treated them differently in an unfair manner, then the next step of the analysis requires that the applicants show how the purpose of the underlying rule can be, or has been, achieved by other means. The applicants have made no reasonable attempt to show how the benefits provided by the wetland on their property would be adequately protected as required by Rules of the Commission, § 1-11.07. For these reasons, and those found in the attached proposed Final Order, I recommend the above referenced application be denied.

Please feel free to contact me or Andrew Zodrow in the EPC Legal office if you need any additional assistance in the Putneys' application for a variance or waiver. Thank you for your consideration in this matter.

Sincerely,


Richard D. Garrity, P.h.D.

Enclosures

cc: Louis D. Putney, Esq.

BEFORE THE ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY, FLORIDA

Application of:

LOUIS W. PUTNEY and
JEANIE T. PUTNEY,

Applicants.

APPLICATION FOR VARIANCE OR WAIVER

COMES NOW the Applicants, LOUIS W. PUTNEY and JEANIE T. PUTNEY, and file this their Application for Variance or Waiver from the provisions of the rules adopted pursuant to Chapter 84-446, and allege:

1. On August 10, 1999, the Applicants filed with the Environmental Protection Commission of Hillsborough County (EPC) their Application for Wetland Impact together with the review fee and substantiating materials and exhibits. The Application for Wetland Impact was found to be complete and was accepted by EPC.
2. The Application was reviewed by EPC Staff who recommended to the Executive Director of EPC that it be denied. The Executive Director denied the application by letter to Applicants attorney dated November 16, 1999.
3. The Applicants filed their timely Notice of Appeal of the Executive Director's denial on November 30, 1999. The Applicants' Appeal was heard on April 4, 2000, by a Hearing Officer who recommended to the EPC that it be denied by Recommended Order dated May 11, 2000.
4. The Applicants duly filed Exceptions to the Hearing Officer's Report on May 18, 2000. The EPC held a hearing of the Commission on June 15, 2000 and voted to deny authorization to impact Applicants' property located in Hillsborough County,

Florida, at Folio Number 61490.0000. The Final Administrative Order of the Commission was signed on June 28, 2000.

5. The Applicants incorporate herein by reference the entire file of the Applicants' Application to Impact their Property and the appeal pertaining thereto as described above.

6. The applicants property is legally described as follows, to wit:

That part of Farm Tract 33 CLEWIS MUCK FARMS, according to the map or plat thereof, as the same is recorded in Plat Book 25, page 88, of the public records of Hillsborough County, Florida, lying West of Highway #301; Folio Number 61490.0000.

7. This Application for Variance or Waiver is filed pursuant to EPC Rule 1-2.50. The EPC Executive Director is requested to recommend to the Commission that a variance or waiver be granted from the provisions of the EPC Rules adopted pursuant to Chapter 84-446.

8. The entry of the Final Administrative Order on June 28, 2000, has and will continue to cause a substantial hardship as defined by Section 120.542, Florida Statutes, or a violation of the principles of fairness for all of the reasons contained in the Applicants' Application for wetland impact and substantiating materials and exhibits filed therewith, the Applicants' Notice of Appeal with attachments, the Applicants' Motions, Statements, Depositions, Appellants' Proposed Report of Hearing Officer, and all other filings with the Hearing Officer, and the Applicants' Exceptions to Hearing Officer's Report with attachments, all as herein above described. The Applicants have sustained and will continue to sustain a substantial hardship as a

result of the denial of their Application to Impact Wetlands in that all economically viable use of their property has been taken from them by governmental action for a public purpose without just compensation. There has been and continues to be a violation of the principles of fairness in that numerous other parties have been allowed to clear and fill hundreds of acres of wetlands adjacent to the Applicants' property since the purchase of the Applicants' property by them on March 28, 1968, when there were no laws regulating the clearing and filling of wetlands.

9. The purpose of the underlying rules can be achieved by other means, to wit: the condemnation of Applicants' property and the payment of just compensation therefor as required by Amendment V and Amendment XIV of the U.S. Constitution and Article 1, Section 9, and Article X, Section 6, of the Florida Constitution, or in the alternative, the waiver of such rules and the issuance of the permit to impact wetlands.

10. The provisions from which this variance or waiver is being sought did not originate with the DEP.

11. EPC Rules for which the variance or Waiver is requested are all of the EPC Rules upon which the EPC based its denial of the Applicants Application to Impact Wetlands including among other Rules 1-11.01, 1-11.05, 1-11.07, 1-11.08 and 1-11.09.

12. The type of action requested is to waive such rules and to grant the Applicants' Application to Impact their property or in the alternative, to compensate them for it.

13. The specific facts that would justify a variance or waiver are all as contained in the Applicants' filings as herein above described including the fact that the Applicants, by EPC action, have been and will continue to be denied all economically viable use of their property.

14. The reasons why and the manner by which the purposes of the underlying rules would still be met are that the EPC can acknowledge that the Applicants can not comply with Rules 1-11.07, 1-11.08, and 1-11.09 as presently written and grant the Applicants' Application to Impact Wetlands, or in the alternative, for Hillsborough County to file a suit for condemnation of the Applicants' property in the 13th Judicial Circuit in and for Hillsborough County condemning the property for a public purpose, *i.e.*, its environmental benefits to the public; and pay the Applicants just compensation for their property as determined in such suit.

WHEREFORE, the Applicants request the Environmental Protection Commission of Hillsborough County to grant the Applicants a variance or waiver as hereinabove set forth.

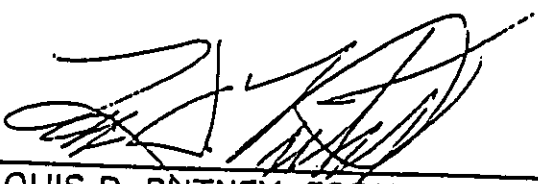
Respectfully submitted,



LOUIS D. PUTNEY, ESQUIRE
Florida Bar No.: 239976
4805 South Himes Avenue
Tampa, Florida 33611
(813) 831-3376
Attorney for Applicants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Applicants' Application for Variance or Waiver has been filed by Hand Delivery to Richard Garrity, Executive Director of the Hillsborough County Environmental Protection Commission, 1900 9th Avenue, Tampa, Florida 33605, and a copy thereof has been Hand Delivered to T. Andrew Zodrow, Esquire, 1900 9th Avenue, Tampa, FL 33605, Attorney for EPC, this 6th day of July, 2000.



LOUIS D. PUTNEY, ESQUIRE

BEFORE THE ENVIRONMENTAL PROTECTION
COMMISSION OF HILLSBOROUGH COUNTY

IN THE MATTER OF:
APPLICATION FOR VARIANCE OR WAIVER
TO EPC RULES
BY LOUIS W. PUTNEY and
JEANIE T. PUTNEY.

EPC # LPUTZ00-009

FINAL ORDER

Pursuant to Rules of the Commission, § 1-2.50, the applicants, Louis W. Putney and Jeanie T. Putney (Putneys), filed an application for variance or waiver with the Environmental Protection Commission of Hillsborough County (EPC) on July 6, 2000. The EPC rules allow a property owner to obtain a variance or waiver from regulations where the facts demonstrate the property owner will suffer a substantial hardship and the purpose of the regulation can still be achieved. An application for variance or waiver is reviewed by the Executive Director and a recommendation is then forwarded to the EPC Board. After a publicly noticed EPC meeting the Commission will grant or deny the application by written decision supported by competent substantial evidence.

