

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
JANUARY 20, 2005
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**

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

Visit our website at www.epchc.org

SEPTEMBER 14, 2004 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING -
DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to consider Approval of the Memorandum of Agreement (MOA) Designating EPC as Site Manager for Grant-Funded Brownfield Projects, scheduled for Tuesday, September 14, 2004, at 3:30 p.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 3:30 p.m.

Mr. Hooshang Boostani, Director, EPC Waste Management Division, reviewed the item and the request for approval of the MOA. **Commissioner Scott so moved, seconded by Commissioner Castor, and carried six to zero.** (Commissioner Norman was out of the room.)

There being no further business, the meeting was adjourned at 3:31 p.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

kc

OCTOBER 21, 2004 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, October 21, 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, Jim Norman, and Ronda Storms (arrived at 10:40 a.m.).

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

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

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, requested an item be added regarding the Brownfields assessment grant.

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 discussed the last two CEAC meetings, which included presentations on the proposed mangrove trimming rule, the Executive Director's annual state of the environment report, the Cargill spill during Hurricane Jeanne, and the design and features of the Tampa Bay Water (TBW) reservoir. The CEAC approved the pollution recovery fund (PRF) application for purchase of an air quality monitor for Apollo Beach and began to review the PRF applications. Mr. Jellerson thanked EPC staff for putting the PRF applications on the EPC website for review. Chairman Platt encouraged everyone to visit the TBW reservoir.

CONSENT AGENDA

- A. Approval of minutes: September 9, 2004.
- B. Monthly activity reports.
- C. Legal Department monthly report.
- D. PRF.
- E. Gardinier Settlement Trust Fund.
- F. Approve PRF request for air monitoring equipment - Apollo Beach.
- G. Update on emergency response - disabled wastewater pump stations.

THURSDAY, OCTOBER 21, 2004 - DRAFT MINUTES

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

EXECUTIVE DIRECTOR'S REPORT

Dr. Garrity commented on the Air Management Division receiving a grant from the Environmental Protection Agency to study air quality around the Port of Tampa, discussed funds received to retrofit diesel school buses and a press release seeking invitations to bid on the retrofits, and reported on a retreat with division directors to discuss the agency mission.

LEGAL DEPARTMENT

Request Authority to Conduct a Public Hearing on November 10, 2004, to Consider Amendments to Chapter 1-5 (EPC Water Rule) - EPC General Counsel Richard Tschantz reviewed the request. Commissioner Frank moved staff recommendation for a public hearing, seconded by Commissioner Norman, and carried four to zero. (Commissioner Storms had not arrived; Commissioners Hagan and Scott were absent.)

AIR MANAGEMENT DIVISION

Update - Ford Amphitheatre - Attorney Tschantz stated the update would be strictly a procedural update due to Clear Channel Entertainment (CCE), operator of the amphitheatre, filing a notice of appeal of the citation issued by EPC. Mr. Jerry Campbell, Director, EPC Air Management Division, discussed efforts on the issue and reviewed the schedule of events at the amphitheatre. Attorney John Foster, counsel for CCE, reviewed efforts to work toward a consent order and noted CCE had hired a consultant to create permanent corrective solutions.

WATER MANAGEMENT DIVISION

Update - Cargill Spill - Mr. Chris Dunn, Director, EPC Water Management Division, utilized an overhead presentation to review the recent spill; closed gypsum stacks; emergency conditions; photographs of emergency holding ponds; actions; the Phosphogypsum Management Rule, Chapter 62-672; recommendations; and the damage assessment process. Commissioner Frank perceived legislation needed to be changed to incorporate requested changes to the Phosphogypsum Management Rule. Dr. Garrity noted most of the changes were administrative, and a letter would be sent to the Florida Department of Environmental Protection (FDEP). Attorney Tschantz had been in contact with the Public Affairs Office about legislative proposals. Commissioner Frank moved to submit staff recommendation for a revision of the administrative rules dealing

THURSDAY, OCTOBER 21, 2004 - DRAFT MINUTES

with phosphate regulation, seconded by Commissioner Castor, and carried four to zero. (Commissioner Storms had not arrived; Commissioners Hagan and Scott were absent.)

COMMISSIONER'S REQUEST

Canal and Access Dredging - Environmental and Health Considerations - Commissioner Norman questioned if something different could be done when dredging ditches. He perceived the current procedure contributed to stormwater issues. Dr. Garrity understood the County was negotiating a consent order with FDEP on that, and staff was working to find a solution other than piling spoil material next to the ditches.

Mr. Bob Stetler, EPC staff, noted a consent order was underway, and the County was developing a sediment management plan to address dredging issues. He reported the new State policy provided criteria for that. Commissioner Norman perceived clear ditches would help resolve water flow issues. Responding to Commissioner Norman, Mr. Stetler noted it was difficult to put a time frame on the issue due to difficulty with disposing contaminated sediment. Dr. Garrity stated working with FDEP and other County departments was helpful, and he would attempt to provide an answer regarding the time frame.

In answer to Chairman Platt, Commissioner Norman did not want to view the overhead presentation that had been distributed. Mr. Stetler discussed research and procedures in place for funding. Chairman Platt encouraged EPC members to review the presentation. Commissioner Castor would forward the presentation to constituent groups. Dr. Garrity confirmed interim guidelines and policies had been developed by FDEP, and staff would provide a report on that at the next EPC meeting.

Commissioner Storms initiated discussion about pumping and torpidity and requested EPC staff work with the Public Works Department on that.

