

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
COMMISSIONER'S BOARD ROOM**

**May 20, 2004  
10 AM – 12 NOON**

**AGENDA**

**INVOCATION AND PLEDGE OF ALLEGIANCE**

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

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

*Visit our website at [www.epchc.org](http://www.epchc.org)*

## AGENDA ITEM COVER SHEET

Date: May 20, 2004

Agenda Item: Clean Air Month Presentation

### Description Summary:

Clean Air Month is a national program whose purpose is to help educate the public about the importance of clean air. In recognition of this, the EPC Board declared May 2004 to be Clean Air Month in Hillsborough County at the last meeting. In fact, the EPC Board has been supporting this program in conjunction with the American Lung Association for the past 32 years.

The theme this year is "The Air Quality Index – Your Forecast to Breathe By." We are trying to inform the public on how to find the air quality index in the newspaper or to use our 24 hour hotline. This information can be very important to sensitive groups such as the very young, the elderly and those with pre-existing respiratory ailments.

Staff will be making a brief presentation summarizing EPC's Clean Air Month activities. The Board will also be asked to present savings bonds to 3 students from area high schools who were judged to be winners in the Clean Air Month photography contest.

Commission Action Recommended:

Accept the presentation and participate in the photography awards ceremony.

Commission Action Taken:

MARCH 18, 2004 - ENVIRONMENTAL PROTECTION COMMISSION

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting scheduled for Thursday, March 18, 2004, 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 (arrived at 10:09 a.m.), Jim Norman, Thomas Scott, and Ronda Storms (arrived at 10:54 a.m.).

Chairman Platt called the meeting to order at 10:03 a.m. Commissioner Scott led in the pledge of allegiance to the flag and gave the invocation.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, suggested pollution recovery fund (PRF) application approvals be addressed in conjunction with the Citizens Environmental Advisory Committee (CEAC) presentation. He requested an item added to the Executive Director's Report regarding legislative review, to defer the total maximum daily loads (TMDL) informational report to the next EPC meeting, and to add an item for discussion regarding the Putney settlement. **Commissioner Norman moved the changes, seconded by Commissioner Frank, and carried five to zero.** (Commissioners Hagan and Storms had not arrived.)

CONSENT AGENDA

- A. Approval of Minutes: January 15, 2004, and February 18, 2004.
- B. Monthly Activity Reports.
- C. Legal Department Monthly Report.
- D. PRF.
- E. Gardinier Settlement Trust Fund.
- F. Request authority to take appropriate legal action against: (1) Tampa Bay Shipbuilding and Repair Company Incorporated; (2) Conrad Yelvington Distributors Incorporated (Conrad Yelvington).
- G. Letter to Legislative Delegation regarding Senate Bill (SB) 1180, makeup of Southwest Florida Water Management District (SWFWMD) governing board.
- H. Authorize upland preservation in lieu of mitigation: (1) The Home Depot U.S.A. Incorporated at U.S. Highway 301 (U.S. 301) and Bloomingdale Avenue; (2) Robinson High School and Tampa Housing Authority land swap.

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I. Resolved enforcement cases: (1) Strawberry Fields Ventures LLC; (2) Mouhammed Al-Samkari

J. Accept a \$48,300 artificial-reef-monitoring grant agreement.

**Commissioner Scott moved the Consent Agenda, seconded by Commissioner Castor.** Chairman Platt suggested hearing public comment before taking action on the Consent Agenda. (Resumed later in the meeting.)

#### CITIZENS COMMENTS

Ms. Nancy Curry, director of development, Florida Aquarium Incorporated, commented on the request for funding and SWFWMD match funding.

Mr. Doug Baskin, representing Conrad Yelvington, Daytona, commented on issues with notification and requested action delayed regarding Conrad Yelvington. EPC General Counsel Richard Tschantz explained the request was for the authority to seek legal action if issues could not be resolved. Attorney Frank Hearne, with Mechanik, Nuccio, Williams, Hearne, and Webster, P.A., representing Northview Hills Civic Association, requested the neighborhood association be included in enforcement resolution discussions. Mr. Frank Reddick, president, Northview Hills Civic Association, discussed attempts to address noise, dust, and health issues and did not support a delay. Commissioner Frank suggested EPC initiate legal action if resolution was not reached within 30 days; Attorney Hearne agreed. Ms. Gloria Taylor, County resident, commented on the number of complaints filed, breathing problems, temporary corrective measures, and gravel equipment vibrations, dust, and noise.

Mr. Fred Gilbert, 4110 West Varn Avenue, and Ms. Rosa Sellers, 4112 West Varn Avenue, had questions regarding housing proposed near Interbay Boulevard and Varn Avenue; Dr. Garrity clarified the issue was related to the Robinson High School and Tampa Housing Authority land swap. Chairman Platt requested staff meet with Mr. Gilbert and Ms. Sellers to answer questions.

Ms. Marilyn Smith, County resident, commented on CEAC, EPC, review of PRF funding requests, and environmental legislation.

#### CONSENT AGENDA - RESUMED

Responding to Commissioner Norman, Attorney Tschantz confirmed property owners were noticed regarding legal action. Commissioner Frank moved to amend staff request regarding Item F.(2), Conrad Yelvington, to include a termination point for settlement at 30 days, and then initiate legal action if that was not resolved; Attorney Tschantz agreed. Chairman Platt suggested the

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amendment be included in the motion to approve the Consent Agenda. **Commissioner Scott accepted that.** Following clarification, **the motion carried six to zero.** (Commissioner Storms had not arrived.)

CEAC

Report From the Chairman, David Jellerson - Mr. Jellerson recalled the prior CEAC meeting review of PRF funding requests and presentation by Mr. David Mankowski, Special Operations Chief, Tampa Fire Rescue, regarding evaluation of marine fire-fighting capabilities. He relayed CEAC commendation to EPC for the display at the University of South Florida Engineering Exposition 2004 and appreciation for Ms. Mary Jo Howell, EPC staff, for her assistance to CEAC.

Review and Approve Requests for PRF Funds - Dr. Garrity reviewed the following projects recommended for approval: Palm River Habitat Restoration; Agricultural Pesticide Collection Day; Invasive Plant Removal at Riverview Library; Invasive Plant Removal at E. G. Simmons Park; Tampa Adopt-a-Shoreline Restoration program; Bahia Beach Restoration; State of the River; Stormwater Management Demonstration; and Water Drop Patch program. Chairman Platt called for a motion to concur with those recommendations. **Commissioner Castor so moved, seconded by Commissioner Frank, and carried six to zero.** (Commissioner Storms had not arrived).

Dr. Garrity reviewed the following projects recommended for denial: Prop Scar Restoration/Cockroach Bay and Phosphate-Mined Lake Restoration. Commissioner Norman voiced support for innovative technology and perceived some assistance should be provided for prop scar restoration. Mr. Jellerson explained the recommendation for denial. **Commissioner Frank moved both denials, seconded by Commissioner Castor.** Dr. Garrity stated Mr. Jim Anderson, applicant for the prop scar restoration project, offered to withdraw the request and resubmit the application the following year. Chairman Platt anticipated at that point the technology would be proven. **Commissioner Frank amended the motion to accept the withdrawal of Project 7, Prop Scar Restoration/Cockroach Bay, Seagrass Recovery Incorporated, to be resubmitted at a later date, and to deny concurrent with the recommendations from both staff and CEAC, Project 9, Phosphate-Mined Lake Restoration. The motion was seconded by Commissioner Castor and carried six to zero.** (Commissioner Storms had not arrived.) Responding to Chairman Platt, Dr. Garrity confirmed the American Lung Association had withdrawn their application.

Dr. Garrity explained EPC recommended approval of the city of Tampa (City) Shoreline Restoration Master Plan project, but CEAC recommended denial. Mr. Jellerson discussed CEAC vote and recommendation for denial. Responding to

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Commissioner Castor, Dr. Garrity explained the request was specifically for restoration-project designs for public-owned parcels along Hillsborough River and would be part of the shoreline restoration master plan. Responding to Commissioner Frank, Mr. Tom Ash, EPC staff, discussed shoreline restoration. Commissioner Castor moved to approve. The motion died for lack of a second.

Mr. Jellerson explained CEAC objection to hiring a professional landscaping architect to provide the project-restoration plans. Following discussion, Commissioner Castor moved to conditionally approve the request, but not to release any funds until the applicant satisfied the EPC Board with a detailed restoration plan. The motion died for lack of a second.

Following discussion, Commissioner Frank moved to deny the request, or if the City wanted to withdraw the request and resubmit it another year, that would be fine. The motion was seconded by Commissioner Norman. (The motion was subsequently withdrawn.) Responding to Chairman Platt, Ms. Erin Budde, executive director, Mayor's Beautification Program, discussed the request, master plan, and multiple funding sources. In response to Commissioner Frank, Dr. Garrity and Mr. Ash commented on PRF funds used for staffing, multi-agency projects, and leveraging funding. After withdrawing the motion to deny, **Commissioner Frank moved approval, seconded by Commissioner Castor.** Ms. Budde and Mr. Ash responded to Commissioner Norman regarding concerns that the City was not providing personnel and the restoration-project plans might not be utilized. **The motion carried five to one; Commissioner Norman voted no.** (Commissioner Storms had not arrived.)