The Putneys own 2.4 acres of property located in Hillsborough County, Florida at folio No. 6149.0000 (property). With the exception of roughly 800 square feet of forested uplands, the property at issue is comprised of 100 percent forested wetlands, composed of a red maple swamp, and is subject to the wetlands jurisdiction of the Hillsborough County EPC. The Putneys applied to EPC on August 10, 1999, for authorization to impact wetlands located on the subject property. The proposed project would have included clearing and filling the entire property and would have resulted in the destruction of all wetlands contained on the property. Such activity is prohibited without EPC authorization pursuant to Rules of the Commission, Chapter 1-11. A timely Notice of Appeal was

filed challenging the Executive Director's denial of the authorization to impact wetlands. On May 11, 2000 the appointed Hearing Officer for the EPC issued a recommendation supporting the Executive Director's denial. Finally, on June 28, 2000, the EPC Chairperson issued a Final Order denying the Putneys' application to impact wetlands on the subject property. The applicants now seek a variance from or waiver of the EPC Wetland Rule, Chapter 1-11, specifically Wetland Rules 1-11.01, 1-11.05, 1-11.07, 1-11.08, and 1-11.09.

Rules of the Commission, § 1-2.50 states the following:

1. Upon application, the Executive Director may recommend to the Commission that a variance or waiver be granted from the provisions of the rules adopted pursuant to Chapter 84-446, where the applicant demonstrates:
 - a. A substantial hardship as defined by Section 120.542, Florida Statutes, or that a violation of the principles of fairness would occur, and
 - b. The purpose of the underlying rule can be, or has been, achieved by other means.

Under the first prong of the analysis, the Putneys must allege that substantial hardship or unfairness would result from the application of EPC Wetland Rule 1-11. Rules of the Commission, § 1-2.50(1)(a) incorporates the definition in Section 120.542, Florida Statutes, for "substantial hardship." For purposes of Section 120.542, Florida Statutes, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver." In their application for a variance the Putneys rely on the reasons contained in the wetland impact application, subsequent submittals, and evidence provided in the permit challenge for substantial hardship or unfairness. The application for a variance more specifically describes a substantial hardship in that the Putneys allege that the denial of the wetland impact application results in all economically viable use of the property being taken from them by government action for a

public purpose without just compensation. There, however, has been no such finding by the Hearing Officer or EPC and there is no evidence in the EPC file or the application for a variance that supports this finding. The application for variance or waiver and the record in this matter do not contain any testimony from property appraisers, land use planner, engineers, or other similarly qualified individuals supporting the allegation that the applicants have been denied all or substantially all economic use of their property. There has been no evidence provided regarding the cost of wetland mitigation or upland preservation to demonstrate the environmental benefits provided by the wetland have been adequately protected.

In addition, the EPC rules and the Final Order denying the wetland impact application, which incorporated the Hearing Officer's Recommended Order, acknowledge that authorization to impact wetlands will be provided when necessary to make reasonable use of the property. This provision of the rules is intended to prevent a loss of economic or reasonable use of the property and as such creates a presumption that the Putneys can develop their property with the proper demonstration of adequate protection. The Commission finds there is an absence of any competent substantial evidence in the record supporting a finding that the denial results in a loss of economic use of the property. Based on the Putneys' application for a variance there is no substantial hardship that can be discerned from the facts and evidence of the matter.

Furthermore, for purposes of Section 120.542, Florida Statutes, "principles of fairness' are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule." The Putneys allege in their application for a variance that there "has been and continues to be a violation of the principles of fairness in that numerous other parties have been allowed to clear and fill"

wetlands adjacent to the applicants' property since the purchase of the Applicants' property in March 1968, "when there were no laws regulating the clearing and filling of wetlands." The Putneys acknowledge that these wetlands were filled by individuals who were not similarly situated nor were subject to the rule. To properly show that there is a violation of the principles of fairness the Putneys must indicate that the EPC Wetland Rule affects them differently than others in Hillsborough County at the present time. The Putneys have not made this showing and are actually asking to be treated differently than all other persons in the county by not being subject to the EPC Wetland Rule Chapter 1-11. Again, based on the Putneys' application for a variance, the Commission finds there is no competent substantial evidence showing there has been a violation of the principles of fairness in the EPC's application of the EPC Wetland Rule towards the Putneys.

Under the second prong of the analysis of Rules of the Commission, § 1-2.50(1)(b), the Putneys must demonstrate how the underlying purpose of the rule can be achieved by other means. The underlying purpose of the EPC Wetland Rule Chapter 1-11 can be found in the Intent section of the rule as well as Rules of the Commission, § 1-11.07. The Intent section of the Wetland Rule, found in Rules of the Commission, § 1-11.01, states that owners of wetlands in Hillsborough County have no right to use them for a purpose for which they are unsuited in their natural state. In addition, it shall be the priority of the EPC to avoid the disturbance of wetlands in the County. While Rules of the Commission, § 1-11.07 ensures that property owners are entitled to reasonable use of their property, written authorization may be given for impacting wetlands "only if the benefits provided by the affected wetland are adequately protected by conditions and time limitations." The requirement for adequate protection of wetland functions is generally achieved through wetland mitigation but can be achieved by other means. Possibilities for complying with the underlying

purpose of avoiding and minimizing wetland impacts, and replacing those functions which are impacted are available but have not been demonstrated by the Putneys in their application for a variance or waiver. The Putneys merely allege that the underlying purpose of the rule can be achieved through condemnation of the property or by waiver of the rules. First, the EPC does not have condemnation authority and thus the applicant would be unable to satisfy this part of the analysis. Second, condemnation and a variance or waiver of the rules are unrelated legal remedies that cannot be available at the same time. Furthermore, condemnation of the property would not be consistent with another aspect of the Wetland Rule in that it would not allow the Putneys reasonable, or any, use of the wetlands on the property. A mere waiver or variance from the EPC Wetland Rule does not demonstrate in any way how the underlying purpose of the rule would be achieved, i.e., how the wetland functions provided by the wetlands on the property would be adequately protected. Again, the Commission finds there is no competent substantial evidence in the record supporting how the underlying purpose of the rule can be, or has been, achieved by other means.

Based on the above analysis, the Putneys have not complied with the criteria found in Rules of the Commission, § 1-2.50, and are not entitled to a variance or waiver from the EPC Wetland Rule Chapter 1-11. For the foregoing reasons, the EPC Commission finds that the application for variance or waiver is denied.

NOTICE OF RIGHTS

Any party to this order has the right to seek judicial review of the order in accordance with the Administrative Procedure Act, Chapter 120, part III, Florida Statutes, 1961 by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Environmental Protection Commission, Office of Legal Affairs and Coordination, 1900 9th Ave., Tampa, FL 33605, and by filing a notice of appeal accompanied by the applicable filing fee with the Second District Court of Appeal. The notice of appeal must be filed within 30 days from the date this order is filed with the Agency Clerk.

DONE and ORDERED this _____ day of August, 2000, in Tampa, Florida

Chairperson, Jan K. Platt

Environmental Protection
Commission of Hillsborough
County

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated EPC Clerk, receipt of which is hereby acknowledged.

CLERK

DATE

TO: T. Andrew Zodrow, Esquire
Environmental Protection
Commission
1900 9th Ave.
(813) 272-5157 (fax no.)

Louis D. Putney, Esquire
4808 South Himes Avenue
Tampa, FL 33611
(813) 831-8770 (fax no.)

AGENDA ITEM SUMMARY SHEET

DATE: AUGUST 9, 2000

AGENDA ITEM: BULLFROG CREEK WATER QUALITY UPDATE

DESCRIPTION/SUMMARY:

At the April 18, 2000 monthly EPC meeting, Commissioner Storms requested an update on the water quality of Bullfrog Creek. This update was included in the agenda for the May 18, 2000 EPC monthly meeting and at that time was postponed until a later date. Particular issues of concern included high bacteria levels at several locations in the creek and the concern that young children have been observed swimming in the area. Please see attached a brief Bullfrog Creek water quality update report summarizing the status of a research project headed by Dr. Joan Rose of USF which should provide information to help resolve this problem.