WASTE MANAGEMENT DIVISION

Notification of Submittal of Application for Brownfield Assessment Grant - Mr. Paul Schipfer, EPC staff, noted the purpose was to provide notification of the intent to apply for a community-wide Brownfield assessment grant. The funds would augment the old landfill investigation program and improve the ability to provide public information by developing a geographic information system. Commissioner Castor so moved, seconded by Commissioner Frank, and carried five to zero. (Commissioners Hagan and Scott were absent.)

THURSDAY, OCTOBER 21, 2004 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 10:44 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

kc

NOVEMBER 10, 2004 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Wednesday, November 10, 2004, at 11:00 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, and Ronda Storms.

The following members were absent: Commissioners Ken Hagan (schedule conflict), Jim Norman (Canvassing Board), and Thomas Scott (Canvassing Board).

Chairman Platt called the meeting to order at 11:09 a.m.

CITIZENS COMMENTS

Ms. Marilyn Smith, County resident, supported the proposed amendments to Chapter 1-5, EPC Water Pollution Rule.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report From the Chairman, David Jellerson - Mr. Jellerson discussed the November 1, 2004, CEAC meeting, which included review of a cleanup proposal for a battery site on U.S. Highway 41, water quality trends, and proposed amendments to the EPC Water Pollution Rule, for which CEAC recommended approval. The next CEAC meeting would be devoted to hearing presentations for pollution recovery fund (PRF) applications.

PUBLIC HEARING

Conduct a Public Hearing to Consider Amendments to Chapter 1-5 (EPC Water Pollution Rule) - EPC General Counsel Richard Tschantz introduced the item. In response to Chairman Platt, Attorney Tschantz perceived the amendments strengthened the rule by adding more standards and a limited permitting mechanism. Mr. Frederick Nassar, EPC staff, utilized an overhead presentation to review the proposed amendments and staff recommendation for approval.

Chairman Platt called for public comment. Ms. Smith perceived the amendments streamlined the process and added clarification. Mr. Jellerson reaffirmed the CEAC recommendation for approval.

Commissioner Frank moved the recommendations for the amendments to the EPC rule, Chapter 1-5, seconded by Commissioner Storms, and carried four to zero. (Commissioners Hagan, Norman, and Scott were absent.)

CONSENT AGENDA

- A. Approval of minutes: October 21, 2004
- B. Monthly activity reports.

WEDNESDAY, NOVEMBER 10, 2004 - DRAFT MINUTES

- C. Legal Department monthly report.
- D. PRF.
- E. Gardinier Settlement Trust Fund.
- F. HARTline report.
- G. Surface and groundwater pumping report.
- H. Sediment disposal report.

Commissioner Storms moved approval, seconded by Commissioner Frank, and carried four to zero. (Commissioners Hagan, Norman, and Scott were absent.)

WASTE MANAGEMENT DIVISION

Update Report on Brownfields - Mr. Hooshang Boostani, Director, EPC Waste Management Division, utilized an overhead presentation to review the item including funding, grants, Brownfields programs in Hillsborough County, and recommendations. Commissioner Castor asked if the Planning and Growth Management Department (PGMD) was implementing recommendations pertaining to the Board of County Commissioners (BOCC) designation program. Mr. Boostani noted discussions had taken place with PGMD. Commissioner Castor moved to request PGMD report to the BOCC on the recommendations from EPC within three months, seconded by Commissioner Storms. Commissioner Frank perceived the Economic Development Department should be included. Commissioner Castor agreed. Following clarification, the motion carried four to zero. (Commissioners Hagan, Norman, and Scott were absent.)

Enhanced Small Quantity Generator Program - Mr. Boostani reviewed the request to authorize Dr. Richard Garrity, EPC Executive Director, to sign the contract. Commissioner Frank moved approval of staff recommendation to accept the contract, seconded by Commissioner Storms, and carried four to zero. (Commissioners Hagan, Norman, and Scott were absent.)

EXECUTIVE DIRECTOR'S REPORT

Dr. Garrity utilized an overhead presentation to highlight Chairman Platt and Commissioner Frank's many years of public service to Hillsborough County and the EPC. Commissioner Storms presented Chairman Platt and Commissioner Frank with engraved vases in recognition of their service on the EPC Board. Chairman Platt and Commissioner Frank offered appreciative comments followed by comments from fellow EPC Board members. Mr. Roger Stewart, former EPC Executive Director, offered comments.

WEDNESDAY, NOVEMBER 10, 2004 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 11:56 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

kc

DECEMBER 1, 2004 - 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 Application for an Environmental Resource Permit (ERP) for the Carrollwood Wells Transmission Main Project and Modification of the U.S. Army Corps of Engineers Temporary Access Road Permit, scheduled for December 1, 2004, at 2:10 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Kathy Castor and Commissioners Brian Blair, Ken Hagan, Jim Norman, Mark Sharpe, Thomas Scott, and Ronda Storms.

Chairman Castor called the meeting to order at 2:10 p.m.

Attorney Rick Muratti, EPC Legal Department, reviewed staff recommendation not to arbitrate the items. Referencing the ERP, Commissioner Storms moved staff recommendation, seconded by Commissioner Scott, and carried seven to zero. Commissioner Storms moved the modification, seconded by Commissioner Scott, and carried seven to zero. Chairman Castor responded to queries from Commissioner Norman regarding the purchase of water from the wells to offset costs of the system.

There being no further business, the meeting was adjourned at 2:12 p.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

kc

DECEMBER 9, 2004 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING - DRAFT
MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to Request Authority to Take Appropriate Action Against Clear Channel Entertainment Music - Tampa, LLC (CCE) and Florida State Fair Authority (FSFA), scheduled for Thursday, December 9, 2004, at 11:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Kathy Castor and Commissioners Brian Blair, Ken Hagan, Jim Norman, Mark Sharpe, and Ronda Storms.

The following member was absent: Commissioner Thomas Scott (out of town).