Presentation of Service Award - Patricia Mitchell - Ms. Mitchell accepted a plaque in recognition of her service on CEAC from March 2000 to January 2004.

#### SPECIAL RECOGNITION

Robinson High School - Participation in the National Student Summit on Ocean Issues - In reply to Commissioner Scott, Ms. Kristy Loman-Chiodo, marine science instructor, Robinson High School, said Ms. Laura Zavatkay, principal, Robinson High School, was unable to attend the meeting. Commissioner Scott presented certificates of achievement to Mr. Matt Aviles (not present) and Meses. Nisa Alvarado, Whitney Grubbs, Anthia Moore, and Sarah Nakleh (not present), Robinson High School students, for their participation in the summit in Washington D.C. The students addressed coastal development, stormwater management, aquaculture, habitat destruction, invasive species, and litter issues.

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PUTNEY SETTLEMENT DISCUSSION

Attorney Tschantz recalled the closed session held on February 18, 2004, regarding the lawsuit against the EPC and the County for a regulatory taking of a 2.5-acre parcel on U.S. 301. He discussed the case length, renewed motion for summary judgment and subsequent denial, upcoming trial, and rejection of the \$75,000 settlement offer. The Putneys countered with a settlement for \$95,000 and to be allowed to donate the property to the County. Attorney Tschantz had contacted Mr. Mike Kelly, Director, Real Estate Department, regarding the proposed donation. Staff recommended the EPC accept the counteroffer, settle all claims regarding attorney's fees and costs, and accept the donation of the property. Commissioner Frank wanted assurance the land was not contaminated. Attorney Tschantz said the land had not been assayed.

Commissioner Frank moved to accept the \$95,000 as a settlement and the gift of the property, if the property was not contaminated land, seconded by Commissioner Scott. Attorney Tschantz explained a document would be drafted and shown to the court to postpone the trial. Senior Assistant County Attorney Ray Allen would provide the final document to the Board of County Commissioners for approval. Attorney Tschantz responded to EPC Board member queries regarding wetlands on the property, property condition, and whether a precedent would be set. **The motion carried seven to zero.** Commissioner Scott left the meeting at 11:17 a.m.

EXECUTIVE DIRECTOR

Coronet Industries Incorporated (Coronet) Update: Health Issues; city of Plant City (Plant City) Landfill Study; and Meeting with David Denner, Chief Executive Officer, Coronet - Dr. Garrity discussed meeting with Mr. Denner regarding the closing of Coronet, razing structures, and remediation.

Mr. Jerry Campbell, Director, EPC Air Management Division, noted the recent copy of the Coronet outreach newsletter and introduced Ms. Susan Bland, exposure investigation coordinator, Florida Department of Health (FDOH). Ms. Bland distributed information, discussed community health concerns, and utilized an overhead presentation to review public health hazard assessments. The FDOH was in the process of testing surface and landfill soils, air, and fish. Reports were available at <http://hazwastework.doh.state.fl.us>.

Ms. Bland explained drinking water test results showed no public health hazards, cancer incidence rates were not significantly different compared to State and local averages, and urine test results for arsenic, boron, cadmium,

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fluoride, lead, and uranium were at levels not likely to cause illness. She noted additional blood-lead test results were below levels set by the Centers for Disease Control and Prevention. Ms. Bland commented on the fish analyses, assistance from the Florida Fish and Wildlife Conservation Commission, and results expected April 2004. Chairman Platt requested reports provided to EPC Board members; Ms. Bland agreed.

Mr. Paul Schipfer, EPC Waste Management Division, distributed the Plant City landfill site-assessment report and explained no health hazards were found but some metal, soil, and groundwater issues needed to be addressed. Commissioner Hagan left the meeting at 11:30 a.m.

Piney Point - Discussion on Discharge to Bishop Harbor and Macro-Algae Harvesting - Dr. Garrity utilized an overhead presentation and photographs to discuss Piney Point dewatering, installation of liner, discharge to Bishop Harbor, Bishop Harbor algae bloom, and Florida Department of Environmental Protection (DEP) macro-algae harvesting. He allayed concerns regarding macro-algae harvesting equipment impacts to sea grasses and commented on reductions in nitrogen-laden discharge.

#### LEGISLATIVE REVIEW

SB 696 and SB 2128, Incentive-Based Permitting Acts - Attorney Tschantz requested the Chairman send a letter to the Legislative Delegation opposing the bills, noting issues with incentives, disincentives, and staff application. **Commissioner Frank moved to oppose the incentive bills and authorize the Chairman to write a letter to the Legislative Delegation to that effect, seconded by Commissioner Storms.** Commissioner Norman suggested proposing an amendment to existing legislation. Attorney Tschantz perceived SB 696 could be amended. Chairman Platt suggested itemizing reasons for opposition; **Commissioner Frank agreed. The motion carried five to zero.** (Commissioners Hagan and Scott had left the meeting.)

House Bill 1321 and SB 2944 - Phosphate Mining Restoration - Attorney Tschantz explained the bills would provide additional money to the nonmandatory land reclamation trust fund. He noted one issue was that 40 percent of phosphate severance tax money went to general revenue. Following discussion on industry support, Commissioner Frank suggested supporting the bill without 40 percent going to general revenue, that the money should be retained for the purpose originally legislated. In response to Chairman Platt, **Commissioner Frank made that the motion, seconded by Commissioner Castor, and carried three to two; Commissioners Norman and Storms voted no.** (Commissioners Hagan and Scott had left the meeting.)



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WASTE MANAGEMENT DIVISION

Discussion of Historic Landfills in Hillsborough County - Dr. Garrity commented on the study of historic landfills and survey by EPC and Solid Waste Department staffs. He requested approval to submit a \$112,000 budget request for fiscal year 2005 to look at the 162 sites within the County, prioritize the sites, and conduct a Phase 1 analysis to determine whether sites would need further study. Commissioner Norman left the meeting at 11:43 a.m. Chairman Platt called for a motion in that regard. **Commissioner Frank so moved, seconded by Commissioner Storms, and carried four to zero.** (Commissioners Hagan, Norman, and Scott had left the meeting.)

Presentation of Green Yards Program - Following comments on auto-parts recycling, Dr. Garrity requested authorization to proceed with a Hillsborough County Green Yards program patterned after the DEP Green Yards program in Orlando. **Commissioner Storms so moved, seconded by Commissioner Castor, and carried four to zero.** (Commissioners Hagan, Norman, and Scott had left the meeting.)

ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION

Presentation - Resolution Regarding Mangrove Delegation - Dr. Garrity requested authorization to apply to DEP for delegation to run a mangrove trimming program within EPC Wetlands Management Division. **Commissioner Storms so moved, seconded by Commissioner Castor.** In reply to Commissioner Castor, Dr. Garrity confirmed existing EPC staff would be utilized. **The motion carried four to zero.** (Commissioners Hagan, Norman, and Scott had left the meeting.)

There being no further business, the meeting was adjourned at 11:48 a.m.

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

ATTEST:  
RICHARD AKE, CLERK

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

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APRIL 15, 2004 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, April 15, 2004, 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 Pat Frank, Jim Norman, Thomas Scott, and Ronda Storms (arrived at 10:43 a.m.).

The following members were absent: Commissioners Kathy Castor (out of town) and Ken Hagan.

Chairman Platt called the meeting to order at 10:04 a.m. Commissioner Scott led in the pledge of allegiance to the flag and gave the invocation.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, noted the cypress mulch issue was deleted from the agenda and would be discussed with the citizens who had expressed concern. Commissioner Norman suggested including the agricultural community. Dr. Garrity added an update on Piney Point and deleted the item regarding authority to take legal action against Letty Cueva and Patricia Vaca. **Commissioner Norman moved the changes, seconded by Commissioner Scott, and carried four to zero.** (Commissioner Storms had not arrived; Commissioners Castor and Hagan were absent.)

CITIZENS COMMENTS

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

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report From the Chairman, David Jellerson - Mr. Jellerson reported the discussions at the last CEAC meeting related to current legislative issues as well as proposed amendments to the EPC wetlands rule. Discussion also included problems with project delays in permitting, due to perceived inadequate communications among various County agencies.

PROCLAMATION

Clean Air Month - In response to Chairman Platt, Dr. Garrity discussed an NBC Dateline program featuring counties that had achieved air standards. Mr. Jerry Campbell, Director, EPC Air Management Division, and Mr. John Ramil, president, Tampa Electric Company, were interviewed for the program, which would air Sunday, April 18, 2004.

THURSDAY, APRIL 15, 2004 - DRAFT MINUTES

Mr. Campbell presented a proclamation declaring May 2004 as Clean Air Month. He introduced Ms. Shirley Westrate, chief executive officer, American Lung Association (ALA), who offered comments, stressed the importance of clean air, reviewed the ALA mission, and discussed the ALA state of the air report and the Youth Environmental Associations group. Ms. Dottie Zegota, ALA, distributed and reviewed information relating to the air quality index.