BOARD ACTION RECOMMENDED:

No Board action required. Report is provided for informational purpose only.

Environmental Protection Commission – Topic Update

August 9, 2000

Bullfrog Creek

EPC has been monitoring the surface water quality at two locations on Bullfrog Creek since 1976. Bacteria counts have been relatively high at these locations for years. EPC has attempted to locate the source or sources of the bacteria but results have been inconclusive due to the complexity of the sources in the drainage basin and the fact that the testing methods currently used do not differentiate between animal and human waste.

In 1998 EPC participated in a forum to discuss problems associated with the science of determining safe human swimming criteria in local waters. A research project headed by Dr. Joan B. Rose (Dept. of Marine Sciences – USF) was created. A 1 1/2 year project funded by the Dept. of Health (Pinellas County), Tampa Bay Estuary Program, SWFWMD and the Fla. Hotel Association was started in 1999. EPC recommended that several sites (Bullfrog Creek, Delaney Creek, Sweetwater Creek, etc.) in Hillsborough County be part of the project because of their persistently high bacterial counts and complex potential sources (human, natural, agricultural, stormwater, septic tanks, sludge spreading, etc.).

The project has many objectives but to EPC the ability to differentiate between human and animal bacteria is paramount, particularly in the Bullfrog Creek basin. Of the 22 sites being sampled as part of the HEALTHY BEACHES TAMPA BAY project, Bullfrog Creek is receiving the most scrutiny with a total of 5 sites being sampled monthly plus viral sampling every other month. All sampling is scheduled to end by July 2000.

EPC has received a copy of an "Interim Report" (81 pages) that provides the results to date, but with little interpretation. A final report may be available by the end of this year (2000).

Agenda Item Cover Sheet

Date: August 17, 2000

Agenda Item: Motor Vehicle Inspection Program (MVIP) Update

Description/Summary:

Effective July 1, 2000, the Florida Legislature terminated the MVIP in Hillsborough and Pinellas counties. This clean air program was initiated in 1991 to lower emission control tampering rates on automobiles and to identify gross polluters. While it was effective early on, it was determined that MVIP had a minimal impact on lowering the key precursor pollutant to our regional ozone problem. MVIP resulted in less than a 0.5 percent reduction in area nitrogen oxide emissions, yet cost taxpayers over twenty million dollars a year in fees alone. As such, the EPC Board voted in March to encourage our legislative delegation to oppose MVIP's renewal contract. The Legislature did so and the Governor signed it into law.

The State's Department of Environmental Protection is now attempting to remove the modest emission reduction credits attributed to MVIP from our EPA-approved air quality plan. A public hearing to discuss the matter will be held in Tampa on August 22. EPA is expected to be receptive to the request.

Commission Action Recommended: None

COMMISSION

PAT FRANK
CHRIS HART
JIM NORMAN
IAN PLATT
THOMAS SCOTT
RONDA STORMS
BEN WACKSMAN

EXECUTIVE DIRECTOR

ROGER P. STEWART



ADMINISTRATIVE OFFICES, LEGAL &
WATER MANAGEMENT DIVISION
1900 - 9TH AVENUE
TAMPA, FLORIDA 33605
TELEPHONE (813) 272-5960
FAX (813) 272-5157

AIR MANAGEMENT DIVISION
TELEPHONE (813) 272-5530

WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272-5788

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

March 23, 2000

The Honorable Rob Wallace, Chairman
Hillsborough County Legislative Delegation
P.O. Box 1110
Tampa, FL 33601

RE: Motor Vehicle Inspection Program (MVIP)

Dear Chairman Wallace:

This past week the Hillsborough County Commissioners met as the Environmental Protection Commission (EPC), and passed a motion authorizing me to seek the Delegation's assistance to end the MVIP in Hillsborough County. It was reported to the EPC Board by staff that the automobile emissions test required by Chapter 325, F.S., tests for the wrong pollutant and is too limited geographically to effectively deal with our ozone problem. With the advent of low sulfur gasoline, cleaner vehicles and the EPA agreement with Tampa Electric, the loss of the MVIP on local air quality should be minimal.

Because the State committed to the United States EPA to run this program, we understand the EPA could impose sanctions against the area, if we do not get their approval as well. Although there is some question whether EPA would impose those sanctions given the ineffectiveness of the MVIP, the EPC Board felt the Legislature should make the termination of the MVIP contingent upon obtaining EPA's approval first. As such, the Legislature would need to direct the Governor or his designee (probably Department of Environmental Protection Secretary Struhs), to initiate the EPA approval process. A similar action has already been submitted to EPA to relieve the Jacksonville area and the southeast coast from the MVIP. Their request is being expedited and we hear the EPA intends to approve it.

The EPC Board is committed to a healthy environment and acknowledges more work remains to be done to clean our air, but we do not support a program which taxes our citizens and does not move us any closer to our goals. Emissions from automobiles need to be controlled and initiatives such as Senator Hargrett's low sulfur gasoline bill (SB 922), appear to be a more effective approach.

The Honorable Rob Wallace
March 23, 2000
Page Two

Thank you for your attention to this matter. If you have any questions or require further information, please contact the EPC's Executive Director, Roger Stewart, at (813) 272-5960.

Sincerely,



Jan Platt, Chairman
Environmental Protection Commission

ph

Memorandum

Florida Department of
Environmental Protection

TO: Jerry Campbell

AIR MANAGEMENT


Hillsborough County Environmental
Protection Commission, Tampa

Peter Hessling

Pinellas County Department of
Environmental Management, Clearwater.

Kent Kimes

Sarasota County Natural Resources
Department, Sarasota

FROM: Howard L. Rhodes, Director 
Division of Air Resource Management

DATE: July 19, 2000

SUBJECT: Proposed State Implementation Plan Revision - Public Information
Package

Notice is hereby given that the Department will hold a public workshop (40 CFR 51.102 hearing) on Tuesday, August 22, 2000 at 2:00 p.m. at the Tampa Port Authority, 1101 Channelside Drive, Board Room, 1st Floor, Tampa, to hear public comment on a proposed revision to Florida's State Implementation Plan (SIP). The proposed SIP revision consists of amendments to the ozone air quality maintenance plan for the Tampa Bay area.

Enclosed is a copy of the notice of public workshop as published in the local newspaper, workshop agenda and proposed SIP revisions. In accordance with 40 CFR 51.102, these materials will need to be made available for public inspection during normal business hours.

If you have any questions regarding this workshop, please contact Larry George of my staff at (850) 921-9555 or Larry.George@dep.state.fl.us.

HLR/kml

Attachments

AGENDA ITEM SUMMARY SHEET

Date: 17 August 2000

Agenda Item: Status Update on Environmental Protection Commission County Line Road Issues

Description/Summary:

In June 1997 EPC Wetlands Management Division staff evaluated a Pasco County application to impact wetlands in Hillsborough County. The impacts proposed were for road expansion and improvements to approximately 1,300 feet of County Line Road east of U.S. 41 in Lutz. Impacts for a crossing of 13-Mile Run, totaling 0.12 acres, were approved. A subsequent request to impact an additional 0.036 acres wetlands to construct two wildlife crossings was approved in August 1997, bringing the total impacts for the project to 0.156 acres. Creation mitigation for the wetland impacts was approved to be constructed within a ±4.5acre mitigation site in Pasco County. The mitigation is being conducted in the vicinity of and the same watershed as the approved wetland impacts.