Chairman Castor called the meeting to order at 11:03 a.m. Commissioner Sharpe led in the pledge of allegiance to the flag and gave the invocation. Chairman Castor read a letter from Commissioner Scott explaining his absence and noting support for the recommended action.

Dr. Richard Garrity, EPC Executive Director, reviewed the history of the Ford Amphitheatre including documented violations of noise standards. Warning notices and an administrative citation were issued as well as an order to correct violations, which was being appealed by CCE. The EPC had entered into negotiations with CCE, and some corrections were made. The recent Korn concert resulted in approximately 51 complaints, and EPC staff opined further court action was warranted.

EPC General Counsel Richard Tschantz discussed previous actions, cautioned in-depth discussions due to pending litigation, and noted a hearing would be held in March 2005 if a resolution was not found through mediation in January 2005. Due to violations at the recent concert, the EPC perceived the amphitheatre could not conduct another concert without further violations. Therefore, staff recommended proceeding to court to seek an injunction to prevent further operation until permanent corrective actions took place and compliance with EPC noise standards was achieved. Attorney Tschantz reviewed a letter from CCE explaining objections to action by the EPC Board.

Commissioner Storms understood the upcoming concert was different from the previous concert but expressed displeasure that EPC staff had allowed the Korn concert to continue and was concerned with the Korn lyrics. Commissioner Blair strongly supported The Angelus who was putting on the concert on Saturday, agreed there was a difference between the two concerts, but sympathized with the neighbors. In response to Commissioner Blair, Attorney Tschantz explained the CCE concert season ended on Saturday, but the Florida State Fairgrounds had performances scheduled. If so desired, staff could proceed to court at a later date. Commissioner Blair asked if that would

THURSDAY, DECEMBER 9, 2004 - DRAFT MINUTES

allow time to remedy problems as part of the injunction. Attorney Tschantz agreed and noted that was an ongoing process.

Commissioner Norman recalled past objections to the amphitheatre and desires for protection for the community. He perceived staff should take the issue to court after the concert on Saturday, but stop all future concerts until violations were corrected. Commissioner Storms expressed concern with imposing noise standards for one concert and not another. Attorney Tschantz reiterated that EPC could proceed to court and allow the concert but require compliance with EPC noise standards. Commissioner Storms asked if the concert could be stopped if there was a violation. Attorney Tschantz noted a court order would be needed. Commissioner Hagan recalled previous discussions to acquire an injunction to stop construction of the amphitheatre due to noise concerns and asked if staff perceived corrections were being made. Based on a reduction in complaints, Dr. Garrity stated it appeared progress was being made. Chairman Norman expressed concern with meeting notice provisions.

Mr. Charlie Ochs, Infinity Broadcasting Corporation, expressed willingness to ensure the concert did not disturb the community, noted the concert was the single largest fundraiser for The Angelus, hoped to come to an agreement, and pledged to be present to lower the volume if there was a violation. Mr. Mike Culotta, WQYK, agreed with having someone available to lower the sound. Commissioner Storms asked if providing counsel direction to seek injunctive relief to address issues was appropriate. Attorney Tschantz noted issues could be addressed after the Saturday concert but perceived EPC could legally proceed to seek an injunction if directed. In answer to Commissioner Storms, Attorney Tschantz opined waiting would strengthen their case.

Attorney Gordon Schiff, P.O. Box 1531, Tampa, representing FSFA, perceived open communication on the issue, understood progress was being made, and remained committed to assisting CCE and EPC resolve the matter. Commissioner Blair questioned the possibility of using the concert as a barometer to aide in noise reduction. Attorney Schiff perceived it was appropriate to continue discussions.

Chairman Castor called for public comment; there was no response. Commissioner Storms moved to direct staff to seek injunctive relief, but in such a way to reduce the strength of the objections of CCE and the performers, and if that meant additional time to do that then that meant that; also, work with Infinity Broadcasting Corporation and WQYK to make sure the concert on Saturday was not in violation, by taking every measurable step including having somebody in the control room, if appropriate. Attorney Tschantz clarified the motion would not shut down the facility before Saturday.

THURSDAY, DECEMBER 9, 2004 - DRAFT MINUTES

Commissioner Storms was allowing EPC to use legal judgment to see what could be done legally to overcome CCE objections and strengthen the EPC legal position. Commissioner Norman seconded the motion.

Although it was apparent some progress had been made, Commissioner Hagan perceived stronger safeguards were needed to ensure compliance with noise standards. Commissioner Norman appreciated efforts but hoped the courts would allow substantial penalties for future violations. Commissioner Sharpe concurred. Chairman Castor was concerned with the irresponsibility of CCE. The motion carried six to zero. (Commissioner Scott was absent.)

Commissioner Storms asked what penalties would be imposed upon CCE and the FSFA, or whomever, if that meant that for every note an infraction was imposed, for every single note over or every period of time, if that had to be broken up, she wanted that broken up, and the highest level of fine that could be imposed for that infraction; bring back a report on that; specifically direct staff to levy every single legal fine against them for the infraction; and refer the issue to the County Attorney to look at it, because of the content. Commissioner Norman seconded the motion, which carried six to zero. (Commissioner Scott was absent.)

In response to Chairman Castor, Attorney Tschantz clarified EPC was not singling out any concert but requesting permanent corrective measures, civil penalties for past violations, and investigative costs recovered. Commissioner Storms stressed the desire to pursue fines even if that meant a separate settlement.