Commissioner Frank noted the Metropolitan Planning Organization had discussed reaching attainment status in terms of air quality. She relayed concern about mercury emission standards being lowered and asked how that would impact the County. Mr. Campbell distributed and reviewed information relating to mercury emissions and discussed legislation proposed that would allow an organization that had high mercury emissions to purchase credits from other sites. Commissioner Frank perceived the important point was that emissions from one area might impact another area; she opined the County should take a supportive action to keep standards high. Dr. Garrity noted there was an opportunity for public comment at the national level. Commissioner Frank moved to participate actively in the rule making process to express concern about any diminution in air quality mercury emissions, seconded by Commissioner Scott. Chairman Platt asked that be made available to the congressional delegation. In response to Chairman Platt, Commissioner Frank confirmed the motion included a letter to that affect. The motion carried four to zero. (Commissioner Storms had not arrived; Commissioners Castor and Hagan were absent.)

Mr. Campbell introduced Mr. Pat George, promotions director, Radio Disney, who reviewed programming related to air quality.

CONSENT AGENDA

- A. Approval of Minutes: January 7, 2004.
- B. Monthly Activity Reports.
- C. Legal Department Monthly Reports.
- D. Pollution Recovery Fund.
- E. Gardinier Settlement Trust Fund.
- F. Request Authority to Take Appropriate Legal Action Against Paul A. and Vicki M. Heckman (Petroleum Contamination).

THURSDAY, APRIL 15, 2004 - DRAFT MINUTES

Commissioner Norman moved the Consent Agenda, seconded by Commissioner Scott, and carried four to zero. (Commissioner Storms had not arrived; Commissioners Castor and Hagan were absent.)

EXECUTIVE DIRECTOR

Coronet Industries Incorporated (Coronet) Update - Mr. Campbell reviewed an overhead presentation focusing on environmental investigations, enforcement actions, public health assessment reports, public outreach efforts, and photographs of activity at the site.

Piney Point Update - Dr. Garrity distributed and reviewed an update on activities at Piney Point, as presented in background material.

Earth Day - Dr. Garrity provided information on Earth Day, which would be celebrated on April 22, 2004, at Lowry Park Zoo.

LEGAL DEPARTMENT

Request Authority to Establish Date for Public Hearing to Amend Chapter 1-11, Rules of the EPC, Wetlands - EPC General Counsel Richard Tschantz reviewed the request. Changes were presented to CEAC and the public. Staff was requesting a hearing date be set for May 20, 2004. Commissioner Norman so moved, seconded by Commissioner Scott, and carried four to zero. (Commissioner Storms had not arrived; Commissioners Castor and Hagan were absent.)

2004 Legislative Update - Attorney Tschantz reviewed previous actions to oppose a bill related to gun ranges, which provided full immunity for lead contamination. An amendment had been offered, which lessened the immunity allowed, but EPC still opposed the bill. Attorney Tschantz requested a letter be sent asking the Governor to veto the bill. Commissioner Frank so moved, seconded by Commissioner Norman. In response to Commissioner Norman, Attorney Tschantz reported gun ranges that followed Department of Environmental Protection (DEP) best management practices and made good faith efforts to reduce contamination could not be sued. The problem created was that criminal charges could be filed against the party filing the lawsuit if the judge found the range had made good faith efforts to reduce contamination.

Commissioner Norman questioned why the bill had passed the Senate without much opposition. Attorney Tschantz stated many groups supported the right to bear arms and opined expensive lawsuits could put gun ranges out of business.

THURSDAY, APRIL 15, 2004 - DRAFT MINUTES

Those groups perceived that in order to protect that right one needed to protect gun ranges. The motion carried three to one; Commissioner Norman voted no. (Commissioner Storms had not arrived; Commissioners Castor and Hagan were absent.)

Attorney Tschantz reviewed a water related bill and amendments dealing with the reservation of water rights, and he requested authority to monitor the bill and to oppose elimination of water reservation rights. Commissioner Frank moved to oppose any change in the ability of water management districts to reserve water for environmental purposes, seconded by Commissioner Scott, and carried five to zero. (Commissioners Castor and Hagan were absent.)

ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION

Review of Total Maximum Daily Loads (TMDL), Deferred from March 18, 2004 -  
Dr. Garrity noted DEP was working on setting pollutant loading limits for every nonattainment water body in the State. Dr. Gerold Morrison, Director, EPC Environmental Resources Management Division, reviewed an overhead presentation summarizing the definition and development of TMDLs, pollution sources, a map of impaired waterways as defined by the Environmental Protection Agency, those affected by the change, and EPC's role. Commissioner Scott left the meeting at 10:47 a.m. A TMDL information meeting would be held Thursday, April 22, 2004, at 1:30 p.m., in the Planning Commission conference room. Commissioner Storms moved to ask the EPC Chairman to represent Hillsborough County on that, seconded by Commissioner Norman. Commissioner Norman requested the Vice Chairman attend if the Chairman was busy. Chairman Platt and Commissioner Storms would check their schedules. Mr. Morrison stated background information would be provided, and staff could meet with Chairman Platt prior to the meeting. The motion carried four to zero. (Commissioner Scott had left the meeting; Commissioners Castor and Hagan were absent.)

THURSDAY, APRIL 15, 2004 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 10:55 a.m.

READ

AND

APPROVED:

\_\_\_\_\_  
CHAIRMAN

ATTEST:

RICHARD AKE, CLERK

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

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MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION  
**APRIL**

A.	Public Outreach/Education Assistance:	197
	1. Phone Calls:	<u>120</u>
	2. Literature Distributed:	<u>7</u>
	3. Presentations:	<u>8</u>
	4. Media Contacts:	<u>70</u>
	5. Internet:	<u>0</u>
	6. Host/Sponsor Workshops, Meetings, Special Events	<u>0</u>
B.	Industrial Air Pollution Permitting	
	1. Permit Applications Received (Counted by Number of Fees Received):	
	a. Operating:	<u>8</u>
	b. Construction:	<u>1</u>
	c. Amendments:	<u>0</u>
	d. Transfers/Extensions:	<u>2</u>
	e. General:	<u>1</u>
	f. Title V:	<u>9</u>
	2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected) - ( <sup>2</sup> Counted by Number of Emission Units affected by the Review):	
	a. Operating <sup>1</sup> :	<u>10</u>
	b. Construction <sup>1</sup> :	<u>14</u>
	c. Amendments <sup>1</sup> :	<u>0</u>
	d. Transfers/Extensions <sup>1</sup> :	<u>0</u>
	e. Title V Operating <sup>2</sup> :	<u>51</u>
	f. Permit Determinations <sup>2</sup> :	<u>0</u>
	g. General:	<u>0</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>5</u>
	b. Active:	<u>23</u>
	c. Legal:	<u>4</u>
	d. Tracking compliance (Administrative):	<u>33</u>
	e. Inactive/Referred cases:	<u>0</u>
	Total	<u>65</u>
	3. NOIs issued:	<u>5</u>
	4. Citations issued:	<u>0</u>
	5. Consent Orders Signed:	<u>3</u>
	6. Contributions to the Pollution Recovery Fund: \$25,544.16	
	7. Cases Closed:	<u>1</u>

D.	Inspections:	
1.	Industrial Facilities:	<u>10</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>9</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>18</u>
E.	Open Burning Permits Issued:	<u>9</u>
F.	Number of Division of Forestry Permits Monitored:	<u>250</u>
G.	Total Citizen Complaints Received:	<u>59</u>
H.	Total Citizen Complaints Closed:	<u>54</u>
I.	Noise Sources Monitored:	<u>6</u>
J.	Air Program's Input to Development Regional Impacts:	<u>5</u>
K.	Test Reports Reviewed:	<u>41</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>33</u>
2.	Warning Notices Resolved:	<u>19</u>
3.	Advisory Letters Issued:	<u>10</u>
M.	AOR's Reviewed:	<u>4</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>2</u>



FEES COLLECTED FOR AIR MANAGEMENT DIVISION  
**APRIL**

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$ -0-
(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	\$ -0-
(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>\$ 80.00</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>\$4,520.00</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>\$1,800.00</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>\$ 900.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$1,000.00</u>
8. Open burning authorization	<u>\$5,025.00</u>
9. Enforcement Costs	<u>\$3,013.47</u>

COMMISSION  
 Kathy Castor  
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 The Roger P. Stewart Environmental Center  
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 1410 N. 21st Street • Tampa, FL 33605

Executive Director  
 Richard D. Garrity, Ph.D.

