

MAY 15, 2003 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, May 15, 2003, at 10:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Kathy Castor, Pat Frank (arrived at 10:13 a.m.), Ken Hagan, Jim Norman, Thomas Scott (arrived at 10:11 a.m.), and Ronda Storms (arrived at 10:16 a.m.).

Chairman Platt called the meeting to order at 10:10 a.m. Commissioner Hagan led in the pledge of allegiance to the flag and gave the invocation.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Mr. Larry Padgett, interim chairman, CEAC, stated the committee had taken a tour of CF Industries; reviewed EPC Chapter 1.6, fee schedule; and was given a legislative update. A letter regarding the American Lung Association AirWise for Pollution Recovery Fund would be presented to EPC members at the next meeting. CEAC elections were held at CF Industries, and Mr. David Jellerson was elected chairman for 2003.

CITIZENS COMMENTS

Mr. Dale Fischbach, 804 Lithia Pinecrest Road, requested to speak on the Lithia Ranch property and water issues. Dr. Richard Garrity, EPC Executive Director, suggested hearing comments when the presentation was made.

Ms. Dee Layne, Florida Chapter, Tampa Bay Group of the Sierra Club, spoke on the Florida Legislature Senate Bill 1660 and greenbelt designation. Chairman Platt said the Board of County Commissioners (BOCC) and EPC had taken procedural steps to oppose the bill.

SPECIAL PRESENTATION

Clean Air Month Presentation - Dr. Garrity said the month of May 2003 was designated as Clean Air Month in Hillsborough County, and staff would announce the winners of the photography contest. Mr. Jerry Campbell, EPC staff, stated several events had been planned for the month. Ms. Barbara Motte, EPC staff, presented the new television series called "Clean Living," which emphasized outreach activities regarding Clean Air Month and was produced in conjunction with Hillsborough Television 22.

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Mr. Campbell responded to queries of Commissioner Frank regarding coal-based energy. Ms. Phyllis Alexandroff, supervisor, Hillsborough County School Arts programs, talked about the photography contest and students creating a history of clean air, and she thanked the EPC for giving the students an opportunity to create a part of history.

Chairman Platt announced the results of the photography contest as follows: third place, Mr. Jordan Scott, Blake High School, received a certificate and \$75 savings bond; second place, Ms. Megan Kennedy, Alonso High School, received a certificate and a \$100 savings bond; and first place, Ms. Sara Rodie, Blake High School, received a certificate and a \$150 savings bond. Ms. Yvette Lowe, teacher, Alonso High School; Ms. Linda Galgani, teacher, Blake High School; and principal, Mr. Lewis Brinson, Blake High School, offered comments regarding student success and achievements.

CONSENT AGENDA

- A. Approval of Minutes: March 20, 2003
- B. Monthly Activity Reports
- C. Legal Department Monthly Report
- D. Pollution Recovery Fund
- E. Gardinier Settlement Trust Fund
- F. Request Authority to Initiate Appropriate Legal Action Regarding Strawberry Fields Mobile Home Park

Chairman Platt called for a motion to approve the Consent Agenda, **Commissioner Scott so moved, seconded by Commissioner Norman.** EPC General Counsel Richard Tschantz noted a representative from the Strawberry Fields Mobile Home Park was present, did not wish to speak, and had acknowledged they were trying to correct the violations. **The motion carried seven to zero.**

EXECUTIVE DIRECTOR REPORT

Request Commission Set June 12, 2003 at 10 a.m., as a Public Hearing to Consider Amendments to EPC Rule 1-6, and Authorize Appropriate Public Notice - Dr. Garrity said staff had looked at the fee structure to see if sufficient fees were being collected, and the EPC wanted to see if agency support was being properly allocated to the users.

Mr. Tom Koulianos, EPC Director of Finance and Administration, reviewed the fee study, Chapters 1-6, as provided in background material. The EPC requested approval to schedule a public hearing at the next EPC meeting on June 12, 2003, at 10 a.m., to consider the amendments. Mr. Koulianos responded to questions from Chairman Platt and Commissioners Frank and Norman regarding user fees and wetland mitigation fee increases. He said a public workshop would be conducted on May 28, 2003, and staff would notify the community. If the workshop was not approved, the Board could consider a phase-in or a less than 100 percent recovery. Responding to Chairman Platt, Attorney Tschantz explained there would be a general notice, and EPC would be receiving input at the workshop. **Commissioner Castor moved to proceed to set a public hearing on June 12, 2003, at 10:00 a.m. to consider the amendments, EPC Rules 1-6, and authorize the appropriate public notice. The motion was seconded by Commissioner Scott and carried six to zero.** (Commissioner Norman was out of the room.)

WETLANDS MANAGEMENT DIVISION

Consider Approval of Upland Preservation in Lieu of Wetland Creation Mitigation: (1) Tampa Nature Center and (2) Lithia Ranch - Using photographs, Ms. Jadell Kerr, EPC staff, reviewed the Tampa Nature Center, as provided in background material.

Chairman Platt called for public comment; there was no response. **Commissioner Storms moved staff recommendation, seconded by Commissioner Frank, and carried seven to zero.**

Regarding Lithia Ranch, Ms. Kerr used photographs to review the item, as provided in background material.

Chairman Platt called for public comment. Mr. Fischbach owned the property next to the project and had expressed concerns about flooding, inadequate drainage, and a retention pond. Ms. Kerr stated the water issue was not

relative to the preservation of the uplands in lieu of mitigation, and some issues would be addressed in the site design. The Planning and Growth Management Department (PGMD) and the Southwest Florida Water Management District (SWFWMD) would take care of drainage issues on the site. Responding to Chairman Platt, Ms. Kerr suggested recommending approval of the upland preservation, and staff would address concerns regarding water issues when the construction plans were reviewed. **Commissioner Storms moved to approve staff recommendation of the upland preservation proposal and ask as the EPC, in light of the comments made, to refer the stormwater section of the Public Works Department and PGMD to meet with Mr. Fischbach to discuss the concerns, and report back to the EPC. The motion was seconded by Commissioner Castor and carried seven to zero.**

ENVIRONMENTAL RESOURCES MANAGEMENT

Hillsborough Independent Monitoring Program, Preoperational Monitoring Results - Big Bend/Apollo - Dr. Garrity introduced the item. Mr. Gerold Morrison, Ph.D., EPC Director of Environmental Resources Management Division, said the program was currently done in four areas of the County, which were Apollo Beach and portions of the Hillsborough, Palm, and Alafia Rivers; the report concentrated on the Apollo Beach area. Mr. Morrison addressed funding, field and laboratory monitoring, administrative support, preoperational and water quality monitoring, ecological responses, and salinity monitoring. The purpose of the monitoring effort was to test predictions with water quality data. Data from 53 other stations in Tampa Bay was monitored by EPC monthly as part of an ongoing long-term water quality monitoring program. Staff would finalize the results of preoperational water quality and benthic monitoring data, technical reports would be assembled, and review comments from other environmental agencies in the area would be provided to the EPC. Also, staff would collect and analyze the post operational data for potential salinity impacts in the area and update the EPC. Mr. Morrison responded to questions of Commissioner Frank regarding salinity discharge. Dr. Garrity would bring that concern to the SWFWMD and report at the next meeting.

LEGAL DEPARTMENT

2003 Environmental Legislative Update - Attorney Tschantz discussed Senate Bill 1660, Agricultural Lands and Practices Act, and requested the EPC approve sending a letter to Governor Jeb Bush asking for a veto of the farm bill. **Commissioner Frank so moved, seconded by Commissioner Castor, and carried four to zero.** (Commissioners Hagan, Scott, and Norman were out of the room.) Dr.

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Garrity said comments could be made on the record after the bill had reached the Governor's office. Attorney Tschantz addressed other bills that passed that involved administrative procedures, risk-based corrective action, and the liability for dry-cleaning solvent cleanup projects. Following discussion regarding the dry-cleaning solvent cleanup project, **Commissioner Frank moved to send a letter to the Governor opposing that bill and to ask for a veto when the bill reached his desk. The motion was seconded by Commissioner Castor and carried five to zero.** (Commissioners Hagan and Scott were out of the room.) Attorney Tschantz addressed the water resources and phosphate severance tax bills that had failed. Discussion followed regarding the phosphate severance tax bill. Commissioner Castor left the meeting at 11:33 a.m.

There being no further business, the meeting was adjourned at 11:35 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:

RICHARD AKE, CLERK

By: _____
Deputy Clerk

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JUNE 4, 2003 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING - DRAFT
MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to consider Arbitration of Tampa Bay Water's (TBW) coapplication with the Florida Governmental Utility Authority (FGUA) to Renew the Water Use Permit for the Carrollwood Wells System, scheduled for Wednesday, June 4, 2003, at 2:05 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Vice Chairman Ronda Storms and Commissioners Kathy Castor, Pat Frank, Ken Hagan, Jim Norman, and Thomas Scott.

The following member was absent: Chairman Jan Platt (schedule conflict).

Vice Chairman Storms called the meeting to order at 2:39 p.m.

Attorney Rick Muratti, representing the EPC Legal Department and Water Resource Team (WRT), said the EPC and WRT had reviewed the coapplication and recommended the Board direct staff not to arbitrate the item. **Commissioner Norman so moved, seconded by Commissioner Hagan, and carried six to zero.** (Chairman Platt was absent.)

Vice Chairman Storms said the Board of County Commissioners sent a letter to Governor Jeb Bush requesting that he veto Senate Bill 676, and EPC General Counsel Richard Tschantz requested a similar letter be sent by the EPC. **Commissioner Scott so moved, seconded by Commissioner Castor.** Commissioner Frank noted the Metropolitan Planning Organization had met on the issue and supported a transportation bill. She suggested requesting the bill be put in special session to delete language that would take away local powers. Commissioner Norman suggested amending the motion to ask for the bill to be heard in special session, and if not, veto the bill. Commissioner Frank said the issue was to take off objectionable language in special session, and if that was not possible, veto the bill; **Commissioner Scott concurred. The motion carried six to zero.** (Chairman Platt was absent.)

WEDNESDAY, JUNE 4, 2003 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 2:42 p.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

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JUNE 10, 2003 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING - DRAFT
MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to consider an Offer of Judgment Regarding Putney v. Hillsborough County, scheduled for Tuesday, June 10, 2003, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Kathy Castor, Pat Frank, Ken Hagan, Jim Norman, Thomas Scott, and Ronda Storms.

Chairman Platt called the meeting to order at 9:44 a.m.

EPC General Counsel Richard Tschantz reported EPC had been dismissed from the lawsuit on a summary judgment, and a rehearing had been requested. Attorney Tschantz reviewed the EPC recommendation to reject the settlement offer and clarified that EPC wanted to bring the offer to the EPC Board in the event that the EPC was reinstated at a later date. **Commissioner Frank moved staff recommendation, seconded by Commissioner Norman, and carried seven to zero.**

There being no further business, the meeting was adjourned at 9:45 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

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JUNE 12, 2003 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, June 12, 2003, at 10:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Kathy Castor, Pat Frank, Ken Hagan, Jim Norman, Thomas Scott, and Ronda Storms (arrived at 10:40 a.m.).

Chairman Platt called the meeting to order at 10:07 a.m. Commissioner Hagan led in the pledge of allegiance to the flag and gave the invocation.

PUBLIC HEARING

Conduct Public Hearing to Consider Amendments to Chapters 1-6, Services Fee Schedule, Effective October 1, 2003 - Mr. Tom Koulianos, EPC Director of Finance and Administration, gave an overhead presentation on the final public hearing for the adoption of recommended changes to the fee schedule, as provided in background material. Staff requested the EPC approve the new fees, which would be effective October 1, 2003. Mr. Koulianos and Dr. Richard Garrity, EPC Executive Director, answered questions of Commissioner Frank regarding permits and penalty fees.

Chairman Platt called for public comment. Mr. Wayne Echelberger, representing the Citizens Environmental Advisory Committee (CEAC), stated increases were discussed at the last CEAC meeting, and the CEAC recommended the EPC approve the modified rules following the workshop. Dr. Garrity and Mr. Koulianos answered questions of Commissioner Frank regarding fee adjustments. **Commissioner Frank moved approval of the revised fee structure, seconded by Commissioner Scott, and carried five to one; Commissioner Hagan voted no.** (Commissioner Storms had not arrived.)

CEAC

Report From the Chairman, David Jellerson - Mr. Echelberger reported that at the June 2, 2003, meeting, the CEAC had been given a presentation concerning phosphate mining, permitting, and regulations required by the EPC, and EPC General Counsel Richard Tschantz had given a legislative update. The CEAC had expressed concern about Senate Bill (SB) 1660, Agricultural Lands and Practices Act; SB 676, transportation; and SB 956, dry-cleaning solvent cleanup programs. Understanding that the EPC had sent a letter to Governor Jeb Bush asking him to veto those bills, Mr.

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Echelberger asked that the CEAC be allowed to make the same request to the Governor. Chairman Platt called for a motion to authorize the CEAC to send the letter. **Commissioner Frank so moved, seconded by Commissioner Castor, and carried six to zero.** (Commissioner Storms had not arrived.)

CONSENT AGENDA

- A. Approval of Minutes: March 20, 2003; April 2, 2003; April 22, 2003; April 23, 2003; and May 7, 2003
- B. Monthly Activity Reports
- C. Legal Department Monthly Report
- D. Pollution Recovery Fund
- E. Gardinier Settlement Trust Fund

Chairman Platt called for a motion to approve the Consent Agenda. **Commissioner Scott moved the Consent Agenda, seconded by Commissioner Castor, and carried six to zero.** (Commissioner Storms had not arrived.)

EXECUTIVE DIRECTOR

Dr. Garrity said the phosphate mining bill was discussed in the legislative session, and there was an agreement on the issues that involved creating a fund to address future phosphate mine abandonments. The EPC suggested writing a letter to the Governor requesting that the bill be introduced and acted on at another special session. **Commissioner Frank moved to send the letter, seconded by Commissioner Scott, and carried six to zero.** (Commissioner Storms had not arrived.)