There being no further business, the meeting was adjourned at 11:51 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

By: _____
Deputy Clerk

kc

DECEMBER 15, 2004 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING -
DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to consider Arbitration of the Tampa Bay Water Environmental Resource Permit Application for Construction of Additional Infrastructure at the Tampa Bay Regional Water Treatment Plant, scheduled for Wednesday, December 15, 2004, at 2:04 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Kathy Castor and Commissioners Brian Blair, Ken Hagan, Jim Norman, Thomas Scott, and Mark Sharpe.

The following member was absent: Commissioner Ronda Storms (medical issue).

Chairman Castor called the meeting to order at 2:04 p.m.

Attorney Rick Muratti, EPC Legal Department, reviewed staff recommendation not to arbitrate the item. Commissioner Scott moved staff recommendation, seconded by Commissioner Sharpe, and carried six to zero. (Commissioner Storms was absent.)

There being no further business, the meeting was adjourned at 2:05 p.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

SW

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
NOVEMBER

A. Public Outreach/Education Assistance:		
1. Phone Calls:		<u>328</u>
2. Literature Distributed:		<u>671</u>
3. Presentations:		<u>7</u>
4. Media Contacts:		<u>11</u>
5. Internet:		<u>61</u>
6. Host/Sponsor Workshops, Meetings, Special Events (Hillsborough County City-Farm Festival)		<u>1</u>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		<u>5</u>
b. Construction:		<u>1</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>2</u>
e. General:		<u>0</u>
f. Title V:		<u>40</u>
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected) - (² Counted by Number of Emission Units affected by the Review):		
a. Operating ¹ :		<u>4</u>
b. Construction ¹ :		<u>7</u>
c. Amendments ¹ :		<u>0</u>
d. Transfers/Extensions ¹ :		<u>5</u>
e. Title V Operating ² :		<u>68</u>
f. Permit Determinations ² :		<u>1</u>
g. General:		<u>0</u>
3. Intent to Deny Permit Issued:		<u>0</u>
C. Administrative Enforcement		
1. New cases received:		<u>1</u>
2. On-going administrative cases:		
a. Pending:		<u>7</u>
b. Active:		<u>15</u>
c. Legal:		<u>4</u>
d. Tracking compliance (Administrative):		<u>28</u>
e. Inactive/Referred cases:		<u>0</u>
	Total	<u>54</u>
3. NOIs issued:		<u>0</u>
4. Citations issued:		<u>0</u>
5. Consent Orders Signed:		<u>2</u>
6. Contributions to the Pollution Recovery Fund:		<u>\$13,091.00</u>
7. Cases Closed:		<u>5</u>

D.	Inspections:	
1.	Industrial Facilities:	<u>12</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>4</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>6</u>
E.	Open Burning Permits Issued:	<u>10</u>
F.	Number of Division of Forestry Permits Monitored:	<u>250</u>
G.	Total Citizen Complaints Received:	<u>77</u>
H.	Total Citizen Complaints Closed:	<u>64</u>
I.	Noise Sources Monitored:	<u>17</u>
J.	Air Program's Input to Development Regional Impacts:	<u>3</u>
K.	Test Reports Reviewed:	<u>126</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>8</u>
2.	Warning Notices Resolved:	<u>4</u>
3.	Advisory Letters Issued:	<u>2</u>
M.	AOR's Reviewed:	<u>1</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>0</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
NOVEMBER

	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>\$3,640.00</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>\$3,840.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$ -0-</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	\$5,200.00
(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>\$1,200.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$2,200.00</u>
8. Open burning authorization	<u>\$5,400.00</u>
9. Enforcement Costs	<u>\$2,712.51</u>

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
DECEMBER

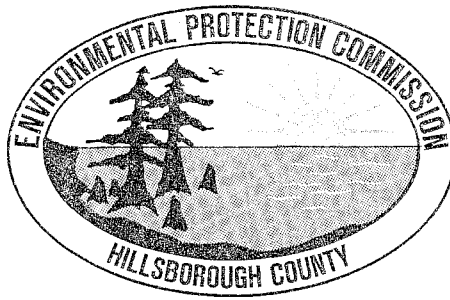
A. Public Outreach/Education Assistance:		
1. Phone Calls:		275
2. Literature Distributed:		<u>20</u>
3. Presentations:		<u>1</u>
4. Media Contacts:		<u>12</u>
5. Internet:		<u>67</u>
6. Host/Sponsor Workshops, Meetings, Special Events		<u>0</u>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		<u>2</u>
b. Construction:		<u>1</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>1</u>
e. General:		<u>2</u>
f. Title V:		<u>20</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>1</u>
b. Construction ¹ :		<u>2</u>
c. Amendments ¹ :		<u>1</u>
d. Transfers/Extensions ¹ :		<u>2</u>
e. Title V Operating ² :		<u>29</u>
f. Permit Determinations:		<u>2</u>
g. General:		<u>0</u>
3. Intent to Deny Permit Issued:		<u>0</u>
C. Administrative Enforcement		
1. New cases received:		<u>4</u>
2. On-going administrative cases:		
a. Pending:		<u>7</u>
b. Active:		<u>16</u>
c. Legal:		<u>4</u>
d. Tracking compliance (Administrative):		<u>22</u>
e. Inactive/Referred cases:		<u>0</u>
	Total	<u>49</u>
3. NOIs issued:		<u>2</u>
4. Citations issued:		<u>0</u>
5. Consent Orders Signed:		<u>0</u>
6. Contributions to the Pollution Recovery Fund:	\$1,466.00	
7. Cases Closed:		<u>7</u>