Following two separate requests for extension of EPC's impact approvals by Pasco County, construction of the County Line Road expansion and improvements was begun in June 2000. As a result of citizen complaints, EPC Wetlands Management Division staff discovered that fill dirt had been placed across 13-Mile Run without installing the designed and permitted culverts and that three small areas of impact (± 200 ft²) outside of the permitted limits of construction had occurred. These infractions resulted in EPC issuing Warning Notices #20495 and #20496 to Pasco County and the roadway contractor (Cone & Graham) on 25 July 2000 requiring immediate corrective actions. Staff follow-up inspections on 7 August 2000 indicated that the required corrective actions had been completed with the exception of replanting those areas where impacts had occurred outside of the permitted limits of construction. It is proposed that replanting be conducted when other construction activities in the area are completed.

Board Action Recommended:

None. Material is provided for informational purposes only.

CHRONOLOGY OF EPC INVOLVEMENT IN COUNTY LINE ROAD (PASCO COUNTY PROJECT)

- 4/17/97: EPC Wetlands Division conducted mitigation meeting for Pasco County submittal for construction and widening of County Line Road. Applicant asked for a 0.24 acre impact to a forested system (13 Mile Run) for initial 2-lane road with possibility of expanding to 4 lanes in future (2010). EPC staff did not have justification for 4 lanes, and wanted impact acreage reduced. 2-lane road could be approved if acreage was reduced.
- 6/26/97: EPC Wetlands Division conducted second mitigation meeting on County Line Road. Applicant (Pasco County) had reduced impacts to 0.12 acres. The wetland impact was approved, and 0.12 acres of mitigation to compensate for wetland impacts was to be created in Pasco County within a 4.0+ acre mitigation site. The staff letter to Pasco County indicated that this impact was for 2 lanes and this did not give reliance that 4 lanes could be built.
- 8/26/97: Pasco County wrote a letter to EPC Staff Scientist Tom LaFountain requesting .036 acres of additional impact for the project due to addition of two (2) wildlife crossings in the area recommended by the Florida Game and Freshwater Fish Commission (Attachment A). The 4- 36" X 60" culverts that maintain the 13 Mile Run flow would be replaced by longer (80') 38" X 60" culverts. (Construction Plan copy of area-Attachment B) This brought the total wetland impact area to 0.156 acres (EPC subsequently approved wetland impact area of 0.156 acres- Attachment C).
- 3/1/99 and 3/9/99: (Attachments D and E): Letter from Pasco requesting extension of impact approval and EPC approval for impact until 3/1/2000. On 1/11/00 and 1/19/00- (Attachments F and G): EPC received second letter from Pasco requesting further extension because construction had not yet begun while awaiting issuance of the SWFWMD permit. Letter from EPC (3/9/00) granting extension until 3/1/01.
- 2/17/00: EPC Board meeting: Attached letter from Gaye Townsend outlining concerns of County Line Coalition (CLC) on the project (Letter dated 2/1/00, Attachment H). Discussion of the citizen's concerns took place during the EPC Board meeting. In response to these concerns and concerns about lake levels in the Lutz area, EPC Wetlands Director Darrell Howton and staff scientist Crystal Clark met Commissioner Pat Frank and some County Line Coalition members onsite on 4/11/00 to inspect the area and address other concerns of residents regarding Hog Island Lake.
- 7/00: Construction on County Line project commenced and citizens phoned in complaints to EPC on wetland clearing and filling (Attachments I and J) dated 7/11/00 and 7/14/00. EPC investigators responded and initially determined fill was in approved area, but after further inspection advised Pasco County and construction consultant, Cone and Graham, to reinforce sediment barriers and speed up placement of the culverts in the blocked 13 Mile Run flow way.
- 7/19/00: Pete Owens (EPC Environmental Engineer) and Mike Thompson (EPC Environmental Scientist) visited site with Gaye Townsend (CLC) and determined wetland impact area had been overcleared in 3 areas totaling (~ 200 sq. ft. or 0.0046 acres) Mr. Thompson advised the contractor to move sediment barriers to approved areas, and regrade overcleared wetland areas for restoration. This generated warning notices # 20495 and 20496 (Attachments K and L) to Pasco County and Cone and Graham.
- 7/24/00: Pete Owens (EPC) attended meeting onsite with SWFWMD (Len Bartos, Scientist and Paul Demaris, Engineer), Pasco County (Greg Riski, Engineer and Bob Tietz, Biologist) and Gaye Townsend (CLC) to discuss culvert installation, wetland impacts and sediment, erosion stabilization issues.
- 7/25/00: Dr. Richard Garrity (EPC Executive Director) and Pete Owens met Commissioner Jan Platt and Gaye Townsend (CLC) onsite to examine wetland impact area and blocked flow way. Dr. Garrity had blocked flow way problem added to Warning Notices # 20495 and 20496. Construction staff indicated new culverts had been delivered to site and installation to restore flow way would begin ASAP.



PASCO COUNTY, FLORIDA

NEW PORT RICHEY (813) 847-8140
FAX NUMBER (813) 847-8084

ENGINEERING SERVICES, DESIGN
WEST PASCO GOVT. CENTER S-230
7530 LITTLE ROAD
NEW PORT RICHEY, FL 34654

August 26, 1997

Environmental Protection Commission of Hillsborough County
Environmental Review Section
1900 East Ninth Avenue
Tampa, FL 33605

Attention: Mr. Thomas F. LaFountain
Environmental Scientist II

Subject: EPC Approval and Mitigation Agreement
(Ref. EDL97-052, 068, 089, 109 & 198)
Project Title: Pasco/Hillsborough County Line Road
Description: New Roadway Construction & Restoration
Work Order #: C9542.00
S.T.R.: 36-26S-18E; 31-26S-19E; 01-27S-18E
SWFWMD Application No.: 4416067.00 (Permit Pending)

Dear Mr. LaFountain:

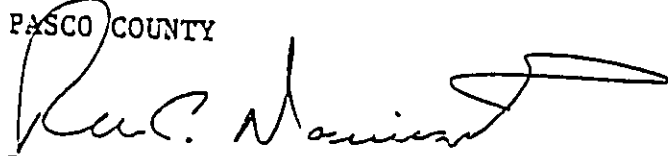
Attached please find the additional information requested July 2, 1997 for the above-referenced project. We are including responses to all conditions/comments for the Approval and Mitigation Agreement, etc.

The EPC conceptually approved wetland encroachment of 0.12 acres has been slightly increased by 0.036 acres. The increase was due to the (2) small animal undercrossings recommended by the Florida Game and Fresh Water Fish Commission. As such, this resulted in a total encroachment into EPC/Hillsborough County wetlands of 0.156 acres.

Please let us know if any additional information is required.