AIR MANAGEMENT DIVISION

Staff Report - Briefing on Recent Ammonia Gas Release - Mr. Sterlin Woodard, EPC staff, introduced the item. Special Operations Chief Ronald Rogers, Hillsborough County Fire Rescue Department, circulated information and gave an update on the anhydrous ammonia pipeline incident. He addressed issues of additional fire hydrants, personnel, water supply, and security. **Commissioner Storms moved to have the information referred to the Board of County Commissioners (BOCC), not just the EPC, to make sure the graphic information**

system (GIS) and mapping staff made sure the issue was taken care of, provide assistance, and look at requiring corporations like those to have an appropriate alarm system and safety measures. She wanted to be kept apprised of the issue. Commissioner Norman commented there should be sensors on the valve boxes to prevent tampering, and the Fire Rescue Department should put together a request so that the BOCC could take appropriate action. Commissioner Frank felt it would be best to refer the issue to the Executive Policy Group, because of the group's representation. **Commissioner Storms accepted that as an amendment to the motion and Commissioner Frank seconded the motion.**

Following discussion, **Commissioner Storms amended the motion to include that the Fire Rescue Department would make a recommendation to the BOCC, including a recommendation to refer the issue.** Commissioner Norman wanted the motion to include the BOCC considering going into closed session to hear from the Fire Rescue Department about anything that could be done to help pursue actions with the pipeline company. Commissioner Storms said that could be done as the BOCC. Responding to Chairman Platt, Chief Rogers said the report had been finalized. Commissioner Storms clarified the motion was that the recommendation of the Fire Rescue Department would go to the BOCC with a recommendation to refer the issue over so that the EPC could take official action to refer all the information to the Executive Policy Group. **The motion carried six to zero.** (Commissioner Scott was out of the room.) Mr. Woodard discussed minimizing ammonia releases, improved security, and better response.

ENVIRONMENTAL RESOURCES MANAGEMENT

Hillsborough Independent Monitoring Program (HIMP) Update - Lower Hillsborough River - Mr. Gerold Morrison, Ph.D., EPC Director of Environmental Resources Management Division, gave an update of the HIMP, which involved funding, collected data, preoperational environmental monitoring, sediment quality, and other monitoring programs. Monitoring was done as a response to concerns about potential cumulative impacts of ongoing withdrawals of water from the reservoir and future planned water supply projects.

Dr. Garrity responded to questions of Commissioner Frank regarding funding. **Commissioner Storms moved that the EPC send a letter to County Administrator Daniel A. Kleman, calling attention to the importance of the Water Resource Team and let the BOCC deal with the issue. The motion was seconded by Commissioner Frank and carried four to zero.** (Commissioners Hagan, Norman, and Scott were out of the room.)

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Commissioner Castor highlighted the importance of protecting the Hillsborough River watershed in Northeast Hillsborough, Pasco, and Polk Counties.

There being no further business, the meeting was adjourned at 11:20 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

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JULY 17, 2003 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, July 17, 2003, at 10:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Jan Platt and Commissioners Kathy Castor, Pat Frank, Ken Hagan, Jim Norman, Thomas Scott (arrived at 10:27 a.m.), and Ronda Storms (arrived at 10:10 a.m.).

Chairman Platt called the meeting to order at 10:07 a.m. and led in the pledge of allegiance to the flag. Commissioner Hagan gave the invocation.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, added an update on Piney Point and briefing on Coronet Industries to the agenda. Chairman Platt called for a motion to accept the agenda. **Commissioner Castor so moved, seconded by Commissioner Norman, and carried five to zero.** (Commissioners Scott and Storms had not arrived.)

CITIZENS COMMENTS

Chairman Platt called for public comment; there was no response. (Resumed later in the meeting.)

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Mr. Wayne Echelberger, CEAC member, said the CEAC meeting in July was an unofficial meeting due to the lack of a quorum. CEAC supported budget recommendations for the EPC. Mr. Echelberger hoped to provide a response soon on the American Lung Association AirWise program. The subcommittee would meet again on July 21, 2003, for further consideration of recent information. Concern was expressed with regard to the Piney Point wastewater treatment and disposal program. CEAC had requested EPC staff arrange a Florida Department of Environmental Protection (FDEP) presentation on the program.

CONSENT AGENDA

- A. Approval of Minutes: None.
- B. Monthly Activity Reports.
- C. Legal Department Monthly Report.
- D. Pollution Recovery Fund.
- E. Gardinier Settlement Trust Fund.

F. Authorize the Executive Director to execute petroleum cleanup contract amendment with the FDEP.

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

CITIZENS COMMENTS - RESUMED

Ms. Marilyn Smith, County resident, had reviewed the EPC budget recommendations. She perceived there was an ability to recover "front" money and discussed the need for digitally preserving older documents.

EXECUTIVE DIRECTOR

Dr. Garrity outlined reassignment of staff members and utilized an overhead presentation to review the fiscal year (FY) 2004-2005 budget recommendations. Dr. Garrity requested authorization to ask the Board of County Commissioners (BOCC) to flag the additional fee revenues, so they could be added to the County Administrator's budget, and to flag the enhancements that were not already included in the County Administrator's budget. Commissioner Norman referenced the Florida Department of Transportation (FDOT) change and asked if there would be any shifting of responsibilities to the State and whether there would be an opportunity for a contract, so the EPC could maintain review over projects and offset employee costs. Dr. Garrity would discuss the idea with FDOT. **Commissioner Norman moved to flag the recommendations for the EPC, seconded by Commissioner Storms, which carried seven to zero.**

Commissioner Norman pointed out the agriculture issue had been changed and passed by the legislature. Updates to present rules would trigger the State law and change the EPC oversight of agriculture. Commissioner Norman wanted legal staff to research the issue to see if an addendum versus opening the rule would accomplish what the EPC currently did. **Commissioner Norman moved to have legal staff research that. Commissioner Storms seconded the motion.** Commissioner Norman clarified he wanted a review brought back to the next EPC meeting. Commissioner Frank opined the law was not legal, because it had an exemption for Broward County, and suggested the EPC challenge the law. Attorney Rick Muratti, EPC Legal Department, said the EPC had discussed that issue and could look into those aspects and analyze the bill. While that was being researched, Commissioner Scott asked if the EPC could request an Attorney General opinion or Florida Association of Counties review. **Commissioner Norman accepted that as an amendment to the motion. The amended motion carried seven to zero.**

ENVIRONMENTAL RESOURCES MANAGEMENT (ERM)

Hillsborough Independent Monitoring Program (HIMP) Update - Palm River/McKay Bay Area Staff Report - Dr. Gerold Morrison, Director, EPC ERM Division, said the EPC had requested the information in response to citizens' issues about potential cumulative long-term impacts of existing and proposed water supply projects. In addition to water withdrawal issues, Dr. Morrison pointed out issues related to changes in watershed. Dr. Morrison reported on the water quality in Palm River and McKay Bay. Dr. Morrison planned to summarize data, put together a series of technical reports on all HIMPs in the fall, continue to collect data, update the EPC if an issue warranted an immediate update, and put together a more comprehensive update in 2005.

Dr. Morrison responded to Chairman Platt and Commissioners Frank and Castor regarding the status of the Army Corps of Engineers project, health and safety, obligation to post notice, and whether Palm River was spring fed. Dr. Garrity would make sure the Florida Fish and Wildlife Conservation Commission received data to make health assessments, and as requested by Chairman Platt, he would provide data to Mr. George Henderson, Agency on Bay Management, who assessed fish. Dr. Morrison reported much coordination occurred through the estuary program.

STAFF REPORTS

Update on Piney Point - Chairman Platt had requested an update to be sure current existing gypsum stacks in Hillsborough County would not ultimately cause a problem similar to what was occurring with Piney Point. Dr. Garrity updated the EPC on what was occurring at Piney Point, the gulf discharge, financial trust funds, and discussed Cargill and CF Industries gypsum stacks.

Ms. Suzanne Cooper, principal planner, Tampa Bay Regional Planning Council, and staff for the Agency on Bay Management, discussed inaccuracies reported in the media and steps taken to reclaim and remove water from Piney Point and submitted written information. Mr. Gary Uebelhoer, Environmental Consulting and Technology, detailed information mentioned by Ms. Cooper and explained the process to remove water from the site. As requested by Commissioner Castor, Mr. Uebelhoer summarized the long-term plan for gypsum stack closure and reclamation of the site. Chairman Platt said the initial permit allowed the disbursal to begin 40 nautical miles offshore and commented on the controversy with that. Mr. Uebelhoer explained the permit had not been amended, but an independent observer was reviewing the disbursal plans on behalf of the Southern Offshore Fishing Association.

Mr. Charles Kovach, Florida Department of Environmental Protection, reviewed monitoring activities occurring in Bishops Harbor related to discharges. In reply to queries by Chairman Platt, Mr. Kovach said the disbursal would neither kill nor negatively impact fish. Mr. Uebelhoer said the lime treatment process effectively removed metal from the water. The level of remnant metals in the water following treatment met all water quality criteria for potable water, fresh water, and marine water.

Chairman Platt asked if there were guarantees so Hillsborough County would not face similar situations with gypsum stacks belonging to Cargill and CF Industries. Dr. Garrity discussed closure and financial assurance requirements that were part of the FDEP rules. As requested by Chairman Platt, Attorney Muratti said legal staff would look at the requirements and return with a recommendation for legislation that could strengthen the requirements.

Briefing on Coronet Industries (Coronet) - Mr. Jerry Campbell, EPC Air Management Division staff, said citizens in the area had claimed high levels of health problems due to activities at Coronet and associated closed landfills in the area. Another issue was a request before the city of Plant City commission to rezone 100 + acres north of Coronet to allow an additional 2,600 homes. Plant City continued the decision until January 2004 for State and federal health studies. The other issue was the ongoing saga the EPC and the State had shared trying to get Coronet to comply with environmental regulations. Mr. Campbell displayed an aerial map of the area and said phosphate manufacturing and operations had been ongoing since 1903. Issues included periodic discharges to English Creek, potential groundwater contamination, and air violations. To date groundwater contamination was limited to the site.

Mr. Paul Schipfer, EPC Waste Management Division, discussed landfills in the area, none of which had operated since 1967. The neighborhood that had expressed concern had been on city water since 1964. The EPC did not actively investigate old landfills until someone tried to utilize that site or immediately adjacent properties. The Health Department would be looking at the wells, and the federal or State agencies would be looking together to determine the cancer risk.

Commissioner Storms moved to send a letter of support to the Plant City commission, thanking them for taking the position, as the EPC, not as the BOCC. In reply to Chairman Platt, Commissioner Storms clarified the Plant City commission position was to delay until the studies were made.

Commissioner Castor seconded the motion, which carried four to zero. (Commissioners Hagan, Norman, and Scott were out of the room.) Discussion included auditing Coronet Industries, toxic substances, and sampling private wells.

Ms. Cindy Morris, Hillsborough County Health Department, reviewed State and federal plans to assess the problem. Commissioner Frank pointed out the Plant City commission had delayed action until January 2004 and expressed concern that the study would not be completed in time. Chairman Platt expressed concern that the map did not show public water lines or if public wells were in that area. Ms. Morris explained that would be part of the assessment from the overlay of geographic information system data from utilities. Ms. Morris would work with Dr. Garrity to make sure the EPC was updated monthly on the assessment and findings.

Chairman Platt commented on a television segment where an employee of Coronet had said he was instructed to dispose of questionable material into the lake. Dr. Garrity had also seen the segment and noted there was an accusation of bypassing air pollution control devices. Dr. Garrity would look into that in conjunction with the State Attorney's Office and Sheriff's Office. Chairman Platt suggested Dr. Garrity refer the State Attorney to the television segment.

Commissioner Frank referenced a preliminary report from the U.S. Agency for Toxic Substances and Disease Registry (ATSDR) and suggested the EPC be aggressive in telling Plant City to go slowly on development until issues were resolved. Dr. Garrity would brief the EPC monthly. Dr. Garrity suggested meeting with Plant City residents and possibly having a town hall meeting in the area. Commissioner Norman perceived the EPC had done that by attending the zoning meeting, and he complimented the Plant City commission for delaying action and recognizing the development pattern. Commissioner Storms wanted to make sure the County did not exacerbate stormwater drainage problems. Chairman Platt requested an update on Piney Point and Coronet at the next EPC meeting.