D.	Inspections:	
1.	Industrial Facilities:	<u>13</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>4</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>8</u>
E.	Open Burning Permits Issued:	<u>11</u>
F.	Number of Division of Forestry Permits Monitored:	<u>250</u>
G.	Total Citizen Complaints Received:	<u>94</u>
H.	Total Citizen Complaints Closed:	<u>98</u>
I.	Noise Sources Monitored:	<u>21</u>
J.	Air Program's Input to Development Regional Impacts:	<u>4</u>
K.	Test Reports Reviewed:	<u>0</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>18</u>
2.	Warning Notices Resolved:	<u>3</u>
3.	Advisory Letters Issued:	<u>9</u>
M.	AOR's Reviewed:	<u>0</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>3</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
DECEMBER

	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	\$ -0-
(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>\$ 40.00</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>\$1,600.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$ 160.00</u>
4. Non-delegated permit revision for an air 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	\$5,000.00
(b) for structure greater than 50,000 sq ft	<u>\$ 600.00</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$ 900.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$5,000.00</u>
8. Open burning authorization	<u>\$4,400.00</u>
9. Enforcement Costs	<u>\$ -0-</u>

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




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: December 7, 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 NOVEMBER 2004
 AGENDA INFORMATION**

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	0
2. On-going administrative cases	101
a. Pending	8
b. Active	66
c. Legal	5
d. Tracking Compliance (Administrative)	22
e. Inactive/Referred Cases	0
3. NOI's issued	4
4. Citations issued	1
5. Consent Orders and Settlement Letters Signed	4
6. Civil Contributions to the Pollution Recovery Fund	\$11,063
7. Enforcement Costs collected	\$1,564
9. Cases Closed	1



B. SOLID AND HAZARDOUS WASTE

1. Permits (received/reviewed)	0/1
2. EPC Authorization for Facilities NOT requiring DEP permit	2/1
3. Other Permits and Reports	
a. County Permits	1/1
b. Reports	44/46
4. Inspections (Total)	153
a. Complaints	28
b. Compliance/Reinspections	21
c. Facility Compliance	28
d. Small Quantity Generator	76
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	25/24
b. Warning Notices Issued/Closed	5/2
c. Compliance letters	25
d. Letters of Agreement	1
e. DEP Referrals	0
6. Pamphlets, Rules and Material Distributed	184

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	104
b. Installation	23
c. Closure	4
d. Compliance Re-Inspections	8
2. Installation Plans Received/Reviewed	6/6
3. Closure Plans & Reports	
a. Closure Plans Received/Reviewed	5/4
b. Closure Reports Received/Reviewed	5/1
4. Enforcement	
a. Non-compliance Letters Issued/Closed	45/19
b. Warning Notices Issued/Closed	0
c. Cases referred to Enforcement	0
d. Complaints Received/Investigated	2/1
e. Complaints Referred	0
5. Discharge Reporting Forms Received	0
6. Incident Notification Forms Received	3
7. Cleanup Notification Letters Issued	0
8. Public Assistance	200+

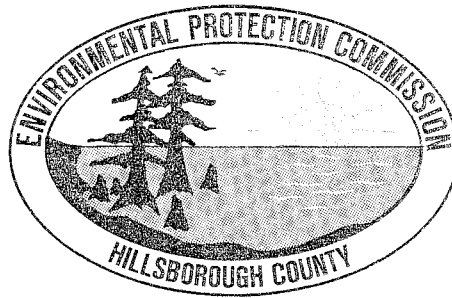
D. STORAGE TANK CLEANUP

1. Inspections	31
2. Reports Received/Reviewed	84/79
a. Site Assessment	23/18
b. Source Removal	1/ 2
c. Remedial Action Plans (RAP's)	14/5
d. Site Rehabilitation Completion Order/ No Further Action Order	2/3
e. Others	44/51
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

E. RECORD REVIEWS

- 28

COMMISSION
 Brian Blair
 Kathy Castor
 Ken Hagan
 Jim Norman
 Thomas Scott
 Mark Sharpe
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 Waste Management, Wetlands &
 Environmental Resource Management Divisions
 3629 Queen Palm Dr. • Tampa, FL 33619
 Waste Fax (276-2256) Wetlands Fax (272-7144)
 Air Management Division
 1410 N. 21st St. • Tampa, FL 33605
 Fax (272-5605)

Executive Director
 Richard D. Garrity, Ph.D.

MEMORANDUM

DATE: January 11, 2005

TO: Tom Koulianos, Director of Finance and Administration

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

SUBJECT: **WASTE MANAGEMENT'S DECEMBER 2004 AGENDA INFORMATION**

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	1
2. On-going administrative cases	99
a. Pending	8
b. Active	63
c. Legal	6
d. Tracking Compliance (Administrative)	22
e. Inactive/Referred Cases	0
3. NOI's issued	0
4. Citations issued	0
5. Consent Orders and Settlement Letters Signed	3
6. Civil Contributions to the Pollution Recovery Fund	\$10,138
7. Enforcement Costs collected	\$2,120
9. Cases Closed	6

B. SOLID AND HAZARDOUS WASTE

1. Permits (received/reviewed)	0
2. EPC Authorization for Facilities NOT requiring DEP permit	1
3. Other Permits and Reports	
a. County Permits	5/5
b. Reports	64/68
4. Inspections (Total)	1,164
a. Complaints	24
b. Compliance/Reinspections	10
c. Facility Compliance	36
d. Small Quantity Generator	1,094
e. P2 Audits	0
5. Enforcement	
a. Complaints Received/Closed	22/20
b. Warning Notices Issued/Closed	2/6
c. Compliance letters	8
d. Letters of Agreement	0
e. DEP Referrals	4
6. Pamphlets, Rules and Material Distributed	32