## MEMORANDUM

**DATE:** May 12, 2004

**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 APRIL 2004  
 AGENDA INFORMATION

### A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	6
2. On-going administrative cases	112
a. Pending	17
b. Active	64
c. Legal	5
d. Tracking Compliance (Administrative)	26
e. Inactive/Referred Cases	0
3. NOI's issued	0
4. Citations issued	1
5. Consent Orders and Settlement Letters Signed	2
6. Civil Contributions to the Pollution Recovery Fund	\$4,088
7. Enforcement Costs collected	\$1,264
9. Cases Closed	4

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**B. SOLID AND HAZARDOUS WASTE**

1. Permits (received/reviewed)	3/1
2. EPC Authorization for Facilities NOT requiring DEP permit	10
3. Other Permits and Reports	
a. County Permits	2/2
b. Reports	65/54
4. Inspections (Total)	196
a. Complaints	33
b. Compliance/Reinspections	21
c. Facility Compliance	22
d. Small Quantity Generator	120
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	37/42
b. Warning Notices Issued/Closed	3/4
c. Compliance letters	26
d. Letters of Agreement	1
e. DEP Referrals	4
6. Pamphlets, Rules and Material Distributed	261

**C. STORAGE TANK COMPLIANCE**

1. Inspections	
a. Compliance	98
b. Installation	25
c. Closure	24
d. Compliance Re-Inspections	36
2. Installation Plans Received/Reviewed	10/11
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	6/5
b. Closure Reports Received/Reviewed	19/4
4. Enforcement	
a. Non-compliance Letters Issued/Closed	63/52
b. Warning Notices Issued/Closed	2/7
c. Cases referred to Enforcement	1
d. Complaints Received/Investigated	1/1
e. Complaints Referred	0
5. Discharge Reporting Forms Received	7
6. Incident Notification Forms Received	9
7. Cleanup Notification Letters Issued	2
8. Public Assistance	200+

**D. STORAGE TANK CLEANUP**

1. Inspections	34
2. Reports Received/Reviewed	88/128
a. Site Assessment	20/36
b. Source Removal	4/7
c. Remedial Action Plans (RAP's)	14/16
d. Site Rehabilitation Completion Order/ No Further Action Order	5/8
e. Others	45/61
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

**E. RECORD REVIEWS - 28**

**F. PUBLIC INFORMATION PROJECTS - 1**

Green Yards Workshop – K. Boatwright & staff

**ACTIVITIES REPORT  
WATER MANAGEMENT DIVISION  
APRIL, 2004**

**A. ENFORCEMENT**

1. New Enforcement Cases Received:	3
2. Enforcement Cases Closed:	3
3. Enforcement Cases Outstanding:	51
4. Enforcement Documents Issued:	4
5. Recovered costs to the General Fund:	\$1,377.70
6. Contributions to the Pollution Recovery Fund:	\$1,083.33

Case Name	Violation	Amount
a. Summerview Oaks	Placement of C/S in service w/o acceptance letter	\$ 83.33
b. Balaye Townhomes	Construction w/o permit	\$1,000.00

**B. PERMITTING/PROJECT REVIEW - DOMESTIC**

1. Permit Applications Received:	25
a. Facility Permit:	4
(i) Types I and II	1
(ii) Type III	3
b. Collection Systems-General:	10
c. Collection Systems-Dry Line/Wet Line:	11
d. Residuals Disposal:	0
2. Permit Applications Approved:	34
a. Facility Permit:	1
b. Collection Systems-General:	9
c. Collection Systems-Dry Line/Wet Line:	24
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
4. Permit Applications (Non-Delegated) Recommended for Approval:	0
5. Permits Withdrawn:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0

6. Permit Applications Outstanding:	<u>65</u>
a. Facility Permit:	<u>35</u>
b. Collection Systems-General:	<u>28</u>
c. Collection Systems-Dry Line/Wet Line:	<u>2</u>
d. Residuals Disposal:	<u>0</u>
7. Permit Determination:	<u>5</u>
8. Special Project Reviews:	<u>0</u>
a. ARs:	<u>0</u>
b. Reuse:	<u>0</u>
c. Residuals/AUPs:	<u>0</u>
d. Others:	<u>1</u>
<b>C. INSPECTIONS - DOMESTIC</b>	<u>101</u>
1. Compliance Evaluation:	<u>21</u>
a. Inspection (CEI):	<u>4</u>
b. Sampling Inspection (CSI):	<u>16</u>
c. Toxics Sampling Inspection (XSI):	<u>0</u>
d. Performance Audit Inspection (PAI):	<u>1</u>
2. Reconnaissance:	<u>38</u>
a. Inspection (RI):	<u>8</u>
b. Sample Inspection (SRI):	<u>0</u>
c. Complaint Inspection (CRI):	<u>29</u>
d. Enforcement Inspection (ERI):	<u>1</u>
3. Engineering Inspections:	<u>42</u>
a. Reconnaissance Inspection (RI):	<u>4</u>
b. Sample Reconnaissance Inspection (SRI):	<u>0</u>
c. Residual Site Inspection (RSI):	<u>1</u>
d. Preconstruction Inspection (PCI):	<u>9</u>
e. Post Construction Inspection (XCI):	<u>28</u>
f. On-site Engineering Evaluation:	<u>0</u>
g. Enforcement Reconnaissance Inspection (ERI):	<u>0</u>
<b>D. PERMITTING/PROJECT REVIEW - INDUSTRIAL</b>	
1. Permit Applications Received:	<u>1</u>
a. Facility Permit:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with groundwater monitoring	<u>0</u>
(iii) Type III w/o groundwater monitoring	<u>0</u>
b. General Permit:	<u>1</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>0</u>
a. Facility Permits:	<u>0</u>
b. General Permits:	<u>0</u>
4. Permitting Determination:	<u>0</u>
5. Special Project Reviews:	<u>0</u>
a. ARs:	<u>0</u>
b. Phosphate DMRs:	<u>4</u>
c. Phosphate:	<u>1</u>
d. Industrial Wastewater:	<u>5</u>
e. Others:	<u>18</u>
<b>E. INSPECTIONS - INDUSTRIAL</b>	
1. Compliance Evaluation:	<u>13</u>
a. Inspection (CEI):	<u>13</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>14</u>
a. Inspection (RI):	<u>7</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>0</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>
<b>F. INVESTIGATION/COMPLIANCE</b>	
1. Citizen Complaints:	
a. Domestic:	<u>21</u>
(i) Received:	<u>12</u>
(ii) Closed:	<u>9</u>
b. Industrial:	<u>13</u>
(i) Received:	<u>7</u>
(ii) Closed:	<u>6</u>
2. Warning Notices:	
a. Domestic:	<u>11</u>
(i) Received:	<u>7</u>
(ii) Closed:	<u>4</u>
b. Industrial:	<u>2</u>
(i) Received:	<u>2</u>
(ii) Closed:	<u>0</u>
3. Non-Compliance Advisory Letters:	<u>23</u>

4. Environmental Compliance Reviews:	<u>242</u>
a. Industrial:	<u>46</u>
b. Domestic:	<u>196</u>
5. Special Project Reviews:	<u>2</u>
a. ARs:	<u>1</u>
b. Others:	<u>1</u>
<b>G. RECORD REVIEWS</b>	
1. Permitting:	<u>3</u>
2. Enforcement:	<u>1</u>
<b>H. ENVIRONMENTAL SAMPLES ANALYSED FOR</b>	
1. Air Division:	<u>108</u>
2. Waste Division:	<u>0</u>
3. Water Division:	<u>29</u>
4. Wetlands Division:	<u>0</u>
5. ERM Division:	<u>132</u>
<b>I. SPECIAL PROJECT REVIEWS</b>	
1. DRI's:	<u>6</u>
2. ARs:	<u>0</u>
3. Technical Support:	<u>8</u>
4. Other:	<u>3</u>

April 2004



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

	Totals
A. General	
1. Telephone Conferences	812
2. Unscheduled Citizen Assistance	108
3. Scheduled Meetings	115
4. Correspondence	56
B. Assessment Reviews	
1. Wetland Delineations	65
2. Surveys	65
3. Miscellaneous Activities in Wetland	30
4. Impact/ Mitigation Proposal	8
5. Tampa Port Authority Permit Applications	69
6. Wastewater Treatment Plants (FDEP)	0
7. DRI Annual Report	4
8. Land Alteration/Landscaping	4
9. Land Excavation	0
10. Phosphate Mining	1
11. Rezoning Reviews	35
12. CPA	1
13. Site Development	43
14. Subdivision	77
15. Wetland Setback Encroachment	0
16. Easement/Access-Vacating	1
17. Pre-Applications	75
18. On-Site Visits	116
C. Investigation and Compliance	
1. Complaints Received	24
2. Complaints Closed	45
3. Warning Notices Issued	9
4. Warning Notices Closed	6
5. Complaint Inspections	46
6. Return Compliance Inspections	39
7. Mitigation Monitoring Reports	10
8. Mitigation Compliance Inspections	41
9. Erosion Control Inspections	37
D. Enforcement	
1. Active Cases	42
2. Legal Cases	2
3. Number of "Notice of Intent to Initiate Enforcement"	1
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	0
6. Administrative - Civil Cases Closed	42
7. Cases Referred to Legal Department	0
8. Contributions to Pollution Recovery	\$1,500
9. Enforcement Costs Collected	\$250