Sincerely,

PASCO COUNTY


Randall C. Maciyszek
Civil Engineering Technician
Design Division

RCM/atc/EDL97-260

Enclosure

REC'D

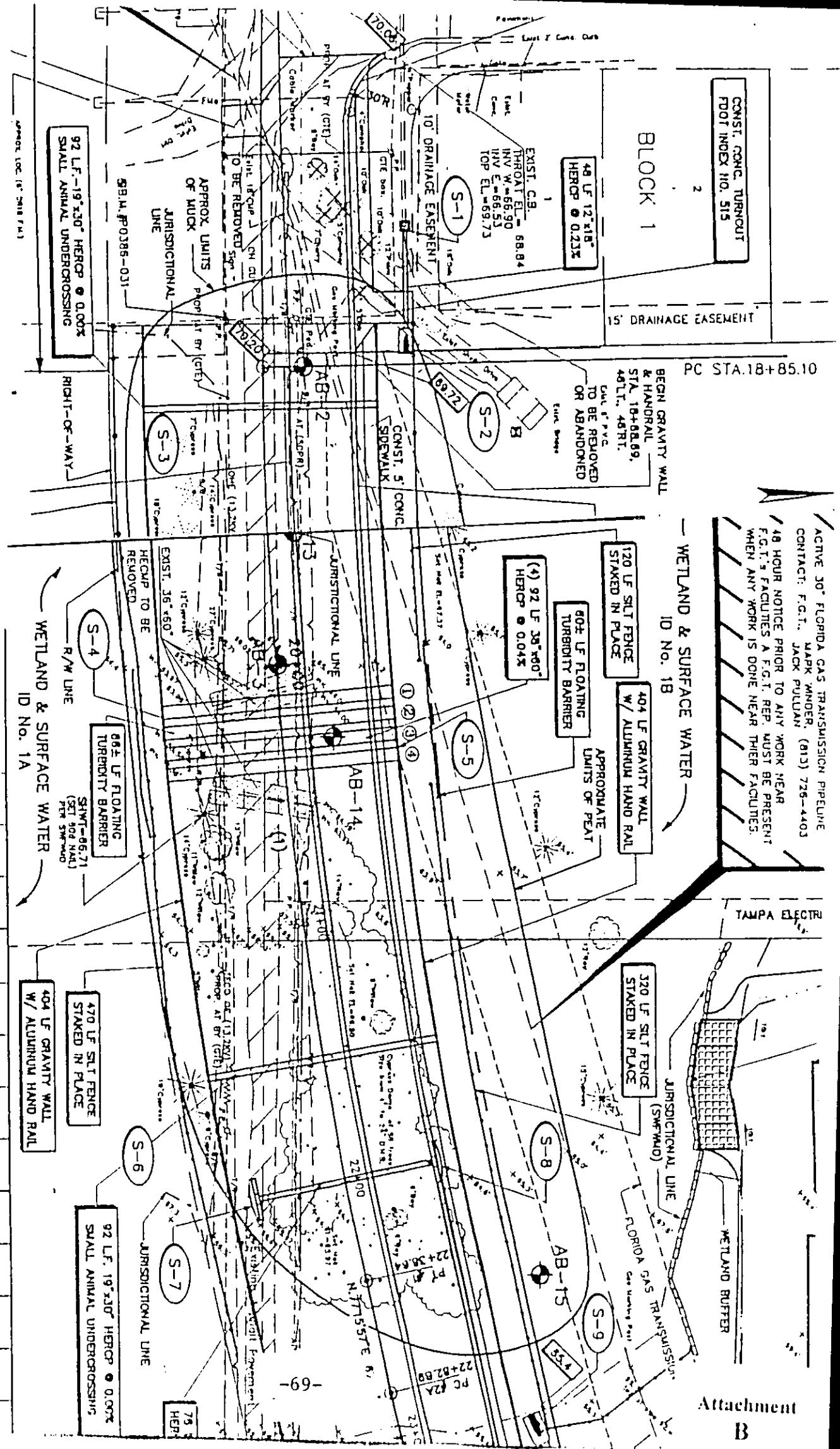
AUG 28 1997

ENV. PROT. COMM.
OF H.C.

RECEIVED

AUG 28 1997

EPC OF H.C.
WETLANDS



CONST. CONC. TURNOUT
FOOT INDEX NO. 515

BLOCK 1

48 LF 12"x18" HERCP @ 0.23%

EXIST. C.B. THROAT
INV W. = 66.90
INV E. = 66.53
TOP EL. = 69.73

S-1

15' DRAINAGE EASEMENT

PC STA. 18+85.10

BEGIN GRAVITY WALL & HANDRAIL STA. 18+85.69, 48' LT., 48' RT. TO BE REMOVED OR ABANDONED

S-2

CONST. 5' CONC. SIDEWALK

92 LF 19"x30" HERCP @ 0.00% SMALL ANIMAL UNDERCROSSING

APPROX. UNITS OF MUCK JURISDICTIONAL LINE

S-3

RIGHT-OF-WAY

ACTIVE 30" FLORIDA GAS TRANSMISSION PIPELINE
CONTACT: F.G.T. MARK WANDER, (813) 726-4403
JACK PULLAN, (813) 726-4403
48 HOUR NOTICE PRIOR TO ANY WORK NEAR F.G.T.'S FACILITIES A F.G.T. REP. MUST BE PRESENT WHEN ANY WORK IS DONE NEAR THEIR FACILITIES.

WETLAND & SURFACE WATER

120 LF SILT FENCE STAKED IN PLACE

404 LF GRAVITY WALL W/ ALUMINUM HAND RAIL

60± LF FLOATING TURBIDITY BARRIER

(4) 92 LF 36"x60" HERCP @ 0.04%

S-5

JURISDICTIONAL LINE

EXIST. 36"x60" HERCP TO BE REMOVED

S-4

66± LF FLOATING TURBIDITY BARRIER

S-4

WETLAND & SURFACE WATER ID No. 1A

TAMPA ELECTRIC

120 LF SILT FENCE STAKED IN PLACE

404 LF GRAVITY WALL W/ ALUMINUM HAND RAIL

60± LF FLOATING TURBIDITY BARRIER

S-8

JURISDICTIONAL LINE (SWFWMD)