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	55
b. Installation	31
c. Closure	6
d. Compliance Re-Inspections	23
2. Installation Plans Received/Reviewed	7/9
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	3/3
b. Closure Reports Received/Reviewed	4/9
4. Enforcement	
a. Non-compliance Letters Issued/Closed	37/37
b. Warning Notices Issued/Closed	5/2
c. Cases referred to Enforcement	0
d. Complaints Received/Investigated	3/3
e. Complaints Referred	0
5. Discharge Reporting Forms Received	2
6. Incident Notification Forms Received	4
7. Cleanup Notification Letters Issued	0
8. Public Assistance	200+

D. STORAGE TANK CLEANUP

1. Inspections	42
2. Reports Received/Reviewed	108/84
a. Site Assessment	28/21
b. Source Removal	5/2
c. Remedial Action Plans (RAP's)	24/20
d. Site Rehabilitation Completion Order/ No Further Action Order	1/1
e. Others	50/40
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

E. RECORD REVIEWS - 21

F. PUBLIC INFORMATION PROJECTS - 3

K. Boatwright – SQG Workshop

K. Boatwright – Interview with Tampa Tribune

S. McGinnis – Interview with Tampa Tribune

ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
NOVEMBER, 2004

A. ENFORCEMENT

1. New Enforcement Cases Received:	3
2. Enforcement Cases Closed:	4
3. Enforcement Cases Outstanding:	52
4. Enforcement Documents Issued:	5
5. Recovered costs to the General Fund:	\$0.00
6. Contributions to the Pollution Recovery Fund:	\$0.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	26
a. Facility Permit:	2
(i) Types I and II	0
(ii) Types III	2
b. Collection Systems-General	13
c. Collection Systems-Dry Line/Wet Line:	9
d. Residuals Disposal:	0
2. Permit Applications Approved:	30
a. Facility Permit:	2
b. Collection Systems-General:	13
c. Collection Systems-Dry Line/Wet Line:	15
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
4. Permit Applications (Non-Delegated):	0
a. Recommended for Approval:	0
5. Permits Withdrawn:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0

6.	Permit Applications Outstanding:	41
	a. Facility Permit:	11
	b. Collection Systems-General:	28
	c. Collection Systems-Dry Line/Wet Line:	2
	d. Residuals Disposal:	0
7.	Permit Determination:	3
8.	Special Project Reviews:	0
	a. ARs:	0
	b. Reuse:	0
	c. Residuals/AUPs:	0
	d. Others:	1
C. INSPECTIONS - DOMESTIC		
1.	Compliance Evaluation:	12
	a. Inspection (CEI):	2
	b. Sampling Inspection (CSI):	9
	c. Toxics Sampling Inspection (XSI):	0
	d. Performance Audit Inspection (PAI):	1
2.	Reconnaissance:	58
	a. Inspection (RI):	20
	b. Sample Inspection (SRI):	0
	c. Complaint Inspection (CRI):	38
	d. Enforcement Inspection (ERI):	0
3.	Engineering Inspections:	0
	a. Reconnaissance Inspection (RI):	2
	b. Sample Reconnaissance Inspection (SRI):	0
	c. Residual Site Inspection (RSI):	0
	d. Preconstruction Inspection (PCI):	18
	e. Post Construction Inspection (XCI):	15
	f. On-site Engineering Evaluation:	0
	g. Enforcement Reconnaissance Inspection (ERI):	0
D. PERMITTING/PROJECT REVIEW - INDUSTRIAL		
1.	Permit Applications Received:	2
	a. Facility Permit:	0
	(i) Types I and II	0
	(ii) Type III with Groundwater Monitoring:	0
	(iii) Type III w/o Groundwater Monitoring:	0
	b. General Permit:	1

c. Preliminary Design Report:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	1
2. Permits Recommended to DEP for Approval:	0
3. Special:	2
a. Facility Permits:	1
b. General Permits:	1
4. Permitting Determination:	0
5. Special Project Reviews:	39
a. ARs:	0
b. Phosphate DMRs:	0
c. Phosphate:	18
d. Industrial Wastewater:	4
e. Others:	17
E. INSPECTIONS - INDUSTRIAL	37
1. Compliance Evaluation:	10
a. Inspection (CEI):	10
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	17
a. Inspection (RI):	12
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	5
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	10
a. Compliance Evaluation (CEI):	5
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	5
e. Enforcement Reconnaissance Inspections (ERI):	0

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints:	
a. Domestic:	18
(i) Received:	12
(ii) Closed:	6
b. Industrial:	6
(i) Received:	3
(ii) Closed:	3
2. Warning Notices:	
a. Domestic:	16
(i) Received:	6
(ii) Closed:	10
b. Industrial:	6
(i) Received:	3
(ii) Closed:	3
3. Non-Compliance Advisory Letters:	33
4. Environmental Compliance Reviews:	286
a. Industrial:	52
b. Domestic:	234
5. Special Project Reviews:	0
a. ARs:	0
b. Others:	0

G. RECORD REVIEWS

1. Permitting:	5
2. Enforcement:	1

H. ENVIRONMENTAL SAMPLES ANALYZED FOR:

1. Air Division:	103
2. Waste Division:	0
3. Water Division:	16
4. Wetlands Division:	0
5. ERM Division:	133

I. SPECIAL PROJECT REVIEWS:

1. DRIs:	2
2. ARs:	0
3. Technical Support:	5
4. Other:	0

ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
DECEMBER, 2004

A. ENFORCEMENT

1. New Enforcement Cases Received:	5
2. Enforcement Cases Closed:	2
3. Enforcement Cases Outstanding:	60
4. Enforcement Documents Issued:	4
5. Recovered costs to the General Fund:	\$644.00
6. Contributions to the Pollution Recovery Fund:	\$2,420.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. University Place Business Center	Discharging Raw Sewage	420
b. Bayside Pediatrics	Construction w/out a permit	1000
c. Renaissance Hotel	Placement of c/s in service w/out acceptance letter	500
d. Wendy's	Placement of c/s in service w/out acceptance letter	500