## EPC WETLANDS MONTHLY WORKSHEET

General	Enforcement	Compliance	Assessment	Engineering	Admin	Totals
Telephone Conferences			18	239	555	812
scheduled Citizen Assistance		1	17	42	48	108
cheduled Meetings			54	5	56	115
Correspondence	11	40	5			56
Assessment Reviews			65			65
Wetland Delineations			6			6
Surveys			30			30
Miscellaneous Activities in Wetland			8			8
Impact/ Mitigation Proposal			69			69
Tampa Port Authority Permit Applications						0
Wastewater Treatment Plants (FDEP)			4			4
DRI Annual Report			4			4
Land Alteration/Landscaping						0
Land Excavation			1			1
Phosphate Mining			35			35
Rezoning Reviews			1			1
CPA			43			43
Site Development			77			77
Subdivision						0
Wetland Setback Encroachment			1			1
Easement/Access-Vacating			75			75
Pre-Applications			116			116
On-Site Visits						
Investigation and Compliance						
Complaints Received		24				24
Complaints Closed		45				45
Warning Notices Issued		9				9
Warning Notices Closed		6				6
Complaint Inspections		46				46
Return Compliance Inspections		39				39
Mitigation Monitoring Reports		10				10
Mitigation Compliance Inspections		41				41
Erosion Control Inspections		37				37
Enforcement						
Active Cases	42					42
Legal Cases	2					2
Number of "Notice of Intent to Initiate Enforcement"	1					1
Number of Citations Issued						0
Number of Consent Orders Signed						0
Administrative - Civil Cases Closed	42					42
Cases Referred to Legal Department						0
Contributions to Pollution Recovery	\$1,500					\$1,500
Enforcement Costs Collected	\$250					\$250

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**May 2004**

**A. ADMINISTRATIVE CASES**

**NEW CASES [ 0 ]**

**EXISTING CASES [ 5 ]**

**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)

**Col Met, Inc.** [LCOL03-019]: On March 19, 2003, Co Met, Inc. was issued a Citation to Cease and Order to Correct Violation regarding its aluminum painting operation. Col Met, Inc. timely filed an Appeal of the Citation. The company has since ceased operations and is negotiating a sale. The matter has been held in abeyance pending result of the sale and a determination whether the operation will continue. (RT)

**Shafii, Esfandiar, M.D.** [LSHA04-002]: The EPC issued a miscellaneous activities permit for the construction of a dock on Lake Alice for Kenneth Barkett. The neighbor challenged the issuance of the authorization through filing a Notice of Appeal pursuant to Section 9 of the EPC Act. The matter has been referred to a hearing officer for an administrative hearing. The EPC Legal Department has filed a Motion to Dismiss the appeal for failing to demonstrate the appellant is adversely affected by the Executive Director's decision. The hearing is set for May 25, 2004. (AZ)

**Northview Hills Civic Association** [LNOR04-001]: Petitioner challenges EPC's issuance of an air permit to Conrad Yelvington Distributors, Inc., a materials handling facility. The Petition was referred to the Division of Administrative Hearings on April 5, 2004. The hearing is scheduled for the week of August 23, 2004. A related enforcement case appears under civil cases. (RT)

**RESOLVED CASES [0]**

## B. CIVIL CASES

### NEW CASES [ 4 ]

**Causeway Station – Patricia Vaca and Letty Cueva** [LCAU04-005]: Authority to take appropriate action against Ms. Vaca and Ms. Cueva as owner and operator of an underground storage tank facility was granted April 2004. The parties are responsible for unresolved petroleum contamination existing at the property. On July 8, 2002, EPC issued a Citation and Order to Correct to the parties. The Citation ordered Letty Cueva and Patricia Vaca to complete and submit two copies of a Remedial Action Plan to cleanup the contamination. No response has been made by the parties. (AZ)

**Plant City Nightclub Company** [LPLA04-003]: Plant City Nightclub filed a lawsuit against Hillsborough County, the Sheriff's Office, and the EPC requesting declaratory relief and challenging the EPC's enabling act and noise rule. The EPC Legal Department filed a Motion to Dismiss the lawsuit and the matter will be set for hearing. (RT and AZ)

**Presco Food Stores** [LPRE03-025]: Authority to take appropriate action against Mr. Patel as owner and operator of an underground storage tank facility was granted in October 2003. The responsible party is currently out of compliance with state and EPC regulations concerning the operation of the underground storage tanks located at the property. The violations remain unresolved and the EPC Legal Department filed the lawsuit on April 28, 2004 compelling corrective actions and seeking penalties and costs. (AZ)

**Conrad Yelvington Distributors, Inc.** [LCON04-006]: Authority to take appropriate action against Conrad Yelvington Distributors, Inc. for unresolved air emission violations existing at a material handling facility was granted in March 2004. On April 21, 2004, the EPC Legal Department filed a lawsuit seeking corrective actions at the facility and penalties and costs. (RT)

### EXISTING CASES [4]

**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. Negotiations are continuing in the case. (AZ)

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

**Botner, Clyde** [LBOT03-017]: Authority to take appropriate action against Mr. Botner for unauthorized wetland impacts was granted in September 2003. The EPC issued Mr. Botner a Citation and Order to Correct for the unresolved wetland violations. He failed to appeal the Citation and the EPC is filing suit to enforce the Order. On October 16, 2003 the EPC Legal Department filed a lawsuit requiring corrective actions as well as penalties and costs for the unresolved wetland violation. The Defendant has filed a response to the lawsuit and the case is moving forward. The Defendant denied the EPC access to the site. On April 6, 2004 the EPC obtained judicial authority to inspect the site. A site visit was performed but the Defendant failed to allow a thorough inspection. The EPC will obtain a second judicial inspection warrant in May, 2004. A second site inspection will then be conducted. (AZ)

## RESOLVED CASES [0]

### C. OTHER OPEN CASES [1]

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

**EPC v. Chemical Formulators Inc.**, [LCFI03-027]: An initial Citation was filed against Chemical Formulators, Inc. on November 3, 2003 for violations regarding failure to control chlorine emissions at its facility. An amended Citation issued February 17, 2004. CFI requested an extension of time in which to file an appeal. The parties are discussing settlement. (RT)

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Executive Director  
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION  
 OF HILLSBOROUGH COUNTY  
 POLLUTION RECOVERY TRUST FUND  
 AS OF APRIL 30, 2004

Fund Balance as of 10/01/03		\$1,739,770
Interest Accrued		17,480
Deposits	FY04	395,417
Disbursements	FY04	175,062
Fund Balance		\$1,977,605
Encumbrances Against Fund Balance:		
	Artificial Reef	47,021
(66)	Asbestos Abatement	4,486
(73)	Balm Road Scrub	300,000
(84b)	Cockroach Bay Aerial Photos	7,342
(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/River Civic Center	- 0 -
(97)	COT Parks Dept/Cypress Point	100,000
(99)	Seagrass Restoration Cockroach Bay	58,020
(100)	Agriculture Pesticide Collection	38,116
(101)	Pollution Prevention Program	33,138
	Old Landfills/Coronet	8,654
	Palm River Habitat	200,000
	Riverview Library	10,000
	Simmons Park	60,000
	Adopt A Shoreline	10,416
	Bahia Beach Restoration	150,000
	State of the River	10,000
	Stormwater Mgmt/Florida Aquarium	30,000
	Water Drop Patch/Girl Scouts	7,350
	Tampa Shoreline Restoration	30,000
Total of Encumbrances		1,280,632
Minimum Balance (Reserve)		120,000 *
Fund Balance Available April 30, 2004		\$ 576,973

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ENVIRONMENTAL PROTECTION COMMISSION  
 OF HILLSBOROUGH COUNTY  
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND  
 AS OF APRIL 30, 2004

Fund Balance as of 10/01/03	\$1,239,034
Interest Accrued	12,535
Disbursements FY04	400,000
Fund Balance	\$ 851,569

Encumbrances Against Fund Balance:

SP462 Port Redwing	- 0 -
Sp464 Davis Tract	- 0 -
SP591 Mechanical Seagrass Planting	3,584
SP597 Fantasy Island Restoration	1,633
SP602 Apollo Beachhabitat Restoration	- 0 -
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	2,246
SP614 Manatee & Seagrass Protection	27,200
Fantasy Island	20,000
E.G. Simmons Park	43,200
Cockroach Bay ELAPP Restoration	202,306
Total of Encumbrances	851,569

Fund Balance Available	April 30, 2004	\$ - 0 -
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**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY**

**AGENDA ITEM COVER SHEET**

DATE: May 20, 2004

TO: Environmental Protection Commissioners

FROM: Kay Strother, Air Management Division

SUBJECT: Request for Authority to Take Legal Action Regarding Cornerstone Abatement & Demolition Co.

RECOMMENDATION: Grant authorization to pursue appropriate legal action and settlement authority.

BACKGROUND:

EPC inspected an asbestos removal project at 801 E. Jackson Street, Tampa, on February 17, 2003, on property owned by the Hillsborough County School Board (HCSB). The contractor for the project, Cornerstone Abatement & Demolition Co. (Cornerstone) removed the containment and left asbestos-containing material on the exterior wall exposed. The exposed materials separated from the wall, and EPC found regulated asbestos-containing materials on the ground near the building in violation of Chapter 1-3, Rules of the EPC.

EPC initiated enforcement against HCSB and Cornerstone for failing to properly handle and dispose of the regulated asbestos-containing material. The HCSB settled the enforcement case by Consent Order, paying costs and penalties.

Cornerstone has not settled nor responded to EPC since October 30, 2003, and we therefore request authority to pursue appropriate legal action.