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There being no further business, the meeting was adjourned at 12:08 p.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

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MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
JULY

A.	Public Outreach/Education Assistance:	
1.	Phone Calls:	<u>272</u>
2.	Literature Distributed:	<u>18</u>
3.	Presentations:	<u>0</u>
4.	Media Contacts:	<u>7</u>
5.	Internet:	<u>64</u>
6.	Host/Sponsor Workshops, Meetings, Special Events	<u>0</u>
B.	Industrial Air Pollution Permitting	
1.	Permit Applications Received (Counted by Number of Fees Received):	
a.	Operating:	<u>1</u>
b.	Construction:	<u>2</u>
c.	Amendments:	<u>0</u>
d.	Transfers/Extensions:	<u>0</u>
e.	General:	<u>1</u>
f.	Title V:	<u>0</u>
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected) - (² Counted by Number of Emission Units affected by the Review):	
a.	Operating ¹ :	<u>5</u>
b.	Construction ¹ :	<u>20</u>
c.	Amendments ¹ :	<u>0</u>
d.	Transfers/Extensions ¹ :	<u>0</u>
e.	Title V Operating ² :	<u>22</u>
f.	Permit Determinations ² :	<u>3</u>
g.	General:	<u>2</u>
3.	Intent to Deny Permit Issued:	<u>0</u>
C.	Administrative Enforcement	
1.	New cases received:	<u>1</u>
2.	On-going administrative cases:	
a.	Pending:	<u>3</u>
b.	Active:	<u>15</u>
c.	Legal:	<u>4</u>
d.	Tracking compliance (Administrative):	<u>26</u>
e.	Inactive/Referred cases:	<u>0</u>
	Total	<u>48</u>
3.	NOIs issued:	<u>7</u>
4.	Citations issued:	<u>0</u>
5.	Consent Orders Signed:	<u>2</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$2,705</u>
7.	Cases Closed:	<u>0</u>

D.	Inspections:	
1.	Industrial Facilities:	<u>14</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>7</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>18</u>
E.	Open Burning Permits Issued:	<u>7</u>
F.	Number of Division of Forestry Permits Monitored:	<u>270</u>
G.	Total Citizen Complaints Received:	<u>49</u>
H.	Total Citizen Complaints Closed:	<u>41</u>
I.	Noise Sources Monitored:	<u>3</u>
J.	Air Program's Input to Development Regional Impacts:	<u>7</u>
K.	Test Reports Reviewed:	<u>14</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>22</u>
2.	Warning Notices Resolved:	<u>26</u>
3.	Advisory Letters Issued:	<u>6</u>
M.	AOR's Reviewed:	<u>22</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>6</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
JULY

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$ 480.00</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>\$ 200.00</u>
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$ 800.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$ 80.00</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>\$1,380.00</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>\$ -0-</u>
8. Open burning authorization	<u>\$2,975.00</u>
9. Enforcement Costs	<u>\$2,478.16</u>

COMMISSION
 Kathy Castor
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 Thomas Scott
 Ronda Storms




Administrative Offices,
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 Wetlands Management Fax 272-7144
 1410 N. 21st Street • Tampa, FL 33605

Executive Director
 Richard D. Garrity, Ph.D.

MEMORANDUM

DATE: August 12, 2003

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 JULY 2003
 AGENDA INFORMATION**

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	10
2. On-going administrative cases	124
a. Pending	37
b. Active	59
c. Legal	4
d. Tracking Compliance (Administrative)	24
e. Inactive/Referred Cases	0
3. NOI's issued	3
4. Citations issued	0
5. Settlement Documents Signed	0
6. Civil Contributions to the Pollution Recovery Fund	\$2,000
7. Enforcement Costs collected	\$544
9. Cases Closed	0

B. SOLID AND HAZARDOUS WASTE

1. Permits (received/reviewed)	56/51
2. EPC Authorization for Facilities NOT requiring DEP permit	0/1
3. Other Permits and Reports	
a. County Permits	4/4
b. Reports	52/46
4. Inspections (Total)	222
a. Complaints	51
b. Compliance/Reinspections	17
c. Facility Compliance	28
d. Small Quantity Generator	126
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	45/38
b. Warning Notices Issued/Closed	3/1
c. Compliance letters	31
d. Letters of Agreement	1
e. DEP Referrals	1
6. Pamphlets, Rules and Material Distributed	330

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	98
b. Installation	27
c. Closure	6
d. Compliance Re-Inspections	18
2. Installation Plans Received/Reviewed	5/4
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	4/4
b. Closure Reports Received/Reviewed	4/5
4. Enforcement	
a. Non-compliance Letters Issued/Closed	47/26
b. Warning Notices Issued/Closed	3/6
c. Cases referred to Enforcement	6
d. Complaints Received/Investigated	0
e. Complaints Referred	0
5. Discharge Reporting Forms Received	4
6. Incident Notification Forms Received	15
7. Cleanup Notification Letters Issued	4
8. Public Assistance	200+

D. STORAGE TANK CLEANUP

1. Inspections	13
2. Reports Received/Reviewed	92/62
a. Site Assessment	21/18
b. Source Removal	4/2
c. Remedial Action Plans (RAP's)	14/6
d. Site Rehabilitation Completion Order/ No Further Action Order	5/5
e. Others	48/31
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

E. RECORD REVIEWS

34

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
JULY, 2003**

A. ENFORCEMENT

1. New Enforcement Cases Received:	2
2. Enforcement Cases Closed:	3
3. Enforcement Cases Outstanding:	41
4. Enforcement Documents Issued:	5
5. Recovered costs to the General Fund:	\$920.86
6. Contributions to the Pollution Recovery Fund:	\$3,477.86

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Rainbow Forest	Improper Operation/Failure to Maintain/Violation of Permit Conditions	\$ 947.86
b. Hopco Office Building	Placement of C/S in Service w/o Acceptance	\$ 500.00
c. Sunburst/Tampa East Campground	Improper Operation/Failure to Maintain/Water Pollution/ Violation of Permit Conditions	\$1,000.00
d. Paul Jallo Shell	Placement of C/S in Service w/o Acceptance	\$ 500.00
e. Kaupe Tract	Placement of C/S in Service w/o Acceptance	\$ 500.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	31
a. Facility Permit:	2
(i) Types I and II	1
(ii) Type III	1
b. Collection Systems-General:	19
c. Collection Systems-Dry Line/Wet Line:	10
d. Residuals Disposal:	0
2. Permit Applications Approved:	
a. Facility Permit:	5
b. Collection Systems-General:	21
c. Collection Systems-Dry Line/Wet Line:	8
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0

4. Permit Applications (Non-Delegated)	
Recommended for Approval:	<u>0</u>
5. Permits Withdrawn:	<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>
6. Permit Applications Outstanding:	<u>16</u>
a. Facility Permit:	<u>29</u>
b. Collection Systems-General:	<u>4</u>
c. Collection Systems-Dry Line/Wet Line:	<u>0</u>
d. Residuals Disposal:	
7. Permit Determination:	<u>7</u>
8. Special Project Reviews:	
a. ARs:	<u>1</u>
b. Reuse:	<u>0</u>
c. Residuals/AUPs:	<u>0</u>
d. Others:	<u>2</u>
C. INSPECTIONS - DOMESTIC	
1. Compliance Evaluation:	<u>12</u>
a. Inspection (CEI):	<u>1</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>37</u>
a. Inspection (RI):	<u>13</u>
b. Sample Inspection (SRI):	<u>0</u>
c. Complaint Inspection (CRI):	<u>23</u>
d. Enforcement Inspection (ERI):	<u>1</u>
3. Engineering Inspections:	
a. Reconnaissance Inspection (RI):	<u>9</u>
b. Sample Reconnaissance Inspection (SRI):	<u>0</u>
c. Residual Site Inspection (RSI):	<u>0</u>
d. Preconstruction Inspection (PCI):	<u>7</u>
e. Post Construction Inspection (XCI):	<u>41</u>
f. On-site Engineering Evaluation:	<u>0</u>
g. Enforcement Reconnaissance Inspection (ERI):	<u>0</u>
D. PERMITTING/PROJECT REVIEW - INDUSTRIAL	
1. Permit Applications Received:	<u>0</u>
a. Facility Permit:	<u>1</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>1</u>
(iii) Type III w/o groundwater monitoring	<u>1</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>2</u>
3. Special:	<u>2</u>
a. Facility Permits:	<u>1</u>
b. General Permits:	<u>1</u>
4. Permitting Determination:	<u>2</u>
5. Special Project Reviews:	
a. ARs:	<u>2</u>
b. Phosphate DMRs:	<u>15</u>
c. Phosphate:	<u>6</u>
d. Industrial Wastewater:	<u>2</u>
e. Others:	<u>2</u>
E. INSPECTIONS - INDUSTRIAL	
1. Compliance Evaluation:	<u>6</u>
a. Inspection (CEI):	<u>6</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>13</u>
a. Inspection (RI):	<u>6</u>
b. Sample Inspection (SRI):	<u>0</u>
c. Complaint Inspection (CRI):	<u>7</u>
3. Engineering Inspections:	<u>0</u>
a. Compliance Evaluation (CEI):	<u>2</u>
b. Sampling Inspection (CSI):	<u>0</u>
c. Performance Audit Inspection (PAI):	<u>0</u>
d. Complaint Inspection (CRI):	<u>0</u>
e. Enforcement Reconnaissance Inspections (ERI):	<u>0</u>
F. INVESTIGATION/COMPLIANCE	
1. Citizen Complaints:	
a. Domestic:	<u>10</u>
(i) Received:	<u>5</u>
(ii) Closed:	<u>2</u>
b. Industrial:	<u>8</u>
(i) Received:	<u>4</u>
(ii) Closed:	<u>4</u>

2. Warning Notices:	
a. Domestic:	<u>13</u>
(i) Received:	<u>9</u>
(ii) Closed:	<u>4</u>
b. Industrial:	<u>2</u>
(i) Received:	<u>1</u>
(ii) Closed:	<u>1</u>
3. Non-Compliance Advisory Letters:	<u>26</u>
4. Environmental Compliance Reviews:	<u>89</u>
a. Industrial:	<u>34</u>
b. Domestic:	<u>55</u>
5. Special Project Reviews:	<u>0</u>
a. ARs:	<u>0</u>
b. Others:	<u>0</u>
G. RECORD REVIEWS	<u>7</u>
1. Permitting:	<u>6</u>
2. Enforcement:	<u>1</u>
H. ENVIRONMENTAL SAMPLES ANALYSED FOR	
1. Air Division:	<u>71</u>
2. Waste Division:	<u>0</u>
3. Water Division:	<u>57</u>
4. Wetlands Division:	<u>0</u>
5. ERM Division:	<u>125</u>
I. SPECIAL PROJECT REVIEWS	
1. DRI's:	<u>4</u>
2. ARs:	<u>0</u>
3. Technical Support:	<u>2</u>
4. Other:	<u>5</u>

AR07.03

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
July 2003**

A. General	Totals
1. Telephone Conferences	1064
2. Unscheduled Citizen Assistance	71
3. Scheduled Meetings	209
4. Correspondence	527
B. Assessment Reviews	
1. Wetland Delineations	37
2. Surveys	42
3. Miscellaneous Activities in Wetland	36
4. Impact/ Mitigation Proposal	22
5. Tampa Port Authority Permit Applications	56
6. Wastewater Treatment Plants (FDEP)	12
7. DRI Annual Report	6
8. Land Alteration/Landscaping	2
9. Land Excavation	1
10. Phosphate Mining	0
11. Rezoning Reviews	18
12. CPA	0
13. Site Development	28
14. Subdivision	80
15. Wetland Setback Encroachment	0
16. Easement/Access-Vacating	5
17. Pre-Applications	30
18. On-Site Visits	92
C. Investigation and Compliance	
1. Complaints Received	35
2. Complaints Closed	61
3. Warning Notices Issued	13
4. Warning Notices Closed	15
5. Complaint Inspections	55
6. Return Compliance Inspections	0
7. Mitigation Monitoring Reports	30
8. Mitigation Compliance Inspections	42
9. Erosion Control Inspections	100
D. Enforcement	
1. Active Cases	44
2. Legal Cases	1
3. Number of "Notice of Intent to Initiate Enforcement"	1
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	6
6. Administrative - Civil Cases Closed	4
7. Cases Referred to Legal Department	6
8. Contributions to Pollution Recovery	\$1,650
9. Enforcement Costs Collected	\$1,120

EPC LEGAL DEPARTMENT MONTHLY REPORT
August 2003

A. ADMINISTRATIVE CASES

NEW CASES [0]

EXISTING CASES [4]

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. It was 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 and staff requested additional information only a portion of which was delivered. However, an alternate remedial plan was approved and staff is reviewing the final report. (RT)

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. On September 14, 2000, Mr. Cone signed a Settlement Letter to resolve this case. In addition to prohibiting Mr. Cone from conducting night time operation of heavy duty rock hauling, the Settlement Letter provided for payment of \$1,074.00 as reimbursement for costs and expenses associated with the investigation and resolution of this matter. To date, Mr. Cone has not paid the agreed upon amount. Options for collection of the agreed upon amount are being investigated. (RT)

Tampa Bay Organics [LTBOF00-007]: Tampa Bay Organics, a wood and yard waste 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. A civil complaint was filed June 29, 2001. (*See related case under Civil Cases*). (RT)

Roy & Edith Rock and MNH, Inc.: [LROC02-031]: Respondents filed a Notice of Appeal on October 7, 2002 challenging a Citation alleging improper handling of wastes and finding of soil and groundwater contamination on the property. The matter has been referred to a Hearing Officer and a case management conference was scheduled for November 18, 2002. The matter is being held in abeyance pending a circuit court litigation case that may resolve the liability issue for the contamination. On May 21, 2003, the circuit court judge, in a property dispute case, determined that the Respondents are responsible for cleanup of petroleum contamination located at the property. The matter has been set for a re-hearing for August 7, 2003. In the event the re-hearing is denied the abeyance will be lifted in the case and the matter will be set for hearing. (AZ)

RESOLVED CASES [1]

Sapp, Richard [LSAP01-016] & [LSAP01-033]: On July 9, 2001, an applicant for an Executive Director's Authorization for wetland impacts filed a Notice of Appeal regarding the Executive Director's denial of the application. The Appeal has been referred to a Hearing Officer for an Administrative Hearing. Limited discovery has been sent by the EPC in the case. The EPC also issued a citation and order to correct regarding alleged wetland violations currently on the property. The citation was appealed and a new case was opened and referred to the Hearing Officer. The EPC has asked the hearing officer to consolidate the two cases. The parties attended mediation on November 5, 2001 and November 27, 2001. Discovery is ongoing in the case. The EPC Wetlands staff have conceptually approved the mitigation package and the Natural Resource Conservation Service (NRCS) has taken the lead in providing the site specific plans to demonstrate justification for the proposed project. The parties have reached an agreement authorizing impacts and for settlement of the enforcement case. The parties have signed a Consent Order that provided for payment of penalties for the unauthorized impacts but authorized future wetland impacts for additional construction. The matter has been relinquished back to the EPC Board and the case is being closed. (AZ)