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	26
a. Facility Permit:	1
(i) Types I and II	0
(ii) Types III	1
b. Collection Systems-General	6
c. Collection Systems-Dry Line/Wet Line:	19
d. Residuals Disposal:	0
2. Permit Applications Approved:	28
a. Facility Permit:	2
b. Collection Systems-General:	11
c. Collection Systems-Dry Line/Wet Line:	15
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
4. Permit Applications (Non-Delegated):	0
a. Recommended for Approval:	0

5.	Permits Withdrawn:	0
	a. Facility Permit:	0
	b. Collection Systems-General:	0
	c. Collection Systems-Dry Line/Wet Line:	0
	d. Residuals Disposal:	0
6.	Permit Applications Outstanding:	39
	a. Facility Permit:	10
	b. Collection Systems-General:	23
	c. Collection Systems-Dry Line/Wet Line:	6
	d. Residuals Disposal:	0
7.	Permit Determination:	3
		0
8.	Special Project Reviews:	0
	a. ARs:	0
	b. Reuse:	0
	c. Residuals/AUPs:	0
	d. Others:	0
C.	INSPECTIONS - DOMESTIC	104
1.	Compliance Evaluation:	13
	a. Inspection (CEI):	4
	b. Sampling Inspection (CSI):	8
	c. Toxics Sampling Inspection (XSI):	0
	d. Performance Audit Inspection (PAI):	1
2.	Reconnaissance:	53
	a. Inspection (RI):	13
	b. Sample Inspection (SRI):	0
	c. Complaint Inspection (CRI):	38
	d. Enforcement Inspection (ERI):	2
3.	Engineering Inspections:	38
	a. Reconnaissance Inspection (RI):	5
	b. Sample Reconnaissance Inspection (SRI):	0
	c. Residual Site Inspection (RSI):	0
	d. Preconstruction Inspection (PCI):	3
	e. Post Construction Inspection (XCI):	30
	f. On-site Engineering Evaluation:	0
	g. Enforcement Reconnaissance Inspection (ERI):	0

D. PERMITTING/PROJECT REVIEW - INDUSTRIAL		
1.	Permit Applications Received:	3
	a. Facility Permit:	0
	(i) Types I and II	0
	(ii) Type III with Groundwater Monitoring:	0
	(iii) Type III w/o Groundwater Monitoring:	0
	b. General Permit:	2
	c. Preliminary Design Report:	0
	(i) Types I and II	0
	(ii) Type III with Groundwater Monitoring:	0
	(iii) Type III w/o Groundwater Monitoring:	1
2.	Permits Recommended to DEP for Approval:	2
3.	Special:	0
	a. Facility Permits:	0
	b. General Permits:	0
4.	Permitting Determination:	0
5.	Special Project Reviews:	48
	a. ARs:	0
	b. Phosphate DMRs:	0
	c. Phosphate:	14
	d. Industrial Wastewater:	19
	e. Others:	15
E. INSPECTIONS - INDUSTRIAL		34
1.	Compliance Evaluation:	8
	a. Inspection (CEI):	8
	b. Sampling Inspection (CSI):	0
	c. Toxics Sampling Inspection (XSI):	0
	d. Performance Audit Inspection (PAI):	0
2.	Reconnaissance:	22
	a. Inspection (RI):	10
	b. Sample Inspection (SRI):	0
	c. Complaint Inspection (CRI):	12
	d. Enforcement Reconnaissance Inspections (ERI):	0

3. Engineering Inspections:	4
a. Compliance Evaluation (CEI):	4
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0
F. INVESTIGATION/COMPLIANCE	
1. Citizen Complaints:	27
a. Domestic:	22
(i) Received:	14
(ii) Closed:	8
b. Industrial:	5
(i) Received:	3
(ii) Closed:	2
2. Warning Notices:	
a. Domestic:	9
(i) Received:	8
(ii) Closed:	1
b. Industrial:	6
(i) Received:	1
(ii) Closed:	5
3. Non-Compliance Advisory Letters:	26
4. Environmental Compliance Reviews:	209
a. Industrial:	64
b. Domestic:	145
5. Special Project Reviews:	1
a. ARs:	0
b. Others:	1
G. RECORD REVIEWS	
1. Permitting:	2
2. Enforcement:	0
H. ENVIRONMENTAL SAMPLES ANALYZED FOR:	193
1. Air Division:	70
2. Waste Division:	0
3. Water Division:	15
4. Wetlands Division:	0
5. ERM Division:	108

I. SPECIAL PROJECT REVIEWS:	13
1. DRIs:	4
2. ARs:	0
3. Technical Support:	3
4. Other:	6

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
November 2004**

	Totals
A. General	
1. Telephone Conferences	846
2. Unscheduled Citizen Assistance	88
3. Scheduled Meetings	171
4. Correspondence	51
B. Assessment Reviews	
1. Wetland Delineations	53
2. Surveys	43
3. Miscellaneous Activities in Wetland	30
4. Impact/ Mitigation Proposal	35
5. Tampa Port Authority Permit Applications	37
6. Wastewater Treatment Plants (FDEP)	0
7. DRI Annual Report	2
8. Land Alteration/Landscaping	1
9. Land Excavation	3
10. Phosphate Mining	0
11. Rezoning Reviews	55
12. CPA	0
13. Site Development	56
14. Subdivision	82
15. Wetland Setback Encroachment	3
16. Easement/Access-Vacating	0
17. Pre-Applications	33
18. On-Site Visits	117
C. Investigation and Compliance	
1. Complaints Received	23
2. Complaints Closed	40
3. Warning Notices Issued	11
4. Warning Notices Closed	5
5. Complaint Inspections	25
6. Return Compliance Inspections	25
7. Mitigation Monitoring Reports	17
8. Mitigation Compliance Inspections	25
9. Erosion Control Inspections	3
D. Enforcement	
1. Active Cases	46
2. Legal Cases	2
3. NOI's	1
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	2
6. Administrative - Civil Cases Closed	1
7. Cases Referred to Legal Department	0
8. Contributions to Pollution Recovery	\$450.00
9. Enforcement Costs Collected	\$150.00