ACTION TAKEN BY THE COMMISSION

[ ] Approved      [ ] Disapproved      [ ] Continued/Deferred Until \_\_\_\_\_

Other: \_\_\_\_\_

SPECIAL INSTRUCTIONS: \_\_\_\_\_

By: \_\_\_\_\_

MEETING  
DATE: \_\_\_\_\_  
DIAGRAM (IF APPROPRIATE)



**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY**

**AGENDA ITEM COVER SHEET**

DATE: May 20, 2004

TO: Environmental Protection Commissioners

FROM: Kay Strother, Air Management Division

SUBJECT: Request for Authority to Take Legal Action Regarding Julsar, Inc.

RECOMMENDATION: Grant authorization to pursue appropriate legal action and settlement authority.

**BACKGROUND:**

On or about April 2003, Julsar, Inc. (Julsar) was subcontracted to remove popcorn ceiling texture material from the open-air ceiling decks of three apartment buildings at The Oaks Apartments, located at 3815 Azeele Avenue, Tampa. The property is owned by Douglas B. Cohn and the general contractor for the job was Benchmark Builders, Inc. (Benchmark). The EPC inspected on April 25, 2003, in response to a complaint, and found that approximately 11,400 square feet of regulated asbestos-containing material had been improperly removed in violation of Chapter 1-3, Rules of the EPC. The asbestos-containing debris was scattered throughout the apartment complex.

EPC initiated enforcement against all three parties for failing to properly notify of the asbestos removal, for failing to conduct a thorough survey prior to the removal, for failing to properly handle the regulated asbestos-containing material during the removal, and for failing to properly dispose of the material. Both the property owner and the general contractor have settled with EPC, including completion of appropriate corrective actions and payment of costs and penalties.

Julsar will not acknowledge responsibility for the violations and has refused to settle the case. We therefore request authority to pursue appropriate legal action.

**ACTION TAKEN BY THE COMMISSION**

[ ] Approved      [ ] Disapproved      [ ] Continued/Deferred Until \_\_\_\_\_

Other: \_\_\_\_\_

SPECIAL INSTRUCTIONS: \_\_\_\_\_

By: \_\_\_\_\_

MEETING

DATE: \_\_\_\_\_

DIAGRAM (IF APPROPRIATE)

ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
AGENDA ITEM COVER SHEET

**DATE:** May 20, 2004

**TO:** Environmental Protection Commissioners

**FROM:** Brenda Fonda, Enforcement Coordinator, Waste Management Division

**SUBJECT:** Request for Authority to Take Legal Action regarding -"Lewis' 8001 Enterprises, Inc.

**RECOMMENDATION:** Grant authorization to pursue appropriate legal action, including civil litigation, and settlement authority.

**BACKGROUND:**

Lewis' 8001 Enterprises, Inc. operates 8001 Land Recovery, a construction and demolition debris disposal and recycling facility, located at 8001 W.E. Fertic Road, Seffner. Mary Lewis is the property owner and president of Lewis' 8001 Enterprises, Inc. and Chester Sexton is the permittee and operator of the facility. On May 31, 2002, Florida Department of Environmental Protection (FDEP) issued permit #35309-004-SO to Chester Sexton, which bound the facility to the requirements and conditions of a construction and demolition debris disposal and recycling facility as identified in Chapter 62-701, Solid Waste Management Facilities, F.A.C.

EPC staff's onsite inspections have revealed violations of permit conditions, including but not limited to:

1. accepting and stockpiling construction and demolition debris (C&DD) when the disposal area is full and without compacting waste as required;
2. solid waste, including C&DD, landclearing debris and yard trash has been improperly disposed at the facility in areas outside the permitted disposal area; and
3. prohibited waste, including but not limited to tires, a boat, various household items and other materials not defined as C&DD being disposed in the landfill.

In addition, large volumes of yard trash and landclearing debris have been stockpiled outside the permitted disposal area, in violation of Chapter 1-7, Rules of the EPC. Operation of a Yard Trash Processing Facility (YTPF) requires a separate EPC Director's Authorization prior to the initiation of YTPF operations. On February 12, 2003, an application for a Director's Authorization for the construction and operation of an YTPF was submitted by the applicant. On October 29, 2003, the EPC Executive Director denied the application based on the information being incomplete. On March 19, 2003, a Citation to Cease and Order to Correct Violation was sent to the company for ongoing violations of FDEP permit conditions, Chapter 62-701, F.A.C. and Chapter 1-7, Rules of the EPC. The Citation was not appealed and became a Final Order by operation of law. The Facility continues to be in violation of FDEP permit conditions and Chapter 1-7, Rules of the EPC. The company has not satisfactorily responded to any settlement requests. Staff recommends the initiation of appropriate legal action for enforcement.

**ACTION TAKEN BY THE COMMISSION**

[ ] Approved                      [ ] Disapproved                      [ ] Continued/Deferred Until \_\_\_\_\_

Other: \_\_\_\_\_

SPECIAL INSTRUCTIONS: \_\_\_\_\_

By: \_\_\_\_\_

MEETING DATE: \_\_\_\_\_

## EPC AGENDA ITEM COVER SHEET

**DATE:** May 20, 2004

**AGENDA ITEM:** Collins' Property Variance Amendment (Wetlands)

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### **DESCRIPTION/SUMMARY:**

Pursuant to section 1-2.50, Administrative Procedures, Rules of the Environmental Protection Commission (EPC), applicants, Peter and Maria Collins, filed an application for variance with the Commission on July 18, 2003. The Collinses sought a variance from the mitigation requirements of Chapter 1-11, Wetlands, Rules of the EPC such that they could impact wetlands to gain legal access to their existing home. The variance request was approved by the Commission during the October 2003 EPC Board Meeting. The Board's approval of the variance required the Collinses to direct a payment to the Environmental Lands Acquisition and Protection Program (ELAPP) of \$2500.00 per 0.25 acre of wetland impact.

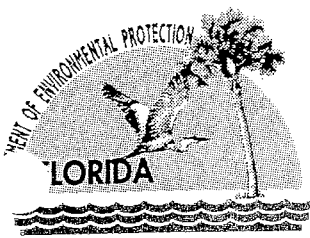
Subsequent to obtaining approval to impact the wetland from EPC, the applicants initiated permitting through the Florida Department of Environmental Protection (FDEP) for their Single Family Home Environmental Resource Permit (ERP). The FDEP determined that the conditions of EPC variance did not comport with the requirements of an ERP. As a result of this determination, the FDEP identified a wetland restoration project in which the Collinses could participate that would satisfy the requirements of FDEP's program. The wetland restoration project is located on the Riverview Civic Center property and in accordance with their FDEP permit, the Collinses are required to pay \$2500.00 per 0.25 acres of wetland impact for the purchase of wetland plant material that will be installed along the shoreline of the Alafia River.

In light of the above, the staff of the EPC has no objections to a modification of the EPC variance such that the Collinses can fulfill their requirements to comply with the FDEP program while enabling them to meet the underlying intent of the EPC Wetland Rule.

### **COMMISSION ACTION RECOMMENDED:**

EPC staff recommends that the Collins' variance request, associated with the approved wetland impacts on the Collins' property, be amended to allow participation in the above-described shoreline restoration project in lieu of payment to ELAPP.

Attachment



Jeb Bush  
Governor

# Department of Environmental Protection

Southwest District  
3804 Coconut Palm Drive  
Tampa, Florida 33619

Colleen M. Castille  
Secretary

MAY - 3 2004

RECEIVED

MAY 06 2004

EPC OF H.C.  
WETLANDS

Peter and Maria Collins  
6911 Fernandez Drive  
Riverview, FL 33569

Dear Mr. and Mrs. Collins:

**Re: Permit application to fill 7,840 square feet (.18 acres) of forested wetland  
for a driveway to access a single-family residence**

I have received a copy of a letter that you sent to Senator Tom Lee and would like to take an opportunity to personally address some of the issues and concerns that were raised in the letter.

First, after speaking to Hillsborough County officials about your situation, I can sympathize with the frustration that you might feel given the irregular shape of your property and the restrictions applied to your situation by existing County rules and regulations.

I have spoken with the Department staff that you initially met with and sincerely believe that the message that was delivered to you that day indicated that a Department permit would be required for your project, and that mitigation would not be required only if the size of the wetland you were impacting was less than one-half acre. This being said, I do understand how confusing the Department's wetland rules can be and how easily they can be misunderstood. In order to prevent future misunderstandings by single-family property owners, I have directed staff to create a fact sheet for property owners that will explain Department permit requirements in easily understood layman terms.

Regarding the Department's position on mitigation for your proposed impacts, please understand that the mitigation you agreed to perform for EPC would not meet the Department's program requirements since it did not provide direct wetland benefits to compensate for the proposed wetland impacts. The Department has now identified a wetland restoration project for you to contribute to at the same cost as the proposed EPC mitigation that will meet our needs for mitigation. It is the Department's understanding that EPC will accept the Department's proposed mitigation in lieu of the donation that was to be made to purchase environmental lands. It is my understanding that you have accepted the Department's mitigation proposal and that a permit has been issued for your project today.