WETLAND BUFFER

120 LF SILT FENCE STAKED IN PLACE

404 LF GRAVITY WALL W/ ALUMINUM HAND RAIL

60± LF FLOATING TURBIDITY BARRIER

S-6

WETLAND BUFFER

FLORIDA GAS TRANSMISSION

JURISDICTIONAL LINE

120 LF SILT FENCE STAKED IN PLACE

404 LF GRAVITY WALL W/ ALUMINUM HAND RAIL

60± LF FLOATING TURBIDITY BARRIER

S-9

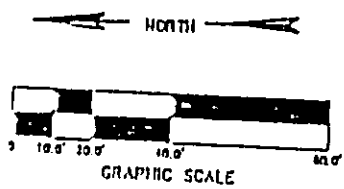
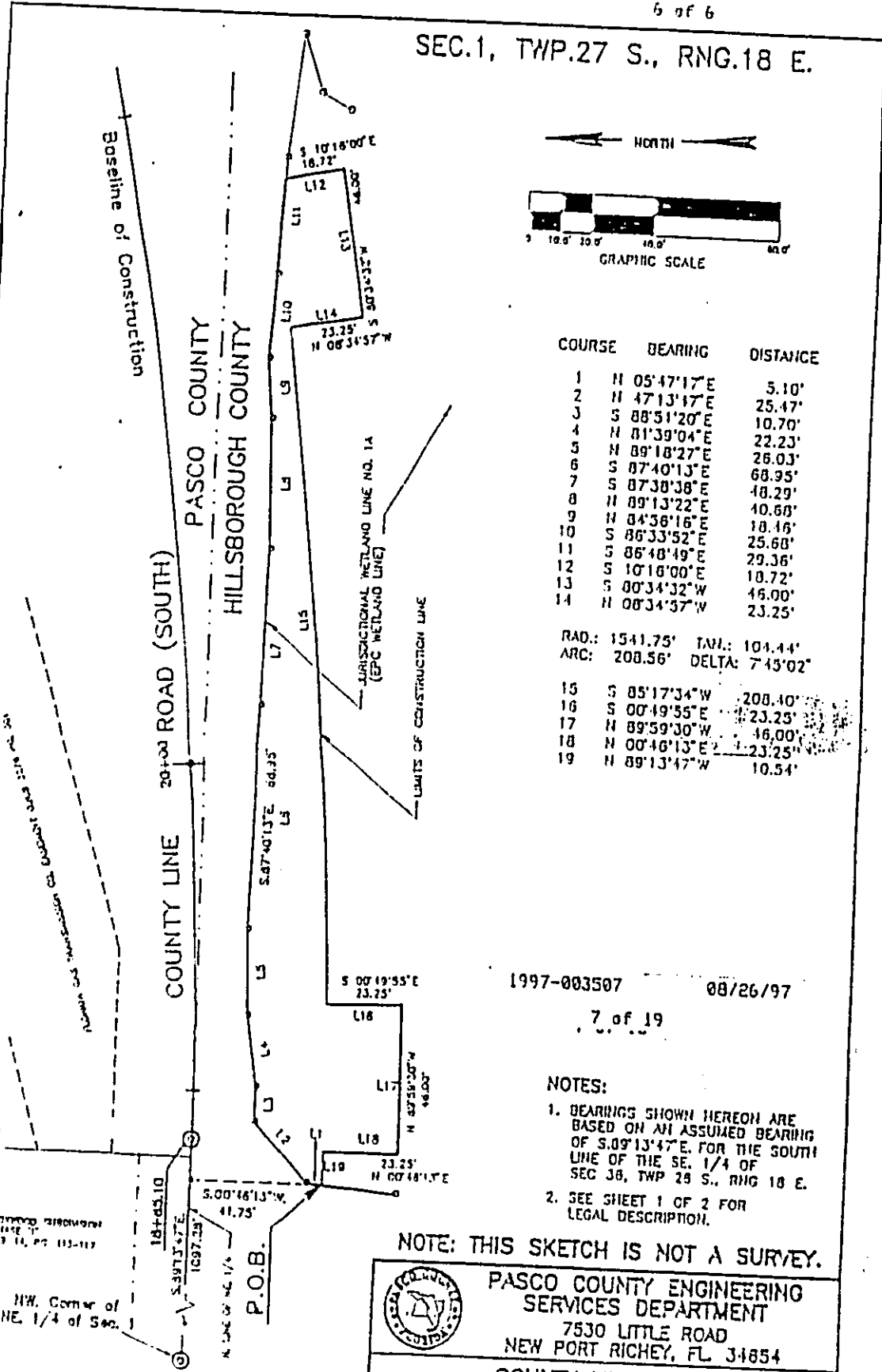
JURISDICTIONAL LINE

92 LF 19"x30" HERCP @ 0.00% SMALL ANIMAL UNDERCROSSING

S-7

Attachment B

SEC.1, TWP.27 S., RNG.18 E.



COURSE	BEARING	DISTANCE
1	N 05°47'17"E	5.10'
2	N 47°13'17"E	25.47'
3	S 88°51'20"E	10.70'
4	N 81°39'04"E	22.23'
5	N 89°18'27"E	26.03'
6	S 87°40'13"E	68.95'
7	S 87°38'38"E	48.29'
8	N 89°13'22"E	40.60'
9	N 84°36'16"E	18.16'
10	S 86°33'52"E	25.60'
11	S 86°40'49"E	29.36'
12	S 10°16'00"E	10.72'
13	S 00°34'32"W	46.00'
14	N 00°34'57"W	23.25'

RAD.: 1541.75' TAN.: 10.144'
 ARC: 208.56' DELTA: 7°45'02"

15	S 85°17'34"W	208.40'
16	S 00°49'55"E	23.25'
17	N 89°59'30"W	46.00'
18	N 00°46'13"E	23.25'
19	N 89°13'47"W	10.54'

1997-003507 08/26/97

7 of 19

- NOTES:
1. BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED BEARING OF S.09°13'47"E. FOR THE SOUTH LINE OF THE SE. 1/4 OF SEC 38, TWP 25 S., RNG 18 E.
 2. SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION.

NOTE: THIS SKETCH IS NOT A SURVEY.



PASCO COUNTY ENGINEERING SERVICES DEPARTMENT
 7530 LITTLE ROAD
 NEW PORT RICHEY, FL 34854

COUNTY LINE ROAD
 HILLSBOROUGH COUNTY (EPC)
 WETLAND IMPACT AREA

DISK \DIR:	COORD-FILE	DWG-FILE	W.O./
771 \C9542	C9542.CRD	HILL-WET.DWG	C9542.00
DATE OF SKETCH:	DRAWN:	CHECK:	
JULY 20, 1997			SHEET 2 OF 2

HARDOWAR SINGH, FLORIDA LICENSED SURVEYOR AND MAPPER NO. 4575
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RINGED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



PASCO COUNTY, FLORIDA

NEW PORT RICHEY (727) 847-8140
FAX NUMBER (727) 847-8084

ENGINEERING SERVICES, DESIGN
WEST PASCO GOVT. CENTER S-230
7530 LITTLE ROAD
NEW PORT RICHEY, FL 34654

March 1, 1999

Environmental Protection Commission of Hillsborough County
Environmental Review Section
1900 East Ninth Avenue
Tampa, Fl. 33605

Attention: Mr. Mark Howard

RE : Permit Time Extension Request
Subject : EPC Mitigation Agreement
Project Title: Pasco/Hillsborough County Line Road (South)
Work Order #: C9542.00
S.T.R. : 36-26S-18E; 31-26S-19E; 01-27S-18E
SWEFMD No. : 4416067.00 (Permit Pending)
USACOE No : 199606069
EPC Permit : Expires 12/17/99

REC'D
MAR 05 1999
ENV. PROT. COMM
OF H.C.

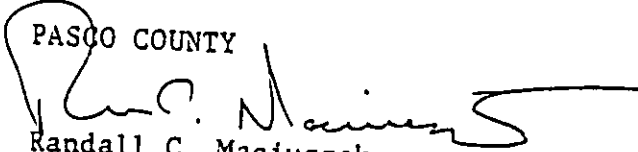
Dear Mr. Howard:

On September 4, 1997 the above-reference EPC Permit was approved with an expiration date of December 27, 1999. This project is tentatively scheduled to begin in the near future. As such, at this time we are requesting a time extension of one year from the date of this letter.

Your cooperation in this matter is appreciated. If further information is required, please contact me at ext. 8574.

Sincerely,

PASCO COUNTY


Randall C. Maciuszek
Civil Engineering Technician
Design Division

RCM/rc-EDL99-113

Enclosure

cc: Honorable Pat Mulieri, Ed.D., County Commissioner
Bipin Parikh, P.E., ACA/Acting County Engineer
Barbara Wilhite, Chief Assistant County Attorney
Gregory T. Riski, P.E., Design Division Engineer
Ralph Weeks, Administrative Services Manager
Richard Sliz, Real Estate Manager -71-
Robert J. Tietz, Biologist
Robert P. Stewart, Executive

RECEIVED
MAR 05 1999
EPC OF H.C.
WETLANDS

Attachment
D

COMMISSION

PAT FRANK
CHRIS HART
JIM NORMAN
IAN PLATT
THOMAS SCOTT
RONDA STORMS
BEN WACKSMAN

EXECUTIVE DIRECTOR

ROGER P. STEWART



ADMINISTRATIVE OFFICES, LEGAL &
WATER MANAGEMENT DIVISION
1900 - 9TH AVENUE
TAMPA, FLORIDA 33605
TELEPHONE (813) 272-5960
FAX (813) 272-5157

AIR MANAGEMENT DIVISION
TELEPHONE (813) 272-5530

WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272-5788

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

March 9, 1999

Mr. Randall C. Maciuszek
Design Division
West Pasco Govt. Center S-230
7530 Little Road
New Port Richey, FL 34654

SUBJECT: PASCO-HILLSBOROUGH COUNTY LINE ROAD / REQUEST FOR
EXTENSION OF EPC WETLAND IMPACT AUTHORIZATION /
STR 1-27-18.