B. CIVIL CASES

NEW CASES | 0 |

EXISTING CASES | 7 |

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. On September 14, 2000, Mr. Cone signed a Settlement Letter to resolve this case. In addition to prohibiting Mr. Cone from conducting night time operation of heavy duty rock hauling, the Settlement Letter provided for payment of \$1,074.00 as reimbursement for costs and expenses associated with the investigation and resolution of this matter. To date, Mr. Cone has not paid the agreed upon amount. Options for collection of the agreed upon amount are being investigated. (RT)

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. The EPC filed suit for injunctive relief and penalties and costs on March 8, 2001. The Defendant has failed to respond to the complaint and on July 9, 2001 the court entered a default against the Defendant. On August 28, 2001 the court entered a Default Final Judgment in the case. On March 12, 2002 the EPC obtained an amended Final Judgment that awarded the EPC \$15,000 in penalties and allows the agency to complete the work through Pollution Recovery Fund (PRF) money and to assess these costs back to the Defendant. On April 12, 2002 Ms. Maynard applied for state assistance for cleanup of any contamination at the site. The Defendant has become eligible for state assistance to cleanup any contamination on the property. The parties are attempting to negotiate a sale of the property and have the buyers perform the corrective actions. The federal IRS is preparing to liquidate the property to pay unpaid tax liens assessed on the property. The EPC Legal staff is negotiating with the IRS to satisfy the terms of the judgment and get the site into compliance. (AZ)

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

Tampa Bay Organics [LTBO01-015]: Authority was requested and received by the EPC on April 19, 2001 to initiate judicial enforcement with respect to failure to comply with a Director's Authorization and failure to obtain an air pollution source permit for the operation of a wood and yard waste recycling facility. EPC filed a civil complaint on June 29, 2001. A motion to dismiss was denied on October 24, 2002. Settlement discussions are ongoing. (*See related case under Administrative Cases*). (RT)

Louis and Jeanie Putney [LPUT01-007]: The Plaintiffs Louis and Jeanie Putney filed suit against the EPC alleging inverse condemnation by denying them authorization for impacts to wetlands on their property. The Plaintiffs filed suit against Hillsborough County in 2001 and on August 9, 2002 they amended their complaint to include the EPC. The EPC filed its response to the Plaintiffs' lawsuit and is currently proceeding in discovery. The EPC has filed a Motion for Summary Judgment seeking a ruling in its favor based on there being no disputed facts in the case. The motion was heard by the Court on March 3, 2003. The judge entered summary judgment in favor of the EPC and provided the Plaintiffs 20 days to file an amended lawsuit. The deadline for filing an appeal is April 16, 2003. The Plaintiffs filed a Motion for a Re-hearing on the summary judgment. On July 18, 2003 the court granted the Plaintiffs' motion to vacate the summary judgment. The EPC's renewed motion for summary judgment will be heard on October 15, 2003. (AZ)

Flamingo Apartments/Abe Vaknin [LGOO02-004]: EPC approved suit against this carwash facility in 2002. After repeated attempts to settle this matter, the EPC staff filed suit against the former owner and president of the facility that discharged carwash facility wastewater into waters of the County without a permit. Flamingo Apartments and Mr. Vaknin have been served. EPC now only seeks penalties and costs, because the facility has been closed. (RM)

Strawberry Fields Ventures, LLC [LSTR03-012]: EPC and Strawberry Fields Ventures, LLC (d/b/a Strawberry Fields Mobile Home Park) entered into a consent order on August 12, 2002, to resolve multiple wastewater treatment and disposal violations at this mobile home park in Plant City. The facility has not come into compliance with the majority of the consent order conditions, the facility has new violations, and the facility has not provided proper proof of financial assurance to qualify for issuance of a permit renewal. The EPC will file suit, but the parties are close to a settlement by Consent Final Judgment outlining an amended timeline to comply. (RM)

RESOLVED CASES [1]

Rae-Mac Investments Corporation [LRAE003-003]: The EPC Board approved suit against the purchaser of the former Star Service gasoline station that is the subject of the closed Nutmeg lawsuit described below. On May 16, 2003, the EPC Legal Department filed a lawsuit against Rae-Mac Investments Corporation to compel corrective actions and to resolve all outstanding violations and liens at the site. The EPC and the Defendant entered into a Consent Final Judgment on July 14, 2003 to amicably settle the matter. The judgment provides for payment of costs and corrective actions to obtain compliance at the site. The case is now closed. (AZ)

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

ENVIRONMENTAL PROTECTION COMMISSION
 OF HILLSBOROUGH COUNTY
 POLLUTION RECOVERY TRUST FUND
 AS OF JULY 31, 2003

Fund Balance as of 10/01/02		\$1,601,788
Interest Accrued	FY03	45,256
Deposits	FY03	261,543
Disbursements	FY03	145,581

Fund Balance \$1,763,006

Encumbrances Against Fund Balance:

Art. Reef FY03	26,662
(66) Asbestos Abatement	4,486
(73) Balm Road Scrub	300,000
(84b) Cockroach Bay Aerial Photos	16,188
(90) Upper Tampa Bay Trail	71,339
(91) Alafia River Basin	25,233
(92) Brazilian Pepper	26,717
(93) Rivercrest Park	15,000
(95) COT Stormwater Improvement	37,800
(96) H. C. Parks/Riverview Civic	- 0 -
(97) COT Parks Dept/Cypress Point	100,000
(98) AirWise	10,000
(99) Seagrass Restoration CR Bay	58,020
(100) Ag Pesticide Collection Day	39,000
(101) Pollution Prevention Program	93,257

Total of Encumbrances 823,702

Minimum Balance 120,000 *

Fund Balance Available July 31, 2003 \$ 819,304

*\$20,000 to be used for City of Tampa Parks Department

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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, 2003

Fund Balance as of 10/01/02	\$1,265,455
Interest Accrued FY03	33,364
Disbursements FY03	21,416
 Fund Balance	 \$1,277,403

Encumbrances Against Fund Balance:

SP462 Port Redwing	300,000
Sp464 Davis Tract	-0-
SP591 Mechanical Seagrass Planting	3,584
SP597 Fantasy Island Restoration	1,633
SP602 Apollo Beachhabitat Restoration	100,000
Marsh Creek/Ruskin Inlet	47,500
SP604 Desoto Park Shoreline	150,000
SP610 H.C. Resource Mmt/Apollo Beach Restoration	35,000
Tampa Bay Scallop Restoration	127,900
SP611 COT Stormwater Improvements	21,000
SP612 Riverview Civic Center	120,000
SP615 Little Manatee River Restoration	50,000
SP616 Manatee Protection Areas	40,147
SP614 Manatee & Seagrass Protection	27,200
Fantasy Island	20,000
E.G. Simmons Park	43,200
Cockroach Bay ELAPP Restoration	190,239
 Total of Encumbrances	 1,277,403

Fund Balance Available July 31, 2003	\$	- 0 -
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AGENDA ITEM COVER SHEET

Date: August 21, 2003

Agenda Item: Follow-up on the May 27th Ammonia Release

Description Summary:

In the June 12, 2003 EPC Board meeting staff presented the events surrounding the May 27th ammonia leak. The Board requested EPC staff to provide an update on follow-up actions and discussions regarding improvements to pipeline safety and hazard mitigation.

The Tampa Bay Pipeline is planning to increase the security of the valve boxes to deter intentional tampering and install the infrastructure to accommodate valve box alarms. The Sheriff's Office is developing a comprehensive GIS database to be shared by all emergency response organizations, and Fire Rescue has identified their response needs to the BOCC. In addition, the EPC staff and the pipeline facility continue to discuss strategies for mitigating the impacts of future ammonia releases to the environment and reduced risk to public health.

Commission Action Requested:

Accept the update.



COMMISSION
Kathy Castor
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Administrative Offices,
Legal & Water Management Division
The Roger P. Stewart Environmental Center
1900 - 9th Ave. • Tampa, FL 33605
Ph. (813) 272-5960 • Fax (813) 272-5157
Air Management Fax 272-5605
Waste Management Fax 276-2256
Wetlands Management Fax 272-7144
1410 N. 21st Street • Tampa, FL 33605

Executive Director
Richard D. Garrity, Ph.D.

MEMORANDUM

DATE: August 12, 2003
TO: Rick Garrity
FROM: Alain G. Watson  **THRU:** Jerry Campbell 
SUBJECT: Follow-up Action on May 27th Ammonia Release

The release of anhydrous ammonia on May 27th and 28th was the result of intentional tampering with the ammonia pipeline. This incident prompted us to review our emergency management process and implement strategies that may deter intentional tampering and reduce the environmental and public health impacts of another ammonia release. Below is a summary of actions we've taken to follow-up on this incident. We are developing strategies to prevent and mitigate future releases from the pipeline infrastructure.

In response to the release of sixty tons of anhydrous ammonia gas on Fish Hawk Boulevard, we reviewed the complaint and compliance history of the pipeline owner, Tampa Bay Pipeline (TBP). We also discussed the event with regional officials from the Office of Pipeline Safety and the Hillsborough County Fire Rescue (HCFR) personnel responding to the incident. Our findings indicate Tampa Bay Pipeline was and continues to be in compliance with federal regulations for pipeline design, operation, and maintenance. In addition, TBP is in compliance with the EPC consent order that addressed fugitive ammonia releases from pumps at their two above ground facilities, the Hartford Street primary control station and Lithia booster station. As reported in the local news, the Hillsborough County Sheriff's Office (HCSO) investigation of the ammonia release revealed criminal tampering of the pipeline at a valve box. The U.S. Drug Enforcement Administration is pursuing criminal charges. Consequently, there is no ground for enforcement against TBP. However, we are encouraging them to improve security of the valve boxes and develop a better strategy for mitigating potential environmental and public health impacts of accidental or intentional breaches in the pipeline.

Tampa Bay Pipeline is taking steps to prevent or deter unauthorized entry into valve boxes along the pipeline route. This strategy serves as a deterrent making it more difficult for unlawful entry. The facility also has recorded the location of each valve box with GPS coordinates and provided this information to the HCSO for development of a comprehensive database shared by all emergency response agencies.

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EPC staff met with TBP officials on July 30th to discuss the feasibility of additional prevention and mitigation strategies. The TBP will convert sensors and the operational monitoring system in the pipeline to radio frequency transmission. This will allow subsequent installation of valve box alarms to further enhance the security of the pipeline.

Mitigation strategies that may include valve automation, quicker emergency response, and leak isolation pose greater obstacles in reducing the magnitude of an ammonia release due to a breach in the pipeline. The May 27th leak was isolated immediately by closing block valves upstream and downstream of the release point. This created a six-mile segment of anhydrous ammonia that could potentially escape through the breach. The HCFR continued to suppress the leaking ammonia gas cloud to a level safe enough for TBP personnel to insert *Stopple* valves on either side of the leaking valve box and further isolate the problem to a few yards of pipe. *Stopple* valves are inserted in the pipeline to block the flow of product primarily for maintenance purposes and become a permanent part of the pipeline. At this point, the remaining anhydrous ammonia was evacuated and burned-off with a portable flare.

The duration of the leak exceeded 30 hours due in part to the time needed for HCFR to suppress the escaping gas and establish a level of safety and the HCSO efforts to protect the alleged crime scene. The hazard mitigation strategy for the anhydrous ammonia pipeline is to minimize the quantity of ammonia gas released to the atmosphere. Under this scenario, quick response and isolating the leak to a practical volume that can be burnt-off with a flare will result in lower environmental and public health impacts. In our discussions with TBP, they are considering procedural changes that may reduce the time necessary to isolate a leak to a manageable pipeline distance and minimize the amount of ammonia release as a gas. These may include tapping into the pipeline after existing valves have stopped flow and begin immediate burn-off by flare or inserting *Stopple* valves outside the perimeter of safety established by the HCFR thereby beginning operations sooner or some combination of the two methods.

As with any emergency situation, specific procedures are dictated by the circumstances surrounding the event. However, the overall mitigation strategy remains consistent. In the event of another ammonia leak in the pipeline, the TBP is prepared to quickly isolate the release point, burn-off the remaining product and consider all practical methods to minimize environmental and public health impacts. We will monitor the company's progress toward valve box alarms and improved security. In addition, we will provide input to the County's Hazard Mitigation System regarding anhydrous ammonia releases along the pipeline.

AGENDA ITEM COVER SHEET

Date: August 11, 2003

Agenda Item: Artificial Reef program receives State grant

Description/Summary: The EPC Artificial Reef program received notification on July 25 that its proposal for a \$48,300 grant has been approved by the Florida Fish and Wildlife Conservation Commission (FWC). Staff from the EPC Artificial Reef and Benthic Monitoring programs will collaborate on the project, which will survey the invertebrate animal species inhabiting artificial reefs in Tampa Bay. The survey will provide more detailed information than is currently available regarding the habitat value of artificial reefs within the Tampa Bay ecosystem. The work will be done during the State's 2003-2004 fiscal year, which extends from July 2003 to June 30, 2004.

Commission Action Recommended: This item is provided for information purposes only. No Board action is requested.

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



EDWIN P. ROBERTS, DC
Pensacola

RODNEY BARRETO
Miami

SANDRA T. KAUPE
Palm Beach

H.A. "HERKY" HUFFMAN
Enterprise

DAVID K. MEEHAN
St. Petersburg

JOHN D. ROOD
Jacksonville

RICHARD A. CORBETT
Tampa

KENNETH D. HADDAD, Executive Director
VICTOR J. HELLER, Assistant Executive Director

July 25, 2003

DIVISION OF MARINE FISHERIES
Roy O. Williams, Interim Director

Tom Ash, Artificial Reef Program Coordinator
Hillsborough County, Environmental Protection Commission
1900 9th Ave.
Tampa, FL 33605

RE: Notice of Conceptual Approval for Artificial Reef Funding during Fiscal Year 2003-2004

Dear Mr. Ash:

This letter constitutes conceptual approval of a \$48,300 fiscal year 2003-2004 artificial reef grant request for the epifaunal survey of EPC artificial reefs in Tampa Bay. The funding source for your grant is anticipated to be revenues from saltwater fishing licenses which are placed in the Marine Resources Conservation Trust Fund. Your application ranked number #1 among the 8 monitoring projects that made the funding cut. Your application had an average score of 45.5 out of a possible 55 points.