Peter and Maria Collins  
Page Two

Because of your unique issues concerning property access, the mitigation solution that has been reached with you involved special consideration on the part of the Department. This special consideration for mitigation requirements will also be offered to other existing homeowners along Fernandez Road should they need to impact the wetland to access their properties. Wetland impacts proposed for other lots in your area would be subject to our newly adopted mitigation rules. So that your neighbors do not encounter some of the same issues that you experienced, the Department will work with EPC to implement the same flexible mitigation solutions that the Department has offered single-family property owners for many years.

I am glad that we have found a solution to your permit issue that meets all the parties' goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah A. Getzoff". The signature is fluid and cursive, with a large initial "D" and "G".

Deborah A. Getzoff  
District Director  
Southwest District

Cc: Senator Tom Lee  
Commissioner Rhonda Storms  
Dr. Richard Garrity  
Jadell Kerr

**BEFORE THE ENVIRONMENTAL PROTECTION  
COMMISSION OF HILLSBOROUGH COUNTY**

**IN THE MATTER OF:  
APPLICATION FOR VARIANCE OR WAIVER  
OF EPC RULES  
BY PETER COLLINS and  
MARIA COLLINS, husband and wife.**

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**EPC # LCOL03-015**

**AMENDED FINAL ORDER GRANTING VARIANCE**

THIS REQUEST, having come before the Environmental Protection Commission of Hillsborough County (EPC) upon the recommendation of the EPC Executive Director, and the Commission having considered all competent substantial evidence, it is thereupon,

ORDERED, that Peter and Maria Collins' application for an amended variance or waiver of the EPC Wetland Rule, Chapter 1-11, provisions requiring mitigation, be upheld, subject to the conditions set forth in the Permit / Authorization #29-0228522-001 issued by Department of Environmental Protection. This variance shall expire five (5) years after entry of this Order.

**NOTICE OF RIGHTS**

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

**DONE** and **ORDERED** this \_\_\_\_\_ day of May 2004 in Tampa, Florida

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Chairperson, Jan K. Platt

Environmental Protection  
Commission of Hillsborough  
County

TO: T. Andrew Zodrow, Esquire  
Environmental Protection  
Commission  
1900 9th Ave.  
(813) 272-5287 (fax no.)

Peter and Maria Collins  
6911 Fernandez Drive  
Riverview, FL 33569

## AGENDA ITEM COVER SHEET

Date: May 20, 2004

Consent Agenda Item: National Air Toxics Trends Station (NATTS) Grant

### Description Summary:

EPA is creating a national network of air toxics monitoring sites, the NATTS sites, at selected locations, both urban and rural, around the country. Hillsborough County has been selected as one of the urban sites. This \$36,240 grant provides the first year of funding to operate the Hillsborough County site. At this time, the NATTS program is projected to be a six-year effort. The grant does not require any additional resources from Hillsborough County.

Commission Action Recommended:

Grant authority for the Executive Director to sign the NATTS grant.

Commission Action Taken:



## National Air Toxics Trends (NATTS) Network

The National Air Toxics Trends (NATTS) Network is a new air monitoring network being established by EPA across the country to monitor toxic air compounds in the ambient air. The objective of the monitoring is to generate ambient air data and to compile this data into an extensive air toxics database. The ultimate goal of this and other parts of EPA's Air Toxics Monitoring Strategy is to assess health risks.

Commencing in 2003, EPA started to setup this new network in 22 urban and rural locations around the country. The idea is to establish uniformity in how the air toxics are measured so that the data can be compared across the country. Also, EPA wants to standardize the chemicals being monitored, again for comparison. Furthermore, EPA intends this program to continue for at least six years in these 22 sites to determine if trends exist in the air toxics measured.

There will be four sites in the Southeast; two rural and two urban. Tampa was selected to be one of the urban sites, the only site in Florida. In fact, there will actually be two NATTS sites in Tampa, one in Pinellas County, operated by the Pinellas County Department of Environmental Management, and one in Hillsborough County, operated by EPC. Both sites will monitor for the same air toxics and the data will be fed into EPA's national database.

EPC's site has been set up at the Valrico Wastewater Treatment Plant and is referred to as the Sydney site. The Sydney site became operational on January 1, 2004. Under the NATTS program it is measuring airborne toxic VOC's (volatile organic compounds such as benzene, etc.), toxic metals in the 10 micron range (chromium, etc.), and toxic carbonyl compounds (formaldehyde, etc.). In addition, a specialized monitor is being used to quantify diesel PM emissions which are known to contain a number of toxic compounds. Another monitor included in the NATTS suite is a 2.5 micron particulate sampler which collects multiple samples at the same time and is used to speciate the particulates into carbon compounds, trace elements, and nitrate & sulfate compounds.

EPC has been monitoring for toxic VOC's, metals, and carbonyls in Hillsborough County for the past three years. Just recently, EPC also conducted specialized air toxics metals monitoring in the vicinity of Coronet Junction. Comparison of the toxics metals data collected at Coronet Junction against that collected in previous years allowed EPC to determine that the quantity of toxic metals in the vicinity of Coronet Junction were the same as those collected elsewhere in Hillsborough County.

With this selection to participate in the NATTS program, EPC will continue to monitor for air toxics and expand its monitoring capabilities in that area, while participating in EPA's national air toxics trends program.

## AGENDA ITEM COVER SHEET

**Date:** May 20, 2004

**Agenda Item:** Amendment to Chapter 1-11, Rules of the EPC, Wetlands Status Update

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### Description/Summary:

At the April 7, 2004 meeting, the Commission authorized staff to schedule a public hearing for May 20, 2004 to consider amending Chapter 1-11, Rules of the Commission in order to comply with Sec. 373.414 (18), F.S. and adopt the Uniform Wetland Mitigation Assessment Methodology set forth in Rule 62-345, F.A.C. The statute required a statewide rule for the development of a uniform wetland mitigation assessment method. The method is applicable to all local environmental regulatory programs.

During the public workshop regarding the rule, issues were raised that will require revisions to the proposed draft of the rule. Staff is requesting to reschedule the May 20, 2004 public hearing in order to make further changes. Once the revisions are drafted, staff will conduct another public workshop in June, 2004 and schedule the public hearing for the July 22, 2004 Commission meeting.

### Commission Action Recommended:

Reschedule the public hearing originally set for May 20, 2004 to consider amendments to Chapter 1-11, Rules of the Commission, to the July 22, 2004 Commission meeting.

**AGENDA ITEM COVER SHEET**

**Date:** May 12, 2004

**Agenda Item:** 2004 Environmental Legislation Update

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**Description/Summary:**

Attached is a summary of the more significant environmental legislation that EPC staff has monitored during the 2004 Legislative Session. Environmental bills that passed, and those that failed, are listed accordingly. The General Counsel will highlight the more significant bills of interest in each category.

**Commission Action Recommended:**

For information only, no action required.

## **Environmental Protection Commission of Hillsborough County 2004 Legislative Summary for the May 20, 2004 Board Meeting**

The staff of the EPC reviewed over 60 bills and commented on a variety of them to the BOCC's Public Affairs Officer Edith Stewart. Furthermore, the EPC Board voted to oppose in whole or part four bills and asked the Governor to veto the Gun Range bill. The session had a multitude of water and environmental bills, but not many passed, as the Legislators were more focused on other issues such as the budget, constitutional amendments, and other divisive issues. For the first time in several years, no Chapter 120 Florida Statutes (Administrative law) changes were proposed that impacted a citizen's right to participate in the agency decision making process.

The following is a brief list and analysis of some notable bills that passed and then a list of some that failed.

### **A. Environmental Bills of Interest to the EPC that Passed**

#### **1. HB 293 - WATER POLICY**

Representative Russell's bill was substantially revised since it was introduced. This bill now: a) requires local government comprehensive plans to address water supply projects that are necessary to meet and achieve existing and projected water use demands; b) authorizes water management districts to adopt rules identifying "preferred water supply sources" that will provide a substantial new water supply to meet the existing and projected reasonable-beneficial uses of a water supply planning region and provides that water use permits for such sources must be granted for at least a twenty year period, if requested by the applicant; c) authorizes water management districts to require the use of reclaimed water in lieu of surface or groundwater when the use of uncommitted reclaimed water is environmentally, economically and technically feasible; d) encourages development of landscape irrigation design standards for new construction; e) establishes a Comprehensive Statewide Conservation Program, but the program cannot include fixing or revising water rates or drought rate structures; the districts are directed to give public water supply utilities wide latitude in selecting rate structures and shall limit their review to whether the utility has provided reasonable assurance that the rate structure will provide efficient use of water by providing economic incentives, f) SWFWMD is required to develop the water supply development component of its regional water supply plan jointly with Tampa Bay Water for areas within Tampa Bay Water's jurisdiction; g) Water management districts are authorized to condition funding for water reuse projects on metering and the establishment of reclaimed water rates; and h) environmental agency administrative civil penalty powers (under the ELRA statute) were increased for water supply violations. Staff feels the overall bill is acceptable, especially the new provision that provides a better link between land use and water supply.