Dear Mr. Maciuszek:

EPC staff has completed its review of the your request and has no objections to extending the wetland impact authorization for the subject project. The EPC authorization to impact wetlands in conjunction with this project will now expire on March 1, 2000.

If you have any questions or need further assistance, please call me.

Sincerely,

Mark A. Howard
Environmental Scientist

MAH\SIM\mjc



PASCO COUNTY, FLORIDA

NEW PORT RICHEY (727) 847-8140
FAX NUMBER (727) 847-8084

ENGINEERING SERVICES, DESIGN
WEST PASCO GOVT. CENTER S-230
7530 LITTLE ROAD
NEW PORT RICHEY, FL. 34651

REC'D
JAN 13 2000
ENV. PROT. COMM
OF H.C.

January 11, 2000

Environmental Protection Commission of Hillsborough County
Environmental Review Section
1900 East Ninth Avenue
Tampa, Fl. 33605

Attention: Mr. Mark Howard
Environmental Scientist

RE : Permit Time Extension Request
Subject : EPC Mitigation Agreement
Project Title : Pasco/Hillsborough County Line Road (South)
Work Order # : C9542.00
S.T.R. : 36-26S-18E; 31-26S-19E; 01-27S-18E
SWFWMD No. : 4416067.00 (Permit issued 4/27/99)
USACOE No. : 199606069
EPC Permit : STR 1-27-18 Expires 3/1/2000

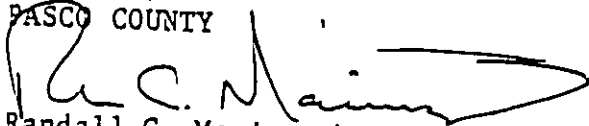
Dear Mr. Howard:

As you are aware, on June 27, 1997 the above-referenced EPC Permit was approved with an expiration date of December 27, 1999, and subsequently extended to March 1, 2000 per your letter dated March 9, 1999.

We have recently secured our SWFWMD Permit. Thus, allowing the right-of-way acquisition procedures to begin, with construction to follow scheduled mid 2000. As such, we are requesting a time extension of one year from the current expiration date.

Thank you for your understanding in this matter. If further information is required, please contact me at ext. 8574.

Sincerely,
PASCO COUNTY


Randall C. Maciuszek
Sr. Civil Engineering Technician

RECEIVED
JAN 13 2000
EPC OF H.C.
WETLANDS

RCM/rc-EDL00-041

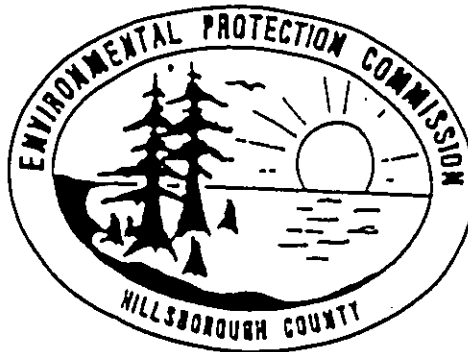
-73-

cc: Bipin Parikh, P.E., ACA/Acting County Engineer
Gregory T. Riski, P.E., Design Division Engineer
File (RCM)

Attachment
F

COMMISSION

PAT FRANK
CHRIS HART
JIM NORMAN
JAN PLATT
THOMAS SCOTT
RONDA STORMS
BEN WACKSMAN



ADMINISTRATIVE OFFICES, LEGAL &
WATER MANAGEMENT DIVISION
1900 - 9TH AVENUE
TAMPA, FLORIDA 33605
TELEPHONE (813) 272-5960
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WASTE MANAGEMENT DIVISION
TELEPHONE (813) 272-5738

WETLANDS MANAGEMENT DIVISION
TELEPHONE (813) 272-7104

EXECUTIVE DIRECTOR
ROGER P. STEWART

January 19, 2000

Mr. Randall C. Maciuszek
Engineering Services, Design
West Pasco Govt. Center S-230
7530 Little Road
New Port Richey, FL 34654

SUBJECT: PASCO-HILLSBOROUGH COUNTY LINE ROAD / REQUEST FOR
ADDITIONAL EXTENSION OF EPC WETLAND IMPACT
AUTHORIZATION, RECEIVED 1/13/00 / STR 1-27-18.

Dear Mr. Maciuszek:

EPC staff has completed its review of your request to extend the wetland impact authorization for the subject project until 3/1/2001. The request is approved, with the following conditions:

1. Submit written notification to this office within 7 days of commencement of initial wetland impact associated with this project.
2. Submit a wetland mitigation completion report to this office within 30 days of completion of the wetland mitigation area(s) associated with this project. This report must include species planted, numbers, and dates planted.

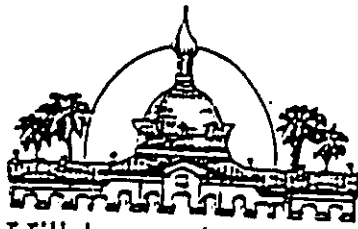
Please call me if you have any questions or require further information.

Sincerely,

Mark A. Howard
Environmental Scientist

MAH/SIM/mjc

BOARD OF COUNTY COMMISSIONERS



Hillsborough County
Florida

P.O. Box 1110
Tampa, Florida 33601
(813) 272-5660

Daniel A. Kleman
County Administrator

Chairman
Pat Frank, District 7

Vice Chairman
Chris Hart, District 5

Ben Wacksman, District 1
Jim Norman, District 2
Thomas Scott, District 3
Ronda Storms, District 4
Jan K. Platt, District 6

MEMORANDUM

RECEIVED

FEB 09 2000

EPC OF H.C.
WETLANDS

TO: Roger Stewart, Executive Director, EPC

FROM: Jan Platt, Commissioner *JLP*

RE: Pasco-Hillsborough County Line Road

DATE: February 8, 2000

Please refer to the attached letter from Gaye Townsend and place this item on the EPC February 17, 2000, agenda in order that these concerns may be addressed at that time. Thank you.

February 1, 2000

County Line Coalition, Inc.
PO Box 1732
Lutz, FL 33548 - 1732

Phone/Fax (813) 949 - 6398
e mail ~ eoltown@gte.net

Gayc M. Townsend
19905 Long Leaf Drive
Lutz, FL 33549

Commissioner Jan Platt
Chair, Environmental Protection Commission
PO Box 1110
Tampa, FL 33601

RE: Pasco-Hillsborough County Line Road/Request for Additional
Extension of EPC Wetland Impact Authorization, Received 1/13/00
STR 1-27-18

Dear Chair Jan Platt,

The Hillsborough County Board of County Commissioners, as you are aware of have been involved with County Line Road for several years. Without success we all have tried to work with Pasco County.

Our additional concerns are as follows:

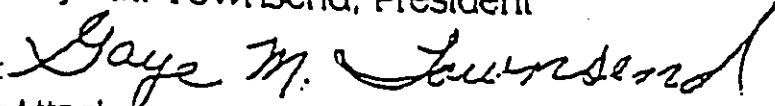
- * The EPC should contact affected property owners and organizations involved in the project.
- * The EPC should not issue a permit for projects that do not meet Hillsborough County's Comprehensive Plan.
- * The wetland impacts in the referenced permit are in Hillsborough County. The HCBOCC is not aware of any impacts to their county. It has been the understanding of the HCBOCC that the road will be in Pasco County. Hillsborough County several times has tried to cooperate with Pasco County on the County Line Road Project/Willow Bend Parkway with no avail. We agree that the mitigation should be done on site.

However, we do not believe Hillsborough County's EPC can enforce the permit conditions as they do not have jurisdiction in Pasco County. We question what kind of precedence the EPC is setting.

We are requesting that this issue be placed on the agenda for the next scheduled EPC meeting.