Staff have begun drafting contract agreements and the project must be completed by June 30, 2004. The grant manager for this project is Mr. Bill Horn who can be reached at (850)922-4340 x208 or by email at bill.horn@fwc.state.fl.us.

Artificial reef program staff look forward to working closely with you to ensure successful completion of this project. Please don't hesitate to call me at 850/922-4340 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jon Dodrill".

Jon Dodrill, Environmental Administrator
Bureau of Marine Fisheries Management

JD/kjm

AGENDA ITEM COVER SHEET

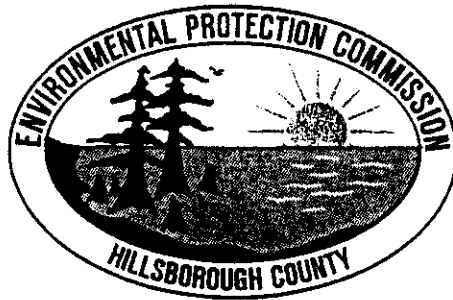
Date: August 11, 2003

Agenda Item: Communication of EPC sediment chemistry data to the Florida Fish and Wildlife Conservation Commission (FWC)

Description/Summary: During the July 2003 meeting of the Environmental Protection Commission (EPC), Commissioners Platt and Frank directed EPC staff to correspond with Mr. George Henderson of the Florida Fish and Wildlife Conservation Commission (FWC) regarding the communication of EPC sediment chemistry data to the FWC. In response to the Board's direction, the attached letter has been sent to Mr. Henderson.

Commission Action Recommended: This item is provided for information purposes only. No Board action is requested.

COMMISSION
Kathy Castor
Pat Frank
Ken Hagan
Jim Norman
Jan K. Platt
Thomas Scott
Ronda Storms



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1410 N. 21st Street • Tampa, FL 33605

Executive Director
Richard D. Garrity, Ph.D.

August 5, 2003

Mr. George Henderson
Florida Fish and Wildlife Conservation Commission
Florida Marine Research Institute
100 Eighth Avenue SE
St Petersburg, FL 33701-5095

Subject: sediment contaminants

Dear Mr. Henderson:

During the July 17 meeting of the EPC Board, Commissioners Pat Frank and Jan Platt asked that EPC staff contact you with two questions related to sediment chemistry and toxicology.

The first question involves the transfer of information between the EPC sediment monitoring program and the FWC. I understand that the Tampa Bay Estuary Program is serving as a clearinghouse for sediment quality information at the regional level, and both you and EPC's sediment monitoring staff are active participants in that program. In addition, Commissioners Frank and Platt are asking if it might also be helpful for EPC to send information directly to the FWC, in cases where our monitoring program detects potentially toxic levels of sediment contaminants at specific locations.

The second question is whether the state is using — or might wish to use — the EPC's sediment chemistry data as part of the background information it examines when selecting areas to be monitored as part of the Florida fish consumption advisory program. For example, would the fact that the EPC monitoring program has detected PCBs at concentrations above their 'probable effects levels' (PELs) in sediments in some portions of the Palm River be useful to the state when it decides which areas of Tampa Bay to monitor as part of the consumption advisory program?

With respect to the first question, please let me know if you think it would be advisable for the EPC to begin providing information directly to the FWC when it detects contaminants at concentrations above their TELs or PELs at specific locations. And I would appreciate any background information you can provide on the second question.

Sincerely,


Richard D. Garrity, Ph.D.
Executive Director

cc: Commissioner Jan Platt, EPC Chair
Commissioner Pat Frank
Dick Eckenrod, TBEP
Deborah Getzoff, DEP
Gil McCrae, FWC/FMRI
Cindy Morris, DoH

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AGENDA ITEM COVER SHEET

Date: August 21, 2003

Agenda Item: Update on Coronet Industries and the Environmental Conditions
Surrounding the Plant

Description Summary:

EPC staff briefed the Board at the July EPC meeting on Coronet Industries and concerns expressed by adjacent communities. Last month the Federal Agency for Toxic Substances and Disease Registry and the Florida Department of Health announced they were going to conduct a public health assessment of the area. EPC and the Florida Department of Environmental Protection both regulate Coronet Industries and have pledged to cooperate with the health officials.

There has been a series of meetings between the agencies and a number of investigative initiatives have been launched since the Board last met. Law enforcement has been advised of some allegations of wrong doing at the site, and a community outreach meeting has been held at a local middle school. In addition we are seeking the County's and Plant City's cooperation in initiating site assessments for two closed landfills in the area.

We also received clarification that Plant City Commission will wait until after the health studies are completed before considering any amendments to the Development Order for the Gregg Business Center. The EPC Board thanked them for their decision.

The purpose of today's briefing is to share information with the Board members and answer questions.

Commission Action Recommended:

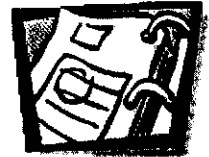
Accept the briefing and give guidance as necessary.

Commission Action Taken:

Marshall Middle School

Community Open House

August 19, 2003
7:00 PM



The public is invited to attend a Community Open House regarding environmental and health concerns relating to **Coronet Industries**. For additional information, please contact Barbara Motte at 272-5960, extension 1008.

Hosted by:

Environmental Protection Commission
of Hillsborough County
Florida Department of Environmental Protection
Hillsborough County Health Department
Florida Department of Health

**Marshall Middle
School**

18 S. Maryland Ave.
Plant City, FL 33563

COMMISSION
Kathy Castor
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Ronda Storms



Executive Director
Richard D. Garrity, Ph.D.

Jerry
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The Roger P. Stewart Environmental Center
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August 4, 2003

The Honorable William D. Dodson
Mayor
City of Plant City
Office of the Mayor
P.O. Box C
Plant City, FL 33564

RE: Lakeside Station Proposed Development

Dear Mayor Dodson:

On behalf of the Board of the Environmental Protection Commission of Hillsborough County, I would like to thank the City Commission for your decision to continue the public hearings on amending the Development Order for the Gregg Business Centre. As you are aware, this property sits adjacent to Coronet Industries and includes an old landfill site. By waiting until any studies are completed by federal and state health officials, the Plant City Commission will be in a position to make a more informed decision on any amendments.

I would also like to acknowledge your letter of July 21, 2003, clarifying the City's intent. We now understand that your intent is to continue the matter beyond January 26, 2004, if the health studies are not complete. Thank you for clearing this up.

We have instructed EPC staff to extend their full cooperation to the State in investigating any concerns with the Gregg property and the surrounding communities. Dr. Garrity has assured me he is doing so, and will be available to brief your City Commission as you see fit.

Sincerely,

Jan K. Platt
Chairman
Environmental Protection Commission

pp

cc: Commissioner Kathy Castor
Commissioner Pat Frank
Commissioner Ken Hagan
Commissioner Jim Norman
Commissioner Thomas Scott
Commissioner Ronda Storms
Richard Garrity, Ph.D.
Dr. Doug Holt
Debra Getzoff

COMMISSION
Kathy Castor
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Executive Director
Richard D. Garrity, Ph.D.

July 18, 2003

Mark Ober, State Attorney
County Courthouse Annex, 5th Floor
800 E. Kennedy Boulevard
Tampa, FL 33602

Sheriff Cal Henderson
Hillsborough County Sheriff's Office
P.O. Box 3371
Tampa, FL 33601

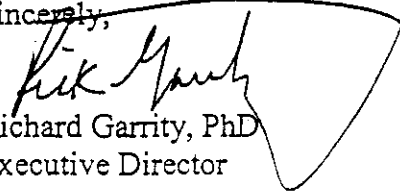
Subject: Referral to Investigate Coronet Industries

Dear Mr. Ober and Mr. Henderson,

As you may have followed in recent news reports, there have been allegations of harmful and deliberate activities occurring over the past years to circumvent environmental regulations at the Coronet Industries facility near Plant City. These allegations were discussed at the Environmental Protection Commission (EPC) meeting of July 17, 2003, and as a result I am requesting that your respective offices investigate the allegations that employees were ordered to circumvent environmental regulations.

The EPC and Florida Department of Environmental Protection (DEP) have extensive files on various civil enforcement activities regarding the facility, and they may be helpful in an investigation. Also, the local office of the Florida Department of Health and the U.S. Agency for Toxic Substances and Disease Registry are currently conducting a public health assessment in conjunction with these and other allegations. I have attached a relevant Tampa Tribune article dated July 18, 2003, and also recommend you view the WFLA, News Channel 8, segment that aired on Wednesday July 16, 2003; these both allege facts that may rise to the level of criminal activities. Please note that section 403.161, Florida Statutes provides additional criminal charges for certain environmental harms. We respectfully request you investigate this matter and keep the EPC apprised of the situation.

Sincerely,


Richard Garrity, PhD
Executive Director

cc: Environmental Protection Commission
David Sollenberger, City Manager, Plant City
Deborah Getzoff, Director DEP Tampa Office
Special Agent Dan Green, USEPA Criminal Investigation Division

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Jul 18, 2003

Official Urges Coronet Probe

By DEBORAH ALBERTO and DAVE NICHOLSON
The Tampa Tribune

PLANT CITY - A top environmental official wants a criminal investigation into allegations that Coronet Industries employees were ordered by the phosphate processor to dump toxic waste and deceive government inspectors. The head of the Hillsborough County Environmental Protection Commission said he will contact the sheriff's and state attorney's offices about a broadcast Wednesday on WFLA, News Channel 8, in which former employees spoke of the plant's disregard for environmental laws. The story was the result of a joint investigation by The Tampa Tribune and News Channel 8, both owned by Media General.

In a statement, Coronet said it cooperates with regulators and makes sure it "meets or exceeds" all requirements related to public safety and the environment. "It would be inappropriate for Coronet to comment on preliminary environmental reports, incomplete data or unwarranted speculation about the company," the statement said.

The plant just south of the city limits has a history of environmental problems, and intentional violations should be dealt with harshly, said EPC Executive Director Richard Garrity. The 100-year-old plant has aging, poorly maintained equipment that spews pollution into the air and occasionally discharges acidic water into English Creek, Garrity said. Each year, 61 tons of dust, 60.5 tons of nitrogen oxide, 4.6 tons of carbon monoxide, 4 tons of hydrogen fluoride and 1.3 tons of lead flow from the plant, mainly from its smokestacks. Former Coronet employees this week told reporters from The Tampa Tribune and News Channel 8 that they were instructed by their superiors to conceal pollution violations. Garrity announced during a briefing Thursday for county commissioners that he would ask for a criminal investigation. "I think it is unconscionable," said Commissioner Jan Platt, reacting to the employees' allegations. Some commissioners chided Garrity for not keeping them informed of violations at the plant. Garrity conceded regulators probably should have contacted commissioners earlier. Spokeswomen for the sheriff and the state attorney said they had not been contacted about environmental violations at Coronet. Even if some violations were hidden, regulators have found so many problems with Coronet that they have considered trying to shut it down, Garrity said. The allegations come as health officials are investigating complaints of high cancer rates among those who live near the plant at 4904 Coronet Road. The plant produces an animal feed supplement called tricalcium phosphate from phosphate rock. Arsenic and other metals are byproducts.

'Visitors In The House'

Former shift supervisor Tony Hightower, a 42-year employee, said he received and eventually gave orders to shut down equipment emitting pollutants into the atmosphere - just in time for county and state inspectors to arrive. "Visitors in the house" was the call that came down from the front office, Hightower and another former employee, Jay Guilliams, recalled. "They would call and say they're coming Wednesday at 1 p.m.," Hightower said. "And at 12 p.m., we would have everything shut down that puts out dust - the mill, the feed prep, everything." Hightower, who was laid off last year, said the deceptions occurred during his career. Inspectors didn't know enough about the plant's operations to realize what was happening, Hightower said. EPC officials say they checked out reports of deception and found some were impossible to verify. But they found plenty of problems, they said.

If pollution is causing health problems in the area, Coronet may not be the only polluter to blame, they said. There are eight old landfills in the area, including two garbage dumps operated years ago by Plant City and a waste oil dump at Coronet. Wastewater stored on Coronet's land has high concentrations of a number of pollutants, such as lead and arsenic. But there is no evidence that any of it leached into underground water and flowed into the area, Garrity said. More study is needed, he said.

Most people in the area drink water supplied by municipal wells operated by Plant City, but there are some private wells. A recent sampling found elevated levels of arsenic in one of 14 private wells tested, but the level wasn't high enough to pose a health risk, officials said. County Commissioner Pat Frank said she worries that people who drank well water before city water was available in the early 1960s might develop cancer years later.

Buried Waste

Jeff Tennyson, a former maintenance mechanic who quit in 1991 when the plant was owned by Consolidated Minerals Inc., said he helped dump contaminants into pits on and around Coronet, or buried them underground throughout 1,300 acres where the 2,600-home Lakeside Station development is proposed. The Lakeside Station property is owned by Consolidated Minerals, but the company has a contract to sell it to builder Sunrise Homes.

Sunrise has asked the city to rezone the land, now known as Gregg Business Centre, for houses and commercial and light industrial use. The development, just north of Coronet, would include a school site. Onoda Chemical Industry Co. Ltd. and Mitsui & Co. Ltd. of Tokyo bought the Coronet plant in 1993. Tennyson, who worked at Coronet for 10 years, said he dumped "asbestos, oil, paint, contaminated equipment, oxygen bottles" and other chemicals in and around the plant.