#### **2. SB 338 - BROWNFIELDS**

This bill has three notable components. First, the bill establishes that when a property, including a brownfield site, escheats to a county, the county is not subject to any liability imposed by Chapters 376 or 403 for preexisting soil or groundwater contamination due solely to its ownership. This does not affect the rights or liabilities of any past or future owners of the escheated property and does not affect the liability of any governmental entity for the results of its actions that create or exacerbate a pollution source. Second, the bill extends the Brownfield Areas Loan Guarantee Program until 2007. Finally, the bill strengthens the criteria and requirements for contractors doing site rehabilitation, mainly

requiring more certifications and higher liability insurance. HB 485 was a similar bill that failed. HB 485 proposed to increase the annual cap for the Voluntary Cleanup Tax Credit program from \$2 million to \$5 million.

### **3. SB 1712- AGRICULTURAL ECONOMIC DEVELOPMENT**

Senate Bill 1712 gives farmers a shorter notice period under Chp. 70, F.S. (B.J. Harris Act), they only have to give 90 days notice to governments, not 180, before filing a claim that their property has been inordinately burdened by a zoning or land use change. Thus, the time to settle the claim via alternative dispute resolution methods is reduced. Second, the major intent of the bill is to establish the concept of an "agricultural enclave." The enclaves are those farms that have been in operation for at least five years and are surrounded by 75% industrial, commercial, and/or residential zones that have or will have utility service and other public services in the next five years. The bill makes it easier to apply for comprehensive plan/land use change to convert the enclave/farm over to one of the other three uses listed above. The idea is to prevent urban sprawl, by allowing enclaves to convert to other urban uses as opposed to building suburbs beyond the farms. Third, the bill makes it harder to convert agricultural lease lands established by state agencies via two different preservation acts (Chps. 259 and 375, F.S.) into other uses, especially during the life of the lease. Fourth, the bill requires water management districts (WMD) to inform agricultural applicants of the availability of 20-year water use permits. Fifth, as part of a WMD water supply planning process, the list of water source options for water supply development must contain provisions that recognize that alternative water source options for agricultural self-suppliers are limited. Finally, the bill attempts to give the Dept. of Agriculture and Consumer Services (DACS) a larger say in how to interpret the wetland exemption provided farmers in the wetland/ERP statute 373.406(2). DACS will conduct nonbinding reviews if requested by a WMD.

### **4. SB 1156 - SHOOTING RANGES**

In February, the EPC Board took a position and issued a letter urging the local legislative delegation to strongly oppose this bill. The bill originally was drafted to totally protect and immunize sport shooting and training ranges from all environmental liability associated with the intentional or unintentional placement, deposition or accumulation of projectiles. After outcry from environmental interests, the bill was modified and now it creates a DEP process, wherein if the range follows DEP Best Management Practices (BMP) procedures to be created, then they will not be liable for contamination. If contamination is found the new BMPs require clean-up of the facility using risk-based corrective actions. Thus, the cleanup is not done to the highest state standards, but to a level appropriate to protect the health and environment in that specific region. Unfortunately, the new bill does not allow the DEP or any other state or local governments to enforce the clean-up. Citizens do not appear to be barred from suing for clean-up. In April the EPC voted to ask Governor Bush to veto the bill.

### **5. HB 989 - ROAD AND BRIDGE WETLAND EXEMPTIONS AND GENERAL PERMITS**

This bill passed quickly and was signed by the Governor on April 14, 2004. The law requires that the DEP initiate rulemaking to adopt a no fee general permit for the repair, stabilization, or paving of existing roads that are maintained by a county and the repair or replacement of bridges that are part of the roadway where such activities do not cause significant adverse impacts to occur individually or cumulatively. The general permit shall apply statewide and, with no additional rulemaking required. There will be other caveats as to what type of road will qualify for this general permit, but this

basically establishes a quick and easy permitting process for counties to repair certain roads at the expense of the environment in some cases.

## **B. Environmental Bills of Interest to the EPC that Failed**

### **1. SB 1078 - LOCAL SOURCES FIRST**

Various bills (1078/1045/1202) were proposed to establish resolutions, statutory language, or a day of celebration supporting the continued inclusion of a "local sources first" policy in Chapter 373, F.S. and opposing any amendment to the state's water resource policy, which allows, encourages, or promotes water transfers. These bills were drafted in response to the Council of 100 Report. When support for that report waned, the bills became moot.

### **2. HB 1317 – NATURAL RESOURCE DAMAGE ASSESSMENT**

Generally, the natural resource damage assessment bill (HB 1317) proposed to provide for an alternative method to calculate natural resource damages under Chp. 376 to allow for more consistency with federal assessments. The main amendment would have created an alternative to the compensation schedule described in existing Florida Statutes by allowing the calculation of natural resources damages in accordance with federal rules implementing the Oil Pollution Act of 1990, as amended. It doesn't delete the current system, but provides an alternative. This bill was meant to avoid inconsistencies between state and federal natural damage assessments regarding petroleum spills in water. Typically when both the state and the federal agencies do assessments with different methods, the monetary value differs, and then the polluter sues to pay the smaller amount. Also the federal method is more scientifically based. The bill would have helped to reduce litigation over assessment methods. The bills failed.

### **3. HB 1321/ SB 2944 - PHOSPHATE MINING SEVERANCE TAX BILL**

EPC voted in March to oppose these bills, unless the General Fund provision was removed from existing law. The proposed bills both establish slightly different amounts of funding to be generated from the phosphate severance tax and to be spent on closing Piney Point and Mulberry phosphogypsum stacks through 2012. Nonetheless, the bill and existing law continue to divert large amount of funding from the severance tax to the General Fund, to the detriment of the Nonmandatory Land Reclamation Trust Fund. This fund was designed to restore land damaged by phosphate mining prior to laws that required restoration by the mining company. Because this diversion of funds to the General Fund continues to occur, the EPC opposed the bills and the local delegates were sent letters asking for their assistance to rectify the bill. The bills failed.

### **4. SB 2582 – ENVIRONMENTAL LITIGATION REFORM ACT (ELRA)**

This bill was proposed to add additional environmental programs, such as aquatic plant management and NPDES stormwater, where the DEP could assess administrative fines under the ELRA statute (section 403.121), in lieu of enforcing violations and penalties in judicial proceedings. The bill also strengthened the fines for air violations, domestic wastewater violations, and water quality violations,

especially drinking water. It also removed air operation permits out of the administrative fine program. The bill failed but some of the new drinking water penalties passed in part in bill 293.

#### **5. SB 696/2128 and HB 319 - INCENTIVE-BASED PERMITTING ACT**

These bills were not DEP sponsored bills as in years past, and the EPC voted to oppose these bills in March. Bill 696 had permitting incentives, but unlike SB 2128 it also has disincentives for facilities with a history of noncompliance. Being eligible for incentives is predicated on having some past history of operating facilities, plus not having a "formal enforcement action" history that resulted in significant harm to humans or the environment. A major problem is how the bills define and limit violations to be considered as those that have received "formal enforcement action," thus requiring agencies to fully adjudicate violations in a criminal or civil court. This requirement needlessly wastes agency time and money, and discourages quick administrative settlements. Furthermore, the bills raise the bar by saying formal enforcement actions must involve significant harm to humans or the environment. Thus, many entities may have consistent environmental violations, but could be eligible for incentives because settlements occurred before formal action or the violations didn't cause significant harm.

Some of the incentives available under tier one were; 1) automatic renewal of permits without agency action, thus they file an renewal request allow public comment and agency review, but if no major concerns are raised, the permit automatically renews without a right for citizens to challenge it; 2) permit review time is reduced to 45 days once the application is deemed complete (currently agencies typically have 90 days); and 3) short-form renewals (short application forms). To qualify for Tier 2 incentives one would have to meet Tier 1 standards plus actively go beyond environmental regulations and take measures to reduce pollution and impacts. Tier 2 incentives may involve ten-year permits, fewer inspections, expedited permit modification reviews, agency recognition, and limiting an agency to no more than two request for additional information (RAI) when processing an application. Finally, the bill makes it harder to revoke permits, because it puts more burdens on agencies to notify permittees of violations and gives them a chance to cure, before revocation. Various disincentives involve denial, one-year permits under a probationary system, and barring applications for a permit for one year. Unfortunately disincentives are so qualified, that it is hard to apply them. The bills failed.

#### **6. SB 1180/ HB 641 - SWFWMD GOVERNING BOARD SEAT BILL**

The original version of this bill was designed to take a shared SWFWMD Governing Board seat away from Pinellas and Hillsborough and give it to Polk. Currently Pinellas and Hillsborough each have two seats plus they share one on the 11-person appointed board. A change to one of the bills proposed a floating seat for any of the 16 SWFWMD counties, not just Polk. The bill was re-referred to 6 committees, thus many believe it was a move to kill the bill. EPC voted in to oppose this bill in January due to the fact that our region contributes much more revenue and has a higher population than Polk, thus meriting the extra seat. The bills failed.

#### **7. HB 1631/ SB 2798 – AIR POLLUTION BILL**

This bill would have allowed various energy generating facilities to increase their utility rates in the future to offset the costs of voluntary upgrades to their pollution control technology. The bills failed.