Sincerely,

Gaye M. Townsend, President



Attachment: one/EPC/1-19-2000/ Mark A. Howard/Environmental Scientist

CC: HCBOCC

10/11/11

No. 52661

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMPLAINT REPORT

S-T-R 1 27 18

Date Received/Time: July 11 11:00 am

Taken By: D. Hart

Air Ecosystems Waste Water

Assign to: Assign to: Assign to: Assign to:

Complainant's Name: Roy Keene Phone: 949-6711

Complainant's Address: Zip:

Description: Complainant says that fill is being placed into a boghead off of County Line Road 1/4 mile east of HW 41. He said the work is supposed to be in Pasco county but that there is fill being placed about 300 yards into Hillsborough. He says there is to be a culvert placed across the road which will be in Hillsborough but that he had seen no sign of a culvert. It is unknown if any permits were issued or applied for in Hillsborough. (see attached)

Location: 1/4 mile east of HW 41 on County Line Rd.

Date of Investigation: 7/12/00 12:30-1:30 Investigator: Rowens

Findings and Action Taken Found fill being placed in a cypress swamp on the south side of County Line Rd. The Pasco/Hillsborough Ct. Line Road mitigation file shows the fill being placed in an area that is approved to be impacted. No filling noted in wetlands outside of the approved impact area.

Conclusion: No violation of Ch 1-11 noted.

Complaint Type: US
Alleged Source ID:
Date Complainant was Notified: 7/12/00
Date Complaint was Closed: 7/12/00

Staff	Min.
DH	10
RO	60
Total	70

Warning Notice(s) Issued? (Date/#): -78-

Attachment

ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMPLAINT REPORT

S-T-R 1 27 18

Date Received/Time: 7/14/00 @ 5:17

Taken By: Debbie Sulko

Air Ecosystems / Waste Water

Assign to: Assign to: Assign to: Assign to:

Complainant's Name: Rick Garrity, Exec. Director Phone: 7 via e-mail

Complainant's Address: Zip:

Description: County Line Rd wetland
impacts are not in compliance
with approved impacts

Location: County Line Rd. east of U.S. 41

Date of Investigation: 7/17/00 @ 11:20 - 11:55 Investigator: M. Thompson

Findings and Action Taken

- ① Contacted Tom Booth, Superintendent of Contractor Core + Grant.
- ② Silt fence had failed at 1 location and sediments have eroded ~ 10 ft into wetlands. Contact will remove.
- ③ Culverts were blocked off ~ 1 week ago. New culverts will be installed in ~ 2 weeks. Old culverts could be dug out if water level rose. No water was visible in wetlands. Old culverts invert is at least 3' higher than wetland grade. Lack of culverts is not causing wetland impact at this time.

Complaint Type: Item #2; Ch. 1-11 violation. Continue to monitor.

Alleged Source ID: Pasco Co. Core + Grant

Date Complainant was Notified:

Date Complaint was Closed:

Warning Notice(s) Issued? (Date/#): -79-

Attachment

Staff	Min.
<u>151</u>	<u>35</u>
Total	

7/29/00



No. 20496

HILLSBOROUGH COUNTY

Executive Director
272-5960

Date Issued: 7/25/00
S 1 T 27 R 18

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

WARNING NOTICE

Responsible Party (Company/Person) CONE & GRAHN CONSTRUCTION / ATTN: TOM BOOTH

Mailing Address: 5201 Cone Road, Tampa, FL 33610

Phone: _____

Location of alleged violation: Pasco and Hillsborough County Line Road Construction Project

Date and time of alleged violation: First noticed by EPC Staff on 7/19/00

Alleged violation pursuant to:

Chapter 84-446 Laws of Florida (Act):

CC: SWEWMD
PGMD
FCSO

- ___ (Act) Section 13 Unauthorized open burning
- ___ (Act) Section 16 Causing or allowing nuisance or injury
- ___ (Act) Section 17 Causing water/air/noise pollution

XX (Act) Section 17 Violating rule/standard/order:

Chapter 1-11 : Wetland Rule

Chapter _____ :

Other: _____

The violations here alleged may not include possible concurrent violations of other applicable environmental laws: local, state or federal including those of the Environmental Protection Commission. Facts believed to constitute alleged violation: _____

A wetland has been cleared and filled beyond approved impact limits.

Historic hydrology of the wetland has been altered.

By copy of this Notice, the responsible party is informed that Commission staff believes that based upon the information available, a violation may have occurred. If substantiated, appropriate administrative or legal action will occur to assure compliance with the Environmental Protection Act of Hillsborough County and the Rules of the Environmental Protection Commission of Hillsborough County. If you believe that the above does not constitute a violation as alleged, you are encouraged to immediately contact the Investigator named below. If the violation is substantiated, cooperative resolution and correction may avoid enforcement action in this matter. THIS CASE MAY BE TRANSFERRED FOR FURTHER ENFORCEMENT ACTION. NOTICE OF RIGHTS, NOTICE OF VIOLATION AND STEPS TO RESOLVE A WARNING NOTICE ENCLOSED. Because continuation of a violation subsequent to this Notice may be considered to be an intentional violation, it is recommended that you cease the above activity and until this matter is resolved you:

Restore the historic hydrologic connection to the wetland.

Remove the fill from the un-approved wetland impact area to the original grade of

the wetland. Contact issuing agent within 5 days to schedule a re-inspection.

Investigator: Michael S. Thompson Phone #: 272-5955 EXT 1219

Received by: CERTIFIED MAIL NUMBER

EPC Form No. WN 5/92

3 7099 3400 0001 9755 5482

Official Use Only

Other Div: A H W E

Type(s): _____

7100
CR



ME 20495

HILLSBOROUGH COUNTY

Executive Director city, Ph.D.
272-5960

Date Issued: 7/25/00
S1 T 27 R13

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY

WARNING NOTICE

Responsible Party (Company/Person) PASCO COUNTY PUBLIC WORKS / DON LUTH, PROJECT MANAGER

Mailing Address: Public Works Building, 7530 Little Road, New Port Richey, Florida 34654

Phone: 727/847-8154

Location of alleged violation: Pasco and Hillsborough County Line
Road Construction Project

Date and time of alleged violation: First noticed by EPC staff on 7/19/00

Alleged violation pursuant to:

Chapter 84-446 Laws of Florida (Act):

CC: SFWMD
PGMD
HCSO

- (Act) Section 13 Unauthorized open burning
- (Act) Section 16 Causing or allowing nuisance or injury
- (Act) Section 17 Causing water/air/noise pollution
- (Act) Section 17 Violating rule/standard/order:

Chapter 1-11: Wetland Rule

Chapter _____:

Other: _____

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Investigator: Michael S. Thompson Ext. 1219
Phone #: 272-5955

Received by: CERTIFIED MAIL NUMBER
7099 3400 0001 9756.6761

Michael S. Thompson
EPC Form No. WN 5/92

Official Use Only

Other Div: A H W E
Type(s): _____

AGENDA ITEM SUMMARY SHEET

Date: August 17, 2000

Agenda Item: Status Update on Hillsborough Independent Monitoring Program (HIMP)

Description /Summary:

Staff from EPC Wetlands and Water Management Divisions will present a status update on the HIMP to the EPC Board members. Staff will address HIMP budget and procurements, personnel issues, and accomplishments of the program to date. Staff will address whatever questions Board members may have. Please see attached briefing slides for additional background information.

Board Action Recommended:

None. Material is provided for informational purposes only.

From: Audi Canney
To: KOULIANOS, THOMAS
Date: Wednesday, July 19, 2000 5:33 pm
Subject: agenda item--July 19, 2000

Has the EPC board ever discussed Cogongrass, the invasive plant?
If not, we would like to set it for the next EPC agenda. Please
advise.

Storms office