Pads and screens placed on scrubber systems to remove hydrofluoric acid from air emissions weren't always used or were replaced quickly to pass inspections, said Guilliams, a carpenter who worked there 11 years until 1999. He said his job included climbing stack towers to change screens. "Periodically, I would find that they were running [emission stacks] without the screens. I always told them they were sweeping stuff under the carpet. ... It all runs downhill and I was a part of it," he said. Guilliams said he would find the screenless scrubbers two or three times a year, with a dirty screen lying nearby.

Guilliams was injured on the job in 1992 and was terminated in 1999. He is fighting a workers' compensation claim denied him several years ago. Hydrofluoric acid can cause damage to bones and teeth. Breathing in a large amount can also cause damage to the lungs and heart, according to a report from the federal Agency for Toxic Substances and Disease Registry.

The agency asked state health officials to conduct a public health assessment of neighborhoods surrounding the plant based on residents' concerns of cancer and other illnesses in two communities near Coronet. The proposed Lakeside Station development - on hold for now - is between those two communities east and northwest of the plant. The employees said they asked questions but thought too much prodding might cost them their jobs. "We would go into safety meetings and tell them what was wrong. All we heard was 'no money,'" Hightower said.

Tennyson said the problems existed before the sale. "The problems were there when Browne Gregg [owner of Consolidated Minerals] owned it," Tennyson said. Representatives at Gregg's office did not return phone calls Wednesday. A Sunrise Homes spokesman, told of the former employees' claims, said his company was awaiting the outcome of the

government health assessments. "I am not interested in responding to anecdotal stuff," said Sunrise's land manager, Bob Appleyard. "It doesn't cast an awful lot of light on something that's about to be studied in an objective way."

Employees Voice Regrets

The three former employees said they regret the things they did. "I hate it," Tennyson said. "I'm not surprised people are dying all around that community. The plant was in such bad shape when I left there, that they needed to shut it down then. It's time that they be accountable." Hightower said he, too, hated to do things like shutting down dust-emitting equipment. But it was his livelihood. "I knew it was bad, but I needed my job."

County EPC officials said they typically do not call Coronet to announce inspections, but there are occasions when they do. "Our standard operating procedure dictates that the annual compliance inspection is unannounced," said EPC's air compliance chief, Sterlin Woodard. "Most inspections related to citizen complaints are the same way, but there are rare occasions when we would announce that we are coming." During some complaint investigations, EPC officials said they might call Coronet to ask whether the plant was having emissions problems. EPC officials said they cannot tie any of the residents' alleged health problems to Coronet's history of pollution problems and air emissions, although they have threatened the plant owners with a shutdown if they fail to come into compliance by 2005.

Woodard said commission inspectors have received complaints, from Coronet employees and the public, about attempts to skirt environmental laws. During a 1998 inspection prompted by a Coronet employee who was later fired, 27 violations were noted, mainly for poorly maintained equipment, Woodard said. An inspection in 2000 uncovered three or four violations, and one in 2001, nine or 10 violations, he said. Hightower, 61, has severe breathing and sleep apnea problems and must use an oxygen tank. "I'm on it between 16 and 18 hours per day," he said. He acknowledged some of his health problems might be attributed to smoking, a habit he gave up four years ago. But he also says the exposure to chemicals and asbestos in the phosphate fertilizer industry have contributed. A letter written by his physician suggests his problems might, in part, be attributed to his work.

WFLA, News Channel 8, reporter Jennifer Leigh contributed to this report. Reporter Deborah Alberto can be reached at (813) 754-3765.

This story can be found at: <http://news.tbo.com/news/MGAGYXSP9ID.html>

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Executive Director
Richard D. Garrity, Ph.D.

August 11, 2003

Mr. Daniel A. Kleman
Hillsborough County Administrator
26th Floor, County Center
P.O. Box 1110
Tampa, FL 33601

Dear ~~Mr. Kleman:~~ *Jan*

Re: Request for Initiation of Environmental Assessment Activities - Historic, Hillsborough County operated Solid Waste Disposal Site - Vicinity of Park Road and Alabama Street, Plant City, Hillsborough County, Florida.

As you may be aware, the Environmental Protection Commission (EPC) is currently involved in on-going investigations regarding property surrounding the Coronet Phosphate Company in Plant City, Florida (Coronet).

EPC is investigating potential environmental impacts of two known historic solid waste disposal sites in the area of Coronet. Information has been obtained which appears to verify Hillsborough County's operation of a municipal solid waste disposal site in the area (see attached map). The EPC has been provided with information from a 1989 DRI application, which includes a May 10, 1989 letter, confirming the County's operation of the waste disposal site. In addition, we have similar verification that the City of Plant City operated an adjacent landfill.

The EPC is requesting that Hillsborough County and the City of Plant City, initiate site assessment activities at the former waste disposal sites to resolve currently unanswered questions and concerns. The EPC will be happy to help coordinate the preparation of the study plan. Our plans are to use this information in cooperation with the Hillsborough County Health Department and the Florida Department of Environmental Protection as part of an area Health Study to address concerns expressed by the citizens. The assessment activities should address site specific geological and hydrogeological information. Detailed instruction for assessment activities can be provided to your staff upon your response.

At your earliest convenience, please provide a response outlining your position regarding this request. If you need additional information or assistance in this matter, please feel free to contact

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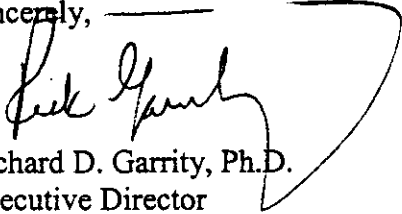


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me at (813) 272-5955, extension 1002, or Hooshang Boostani, Director, EPC Waste Management Division at (813) 272-5955, extension 1293.

Thank you for your prompt attention to this matter. I hope to hear from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Dick Garrity", written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

Richard D. Garrity, Ph.D.
Executive Director

cc: Douglas Holt, M.D., Hillsborough County Health Dept.
Deborah Getzoff, FDEP
Bernardo García
Daryl Smith
Hank Ennis, Esq.

Coronet Industries

- Surface Water
- HC Water Lines
- Land Fill
- Proposed Development
- Coronet Parcels
- Buffer**
 - 0.00 - 0.25
 - 0.25 - 0.50

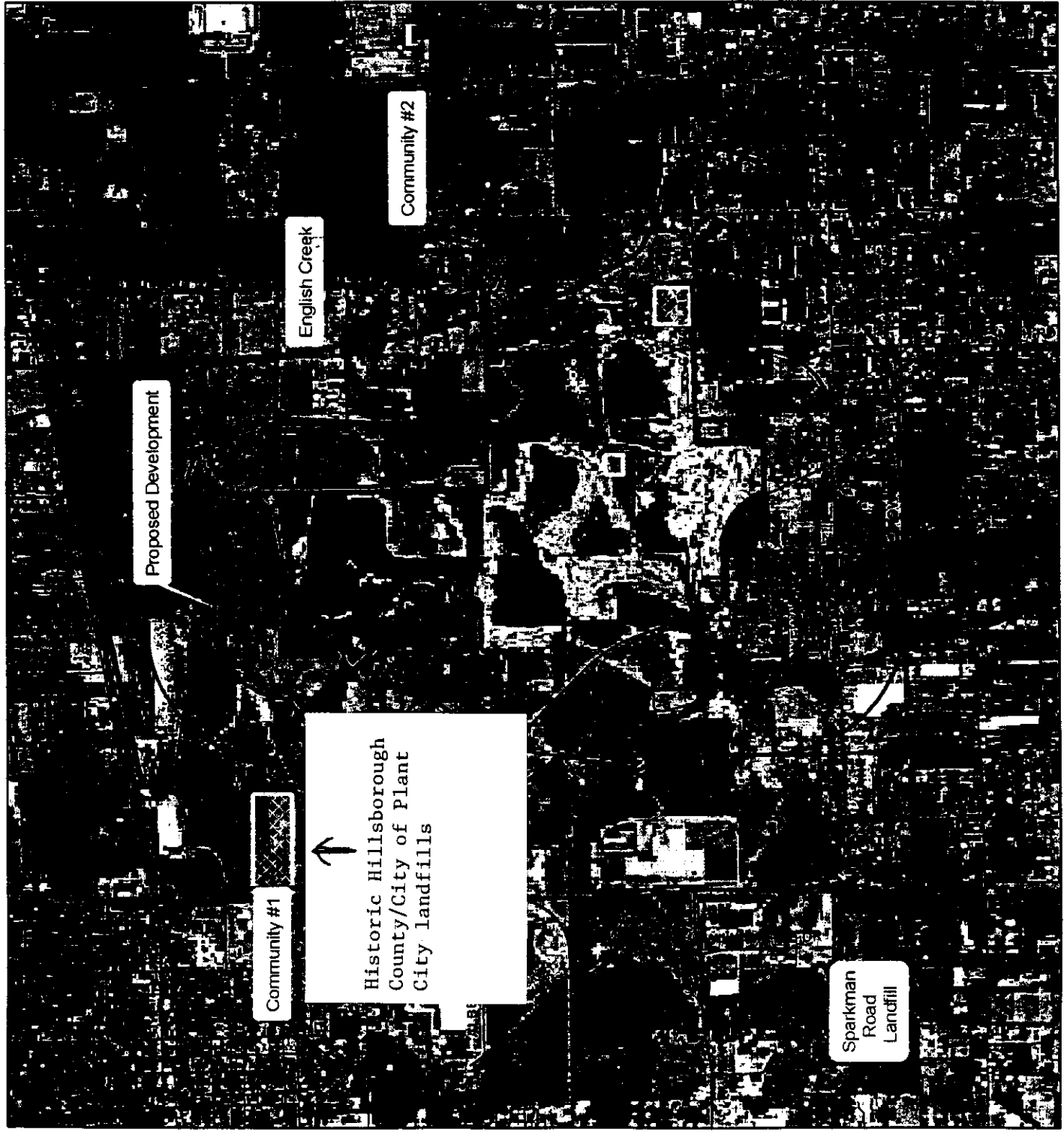


1 inch equals 2,500 feet



Disclaimer: This product is for reference purposes only and is not to be construed as a legal document. Any reliance on the information contained herein is at the user's own risk. The Florida Department of Health and its agents assume no responsibility for any use of the information contained herein or any false or misleading information.

Aerial Photo Date: 1999



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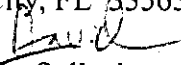
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Executive Director
Richard D. Garrity, Ph.D.

August 11, 2003

Mr. David R. Sollenberger
City Manager, City of Plant City
302 W. Reynolds Street
Plant City, FL 33563


Dear Mr. Sollenberger:

Re: Request for Initiation of Environmental Assessment Activities - Historic, City of Plant City operated Solid Waste Disposal Site - Vicinity of Park Road and Alabama Street, Plant City, Hillsborough County, Florida.

As you may be aware, the Environmental Protection Commission (EPC) is currently involved in on-going investigations regarding property surrounding the Coronet Phosphate Company in Plant City, Florida (Coronet).

EPC is investigating potential environmental impacts of two known historic solid waste disposal sites in the area of Coronet. Information has been obtained which appears to verify the City of Plant City's operation of a municipal solid waste disposal site in the area (see attached map). The EPC has been provided with information from a 1989 DRI application which includes a letter confirming the City's operation of the waste disposal site. In addition, we have similar verification that Hillsborough County operated an adjacent landfill.

The EPC is requesting that the City of Plant City and Hillsborough County, initiate site assessment activities at the former waste disposal sites to resolve currently unanswered questions and concerns. The EPC will be happy to help coordinate the preparation of the study plan. Our plans are to use this information in cooperation with the Hillsborough County Health Department and the Florida Department of Environmental Protection as part of an area Health Study to address concerns expressed by the citizens. The assessment activities should address site specific geological and hydrogeological information. Detailed instruction for assessment activities can be provided to your staff upon your response.

At your earliest convenience, please provide a response outlining your position regarding this request. If you need additional information or assistance in this matter, please feel free to contact me at (813) 272-5955, extension 1002, or Hooshang Boostani, Director, EPC Waste Management Division at (813) 272-5955, extension 1293.

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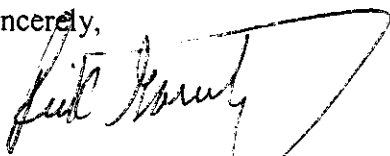
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Thank you for your prompt attention to this matter. I hope to hear from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Garrity". The signature is written in a cursive style with a large, sweeping flourish at the end.

Richard D. Garrity, Ph.D.
Executive Director

cc: Douglas Holt, M.D., Hillsborough County Health Dept.
Deborah Getzoff, FDEP

Coronet Industries

- Surface Water
- HC Water Lines
- Land Fill
- Proposed Development
- Coronet Parcels
- Buffer**
- 0.00 - 0.25
- 0.25 - 0.50

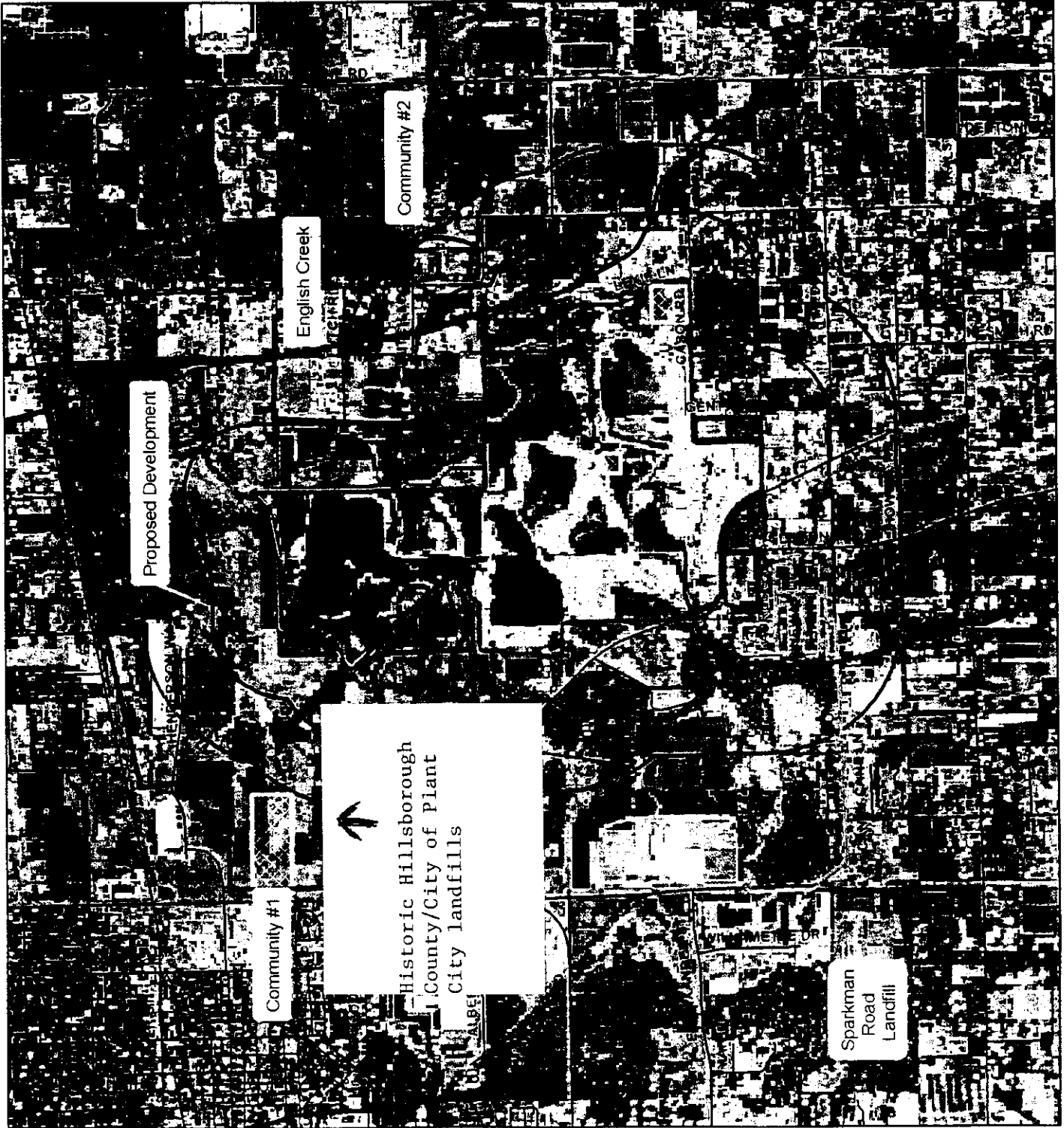


1 inch equals 2,500 feet



Disclaimer: The applicant is the author of a map prepared for a specific purpose and is not to be construed as a legal document. Any reliance on the information contained herein is at the user's own risk. The Florida Department of Health, Bureau of Pesticide Management, is not responsible for any use of the information contained here or for any loss resulting therefrom.

Aerial Photo Date: 1989



AGENDA ITEM SUMMARY SHEET

Date: 8/21/03

Agenda Item: Request for Pollution Recovery Fund-Old landfill north of Coronet Industries.

Description/Summary:

As part of a multi agency effort to respond to the concerns of two residential communities in the vicinity of Coronet Industries, the EPC has accepted the task of investigating two historical landfills located on the outer northwestern boundary of Coronet. The purpose of the investigation is to ascertain information necessary to facilitate the overall Environmental/Health assessment for the areas surrounding the company. While EPC will pursue every responsible party for the recovery of the cost of this investigation, the time sensitive nature of the entire issue necessitates that this investigation gets underway as soon as possible. The EPC Staff wishes to use an amount not to exceed \$50000.00 from the Pollution Recovery Fund to contract with a vendor to conduct this investigation. At its meeting of August 6, 2003, the Citizens Environmental Advisory Committee voted unanimously to support this request.

Board Action Recommended:

Approve staff's request for the use of PRF funds.

AGENDA ITEM COVER SHEET

Date: August 13, 2003

Agenda Item: Used Oil Recycling Day

Description Summary:

The Florida Department of Environmental Protection (DEP), Tampa Bay Buccaneers and Advance Discount Auto Parts are joining forces to protect Florida's environment. A joint public awareness campaign, **Bring Every Quart Back!**, encourages Floridians to protect natural resources and underground drinking water supplies by properly disposing used motor oil at public collection centers throughout the state.

The DEP has designated August 30, 2003 as Used Oil Recycling Day. To show our support for this event, staff requests that a proclamation be issued designating August 30, 2003 as Used Oil Recycling Day in Hillsborough County.

Commission Action Requested:

Proclaim August 30, 2003 as Used Oil Recycling Day in Hillsborough County.

AGENDA ITEM COVER SHEET

Date: August 13, 2003

Agenda Item: Phosphogypsum Stack Financial Assurances and Closure Plan Analysis

Description/Summary:

At the Environmental Protection Commission board meeting on July 17, 2003, the Commissioners requested that staff provide 1) an analysis of phosphogypsum stack financial assurance and closure plan laws and regulations, 2) an analysis of specific permit requirements of the Department of Environmental Protection (DEP) regarding financial assurance and closure plans, and 3) suggested legislation or rule language to improve phosphogypsum stack financial assurances and closure plans.

Attached is a written analysis discussing these issues which the General Counsel will review with the Commission.

Commission Action Recommended:

See attached memorandum.

COMMISSION
Kathy Castor
Pat Frank
Ken Hagan
Jim Norman
Jan K. Platt
Thomas Scott
Ronda Storms



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Executive Director
Richard D. Garrity, Ph.D.

To: Richard Tschantz, General Counsel EPC
From: Rick Muratti, Assistant Counsel EPC *Rm*
Date: August 12, 2003
Subject: Phosphogypsum Stack Financial Assurances and Closure Plan Analysis

At the Environmental Protection Commission board meeting on July 17, 2003, the Commissioners requested that staff provide 1) an analysis of phosphogypsum stack financial assurance and closure plan laws and regulations, 2) an analysis of specific permit requirements of the Department of Environmental Protection (DEP) regarding financial assurance and closure plans, and 3) suggested legislation or rule language to improve phosphogypsum stack financial assurances and closure plans.

Generally, phosphogypsum stack systems are above ground impoundments created to manage and contain phosphogypsum and process water generated during the production of phosphate fertilizer. Phosphogypsum is a by-product of mixing phosphate ore and sulfuric acid to create phosphoric acid, an ingredient in fertilizer. Cargill, Inc., near Riverview on the east shore of Tampa Bay, has a closed West stack and an operational East stack. CF Industries, Inc. north of Plant City has one stack in the process of being closed, but has an immediately adjacent stack system to the south that is in operation; the two will eventually be closed as one large system. The DEP and EPC have both noted that these facilities are in compliance with current regulations and permit conditions.

1. Financial Assurances and Closure Plan Laws and Regulations


The DEP Tampa office is responsible for permitting phosphogypsum ("gyp") stack systems in Hillsborough County. The DEP Bureau of Mine Reclamation in Tallahassee handles issues regarding gyp stack financial assurances and closure plans. The EPC is a commenting agency to DEP solely as to environmental aspects of and closure plans for phosphogypsum stacks, but not financial responsibility issues.

Sections 403.4154 - .4155, Florida Statutes (F.S.) require the DEP to promulgate regulations for phosphogypsum management, including closure and financial responsibility. The DEP regulations in Chapter 62-672, Florida Administrative Code (F.A.C.), regulate earthen dam and dike design, construction, and operation needed for various aspects of phosphate mining,

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beneficiation, and gyp stack operations (e.g. - smaller berms around the perimeter of a stack and dams within the stack), but not the regulation or design of the entire gyp stack system itself. The DEP regulations in Chapter 62-673, F.A.C. apply to the design, permitting, construction, operation, and closure of new gyp stack systems or lateral expansions of existing gyp stacks if either had a complete permit or modification application after March 25, 1993. Nonetheless, the closure and financial responsibility rules apply to all existing and new gyp stacks.

Section 62-673.600, F.A.C. states, "At least 90 days before the deactivation of a phosphogypsum stack system, the owner or operator shall submit a closure permit application including a closure plan to the Department to comply with Rule 62-673.610, F.A.C. For purposes of this section, a phosphogypsum stack system is considered inactive when it is no longer receiving phosphogypsum and when the owner or operator does not intend to, and in fact does not, deposit any significant quantity of phosphogypsum there within one year."

The closure plan provisions in section 62-673.610, F.A.C., among other things, require a detailed document that is designed to:

1. Control, minimize or eliminate, to the extent necessary to protect human health and the environment, the post closure escape of phosphogypsum, process wastewater, leachate, and contaminated runoff to ground and surface waters;
2. Minimize leachate generation;
3. Detect, collect, and remove leachate and process wastewater efficiently from the phosphogypsum stack system, and promote drainage of process wastewater from the phosphogypsum stack;
4. Be compatible with any required ground water or surface water corrective action plan;
5. Minimize the need for further maintenance.

(b) Closure plans for phosphogypsum stacks shall include a final cover system designed to:

1. Promote drainage off the stack;
2. Minimize ponding;
3. Minimize erosion;
4. Minimize infiltration into the phosphogypsum stack;
5. Function with little or no maintenance.

[see section 62-673.610(5)(a)-(b), F.A.C.]

The closure permit application must be approved by the DEP. Thus, a facility may not need a detailed plan of closure until it knows it plans to deactivate a gyp stack, but most facilities have a general plan in place that they improve upon for the final closure permit.

All closure plans must include a closure operation plan. According to section 62-673.610(7), F.A.C. a closure operation plan shall:

- (a) Describe the actions which will be taken to close the phosphogypsum stack system, such as placement of cover, grading, construction of berms, ditches, roads, retention-detention ponds, installation or closure of wells and boreholes, installation of fencing or seeding of vegetation, protection of on-site utilities and easements;

- (b) Provide a time schedule for completion of the closing and long-term care;
- (c) Contain appropriate references to the closure design plan, area information report, groundwater monitoring plan, and other supporting documents;
- (d) Describe the proposed method of demonstrating financial responsibility for the long-term monitoring and maintenance;
- (e) Indicate any additional equipment and personnel needed to complete closure of the phosphogypsum stack system; and
- (f) Describe any proposed use of the system for water storage or water management.

Furthermore, during the closing process various steps and documents must be approved by the DEP. Finally, section 62-673.630, F.A.C. requires that the owner or operator of any phosphogypsum stack system shall be responsible for monitoring and maintenance of the facility in accordance with an approved closure plan for 50 years from the date of closing, but the DEP may reduce or extend this timeframe. Thus, there already is in place a detailed procedure for closing a facility with highly involved regulatory oversight. Nonetheless, no plan is complete without financial assurances in place to insure that the closure and monitoring will be finalized.

Section 62-673.640, F.A.C., details the financial responsibility requirements of gyp stack system owners and operators. The rule requires that for issuance of a construction permit for a phosphogypsum stack system, or for approval of a closure permit or closure plan, the owner or operator shall post a bond with the Department equal to the estimated costs of closing and long-term care of the phosphogypsum stack system for 50 years. The rule also states that the bond shall comply with the requirements of section 40 Code of Federal Regulations Part 264, Subpart-H. Closing costs shall include, among other things, estimated costs of cover material, topsoil, seeding, fertilizing, mulching, and labor. Long-term care costs shall include, among other things, land surface care, leachate pumping, transportation, monitoring and treatment, and groundwater monitoring, collection and analysis.

Nonetheless, Section 62-673.640(4), F.A.C. provides for alternative proof of financial responsibility. Such alternate proof may include letters of credit, trust fund agreements, closure insurance or financial tests and corporate guarantees showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with all closure and long-term care requirements. This may all be in lieu of or in combination with a bond. The method chosen by most facilities in Florida, including all in Hillsborough is the financial test and corporate guarantee.

EPA rule 40 C.F.R. Part 264.143(f), entitled Financial test and corporate guarantee for closure, provides that:

- (1) An owner or operator may satisfy the requirements of this section by demonstrating that he passes a financial test as specified in this paragraph. To pass this test the owner or operator must meet the criteria of either paragraph (f)(1)(i) or (ii) of this section:
 - (i) The owner or operator must have:
 - (A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
 - (B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

- (C) Tangible net worth of at least \$10 million; and
- (D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

[or]

(ii) The owner or operator must have:

- (A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and
- (B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and
- (C) Tangible net worth of at least \$10 million; and
- (D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

Generally, the above federal rule provides an alternative called a financial test and corporate guarantee wherein a facility can meet financial assurance standards if they can prove, through detailed financial reports, calculations, and ratios, that they have adequate assets and net worth and among other things a high bond rating. If the DEP approves of the documentation, the rule requirement is met. Thus, no bond or other similar instrument is required. This is the industry norm.

2. Regulatory and Permit Requirements Specific to Cargill and CF Industries

Both facilities have DEP issued five-year NPDES (surface water discharge) permits for operating the entire fertilizer processing and gypsum stack system. As detailed above, the DEP regulations also require the submittal of closure plans and financial responsibility documents. CF Industries and Cargill both have submitted closure plans for the respective parts of their facilities that are closed or are closing in Hillsborough. Furthermore, CF Industries and Cargill both have submitted financial responsibility documentation regarding closure and long-term monitoring for their respective facilities with periodic financial updates.

In 2003, CF Industries estimated its closure costs for the Plant City stacks at \$17,474,000. CF Industries utilizes the above-described corporate guarantee and financial test established by the USEPA for demonstrating responsibility to DEP and EPA.

In 2001, Cargill estimated its closure and continued monitoring costs for the East and West stacks in Riverview to be \$11,004,000. Cargill also utilizes the corporate guarantee and financial test to demonstrate responsibility to DEP and EPA.

Please note that the figures above do not include the cost of disposing of the process wastewater. This could greatly increase the cost of closure and is a subject of the legislation discussed below.

3. Suggested Legislation or Rule Language to Improve Phosphogypsum Stack Financial Assurances and Closure Plans.

The final request Commissioner made, was to analyze the legislation that failed in the 2003, 2003A, and 2003B Florida Legislative sessions. The bills were spurred in part by recent

events caused by the bankruptcy of Mulberry Phosphates. The Mulberry Phosphate bankruptcy left gyp stacks in Bartow and Piney Point unmanaged. The DEP was then saddled with the high costs and intense effort needed to maintain and drain two phosphogypsum stacks in the Tampa Bay area. The short term solution to avoid a catastrophic spill has been to release treated water from the phosphogypsum stacks into Bishops Harbor and also now barge and release treated water over 100 miles out into the Gulf of Mexico.

The bills entitled "Relating to Phosphate Mining" (primarily SB 1312/ HB 1363) both passed in their respective houses, but were not reconciled, thus failed. These bills were supported by the phosphate industry, government, and environmentalists. Key provisions of these bills create a fund through an increase in the phosphate severance tax to help pay for alleviating potential disasters that could occur from abandoned phosphate mining facilities, especially phosphogypsum stacks. The bills also require the DEP to initiate rulemaking to require that general plans and schedules for the closure of phosphogypsum stack systems include more detailed components, and the bills require the DEP to revise rules to require the owner or operator of a phosphogypsum stack system to demonstrate financial responsibility for the costs of closure in a manner that protects the environment and the public health and safety. The bills also provide criminal remedies.

Analyzing Senate Bill 1312 more closely, it amended the existing laws and provided in part the following:

1. Any misrepresentation of a company's financial status or closure costs could result in criminal sanctions. Specifically, it would be a third degree felony, punishable by up to 5 years in jail and a \$50,000 fine. Also, corporations that failed to demonstrate closure financial responsibility would be barred from certain corporate distributions (e.g. - dividends).
2. Failure to comply with rules regarding closure financial responsibility would allow the DEP to declare an imminent hazard, thus allowing DEP to take control of the facility. Existing law only allows this remedy if there is a poor record of operation or unsafe conditions.
3. If an imminent hazard is declared, the State and their agents would not be liable for activities related to abating the hazard.
4. The DEP would have to revise rule chapter 62-673, F.A.C. to require the owner or operator of a phosphogypsum stack system to demonstrate financial responsibility for the costs of closure in a manner that protects the environment and the public health and safety. The bill provides great detail as to what steps must be taken. The DEP's existing rule does this also, but it differs in that the existing rule requirements may lead to underestimating the total cost of closure and long term monitoring. The proposed bill would capture more costs.
5. The facility would have to provide audited financial statements annually. Currently, they do not have to provide the audited statements.

6. The facility would have to report any defaults on any obligations.
7. The facility would have to prepare a detailed interim stack system management (ISSM) plan. This annually updated plan would detail how to operate the facility assuming no phosphoric acid would be produced at the facility for a 2-year period. This would facilitate a take over by the State, in the unlikely event.
8. Finally, the bill requires additional detailed rulemaking as to general plans and schedules for the closure of phosphogypsum stack systems. Two of the most important new requirements would be to provide a plan to manage the process water in an environmentally sound manner and an estimated cost of management of the anticipated volume of process water in accordance with the site-specific water management plan. The existing rules did not address the above well enough to capture the entire cost of handling the worst case scenario in terms of volume of process water, one of the revelations of dealing with Piney Point.

These bills intended to mitigate costs borne by the DEP for abandoned facilities, but more importantly they were to assure the citizens that those that operate the phosphogypsum stacks will not abandon them. On June 13, 2003, the EPC requested that Governor Bush add this bill to future a special session, but with the budget and medical malpractice reform dominating the special sessions it appears a phosphate bill will not be discussed again this year.

Chapter 1-5, Rules of the EPC (REPC), do require minimum design standards for liquid waste impoundments, but the rule is antiquated and is in the process of being updated by an EPC rulemaking committee at this time. Due to existing federal and State adopted provisions, EPC's rule does not contain financial assurance or closure plan requirements. Section 1-5.11, REPC requires the applicant to file the DEP permit with the EPC. As stated above, EPC staff reviews permits associated with gyp stack systems and comments on them to the DEP.

Staff Recommendation

- a. The EPC should strongly support the proposed legislation in a future special session of the 2003 Legislature or the 2004 Legislative Session.
- b. The EPC staff should accept the recent invitation to join the ongoing industry and DEP committee in negotiating the new legislation and amended regulations. EPC staff should encourage regulators and the industry to use financial assurances mechanisms that will not be lost or impacted by bankruptcy, and should encourage the creation of funds for correcting problems at any facility and the creation of a specific fund for each individual gyp stack system.
- c. If not preempted by the State or EPA, EPC should consider the option of drafting an EPC local rule to strengthen gyp stack system financial assurance mechanisms.

AGENDA ITEM COVER SHEET

Date: August 13, 2003

Agenda Item: Agricultural Lands and Practices Act Analysis

Description/Summary:

At the Environmental Protection Commission board meeting on July 17, 2003, the Commissioners requested that staff provide 1) an analysis of the Agricultural Lands and Practices Act, 2) an analysis of the constitutionality of the exemption for Broward County, and 3) suggestions on how to revise our rules without losing regulatory powers.

Attached is a written analysis discussing these issues which the General Counsel will review with the Commission.

Commission Action Recommended:


See attached memorandum.

COMMISSION
Kathy Castor
Pat Frank
Ken Hagan
Jim Norman
Jan K. Platt
Thomas Scott
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Executive Director
Richard D. Garrity, Ph.D.

To: Richard Tschantz, General Counsel EPC
From: Rick Muratti, Assistant Counsel EPC 
Date: August 11, 2003
Subject: Agricultural Lands and Practices Act Analysis

At the Environmental Protection Commission board meeting on July 17, 2003, the Commissioners requested that staff provide 1) an analysis of the Agricultural Lands and Practices Act, 2) an analysis of the constitutionality of the exemption for Broward County, and 3) suggestions on how to revise our rules without losing regulatory powers. Generally, the Agricultural Lands and Practices Act prohibits counties from adopting new regulations on the agricultural industry that are duplicative of existing state or federal regulations. While the law does not explicitly state this, its intent is to operate prospectively. Thus, existing EPC and County regulations are not voided.

1. Agricultural Lands and Practices Act Analysis.

The existing Florida Right to Farm Act (FRTFA), section 823.14, Florida Statutes (F.S.) was designed to protect farms that have been in operation for more than one year from being sued for nuisance for their day-to-day activities, with minor exception. But, in 2000 the Legislature amended FRTFA to also prohibit local governments from adopting future rules that are duplicative of existing farm best management practices (BMPs) of the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), or a water management district (WMD). The new Agricultural Lands and Practices Act (ALPA) expands on this prohibition.

The Agricultural Lands and Practices Act, formerly Senate Bill 1660, passed in the 2003 Florida Legislative Session and became effective July 1, 2003. Section 163.3162(4), F.S. of ALPA states in part:

DUPLICATION OF REGULATION. Except as otherwise provided in this section and s. 487.051(2), and notwithstanding any other law, including any provision of chapter 125 or this chapter, a county may not exercise any of its powers to adopt any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such activity is regulated through implemented best-management practices,

interim measures, or regulations developed by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district and adopted under chapter 120 as part of a statewide or regional program; or if such activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

ALPA prohibits a county from adopting any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a farm operation on agricultural land, if such activity is regulated through implemented BMPs, interim measures, or regulations developed by the DEP, DACS, WMDs, USDA, USACOE, or the USEPA. ALPA is not only limited to local regulations duplicative of farming BMPs, as the existing law (FRTFA) provided.

Previous versions of this bill appeared to immediately impact County and EPC permitting authority, but it appears only to apply to future adoptions of rules, not existing rules. The EPC sent a letter to the Governor asking for a veto. Legislators stated to EPC lobbyists and on the Legislative record that it only impacts future rules. The main concern is that ALPA seriously impacts future attempts to amend the EPC's enabling laws and rules especially in the area of wetlands, waste, water quality, and open burning. Certain state-delegated programs the EPC administers would not be impacted, notably wastewater and air.

The basic intent of the law is to streamline regulation, but streamlining is not effective if certain laws do not address local concerns or if federal and state agencies do not consistently regulate the agricultural industry. ALPA prohibits the EPC from adopting any new rule or arguably amend an old rule where there is already another state, federal, or regional program in place. Thus, any modification, which also involves re-adopting the rest of the existing rule, may arguably trigger a prohibition against regulating agricultural interests entirely under the newly amended and adopted rule. Some may argue even state-mandated changes or clerical changes to a program's (e.g. - wetlands) rule would trigger an entire prohibition to regulating the agricultural industry in that amended program area. The EPC would argue only the changes may not be enforceable against agricultural interests, but the unchanged parts of the rule would be.

Another area of concern is how to apply the phrase "if such activity is regulated." This could be read to mean the EPC could not pass any future wetland or waste protection rules that could impact farming because the state and federal governments already have wetland and waste regulation programs. Or the rule could be read more narrowly to mean the EPC can create new wetland or waste rules if the state and federal governments do not regulate a specific aspect of wetland or waste issues (e.g.- isolated wetlands less than 0.5 acres).

EPC staff is concerned about the applicability of ALPA because of the above reasons, and because EPC has some stricter rules that may be voided in the future if we amend our rules. For example, the EPC has a stricter wetland rule than the state or federal government, including the water management district. The EPC regulates wetlands of 0.5 acres or smaller, while the state and federal government do not always regulate these. Furthermore, the EPC has a unique wetland impact justification provision and a strong wetland mitigation rule that may both be impacted.

Nonetheless, the EPC cannot continue with its rules unchanged in perpetuity. The State recently passed a law and rule that will require the EPC to adopt the Uniform Mitigation Assessment Methodology (Rule 62-345, Florida Administrative Code). This new methodology requires all wetland-regulating political subdivision of Florida government to use a consistent rule-based process of assessing wetlands and other surface waters to determine the amount of mitigation necessary to offset impacts to those wetlands and other surface waters. Once we adopt this rule, many will argue the EPC cannot apply any wetland regulations to agricultural interests because we will have amended the EPC wetland rule after ALPA became effective. EPC would disagree and argue that only the EPC-adopted wetland assessment would not apply to agricultural interests, not the entire wetland rule. The DEP or SWFWMD would still apply the assessment to agricultural interest. Nonetheless, this causes confusion, thus the EPC may have to seek alternative methods (discussed below) to adopt new rules so as not to lose any regulatory powers.

2. Constitutionality of the Broward Exemption from the Agriculture Bill.

The Agricultural Land and Practices Act is considered a general law that applies state wide uniformly, but for a distinct exemption for Broward County. The Commissioners requested that the EPC analyze the constitutionality of the exemption for Broward. Generally, the provision is constitutional and it was drafted to allow Broward to continue to play a role in the Everglades restoration project, without being barred by ALPA from regulating agricultural interest that may be impacting the Everglades.

Section 163.3162(4)(c), F.S. of ALPA provides that:

This subsection does not limit the powers of a predominantly urbanized county with a population greater than 1,500,000 and more than 25 municipalities, not operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII of the Constitution of 1968, which has a delegated pollution control program under s. 403.182 and includes drainage basins that are part of the Everglades Stormwater Program, to enact ordinances, regulations, or other measures to comply with the provisions of s. 373.4592, or which are necessary to carrying out a county's duties pursuant to the terms and conditions of any environmental program delegated to the county by agreement with a state agency.

While ALPA does not clearly state it is meant to exempt Broward County, it is so narrowly tailored so as only to exempt Broward County. These exemptions are commonplace in the Florida Statutes, but they must pass constitutional standards. The Florida Supreme Court has held in many cases, including State v. Daniel, 99 So. 804 (1924) that classifications of counties for governmental purposes based on population is permissible in enacting general laws. The Supreme Court has reasoned that there must be a reasonable basis for a classification of counties by population. It should be noted that the Florida Constitution (Art. III. s. 11) forbids special laws of local application, but only regarding certain subject matter. The Broward County exemption has a reasonable basis, Everglades restoration, and it is not prohibited by the special laws provision of the Constitution.

3. Suggested Methods to Amend EPC Rules without Losing Regulatory Powers.

The Commissioners requested that EPC staff review any options available to amend EPC rules, without losing existing regulatory powers. ALPA states that a local government cannot adopt any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a farm operation on agricultural land if it is duplicative of other state or federal programs. Thus, any new EPC rule adopted after July 1, 2003, may not be duplicative of a state or federal agricultural program. The following are potential options that need to be further explored.

a. EPC may adopt the new rule in a separate and new rule chapter, thus maintaining the existing rule applicable to all other entities in one chapter and adding new rules that do not apply to agriculture in a new chapter. Currently, the EPC has 13 rule chapters (air, noise, wetlands, etc.), the EPC could create new chapters with additional rules in new chapters beginning with Chp. 1-14. The previous chapters would go unchanged and still apply to all entities.

b. EPC may adopt an amendment to a rule by only changing one section. The EPC would independently date those sections, similar to how the DEP adopts their rule section amendments. Thus, EPC maintains only the new section or the changes to the section cannot be applied to agricultural interests if they are duplicative. The remainder of the rule that was unchanged would still apply to all entities.

c. The EPC could seek additional delegations of state or federal programs and/or amendments to state or federal rules to strengthen their programs.

Staff Recommendation

To maintain existing rules and regulatory authority in the most effective and efficient manner, the EPC should pursue option b. The EPC would amend, adopt, or delete each new section of the rule chapter and only that would be voted on for approval into the existing rule. EPC will vigorously defend the existing rules and argue that, at most, the revisions alone fall subject to the new law.