EPC WETLANDS MONTHLY WORKSHEET

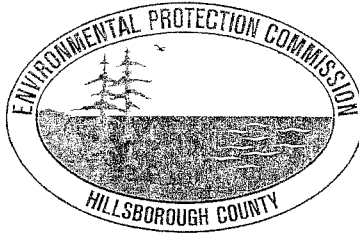
General	Enforcement	Compliance	Assessment	Engineering	Admin	Totals
Telephone Conferences			379	16	451	846
Scheduled Citizen Assistance			45	3	40	88
Scheduled Meetings			77	44	50	171
Correspondence	10	34	6	1		51
Assessment Reviews						
Wetland Delineations			53			53
Surveys			43			43
Miscellaneous Activities in Wetland			30			30
Impact/ Mitigation Proposal			35			35
Tampa Port Authority Permit Applications			37			37
Wastewater Treatment Plants (FDEP)						0
DRI Annual Report			2			2
Land Alteration/Landscaping			1			1
Land Excavation			3			3
Phosphate Mining						0
Rezoning Reviews			55			55
CPA						0
Site Development			56			56
Subdivision			82			82
Wetland Setback Encroachment			3			3
Easement/Access-Vacating						0
Pre-Applications			33			33
On-Site Visits		6	111			117
Investigation and Compliance						
Complaints Received		23				23
Complaints Closed		40				40
Warning Notices Issued		11				11
Warning Notices Closed		5				5
Complaint Inspections		25				25
Return Compliance Inspections		25				25
Mitigation Monitoring Reports		17				17
Mitigation Compliance Inspections		25				25
Erosion Control Inspections		3				3
Enforcement						
Active Cases	46					46
Legal Cases	2					2
NOI's	1					1
Number of Citations Issued						0
Number of Consent Orders Signed	2					2
Administrative - Civil Cases Closed	1					1
Cases Referred to Legal Department						0
Contributions to Pollution Recovery	\$450					#####
Enforcement Costs Collected	\$150					#####

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
December 2004**

	Totals
A. General	
1. Telephone Conferences	902
2. Unscheduled Citizen Assistance	106
3. Scheduled Meetings	181
4. Correspondence	46
B. Assessment Reviews	
1. Wetland Delineations	55
2. Surveys	42
3. Miscellaneous Activities in Wetland	29
4. Impact/ Mitigation Proposal	25
5. Tampa Port Authority Permit Applications	33
6. Wastewater Treatment Plants (FDEP)	4
7. DRI Annual Report	1
8. Land Alteration/Landscaping	5
9. Land Excavation	0
10. Phosphate Mining	0
11. Rezoning Reviews	9
12. CPA	4
13. Site Development	68
14. Subdivision	110
15. Wetland Setback Encroachment	2
16. Easement/Access-Vacating	0
17. Pre-Applications	23
18. On-Site Visits	127
C. Investigation and Compliance	
1. Complaints Received	38
2. Complaints Closed	42
3. Warning Notices Issued	12
4. Warning Notices Closed	16
5. Complaint Inspections	55
6. Return Compliance Inspections	42
7. Mitigation Monitoring Reports	11
8. Mitigation Compliance Inspections	15
9. Erosion Control Inspections	37
D. Enforcement	
1. Active Cases	45
2. Legal Cases	2
3. NOI's	3
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	1
6. Administrative - Civil Cases Closed	3
7. Cases Referred to Legal Department	2
8. Contributions to Pollution Recovery	\$1,950.00
9. Enforcement Costs Collected	\$299.00

EPC WETLANDS MONTHLY WORKSHEET

General	Enforcement	Compliance	Assessment	Engineering	Admin	Totals
Telephone Conferences			366	13	523	902
Scheduled Citizen Assistance			53	6	47	106
Scheduled Meetings			64	48	69	181
Correspondence	12	33		1		46
Assessment Reviews						
Wetland Delineations			55			55
Surveys			42			42
Miscellaneous Activities in Wetland			29			29
Impact/ Mitigation Proposal			25			25
Tampa Port Authority Permit Applications			33			33
Wastewater Treatment Plants (FDEP)			4			4
DRI Annual Report			1			1
Land Alteration/Landscaping			5			5
Land Excavation						0
Phosphate Mining						0
Rezoning Reviews			9			9
CPA			4			4
Site Development			68			68
Subdivision			110			110
Wetland Setback Encroachment			2			2
Easement/Access-Vacating						0
Pre-Applications			23			23
On-Site Visits		18	106	3		127
Investigation and Compliance						
Complaints Received		38				38
Complaints Closed		42				42
Warning Notices Issued		12				12
Warning Notices Closed		16				16
Complaint Inspections		55				55
Return Compliance Inspections		42				42
Mitigation Monitoring Reports		11				11
Mitigation Compliance Inspections		15				15
Erosion Control Inspections		37				37
Enforcement						
Active Cases	45					45
Legal Cases	2					2
NOI's	3					3
Number of Citations Issued						0
Number of Consent Orders Signed	1					1
Administrative - Civil Cases Closed	3					3
Cases Referred to Legal Department	2					2
Contributions to Pollution Recovery	\$1,950					#####
Enforcement Costs Collected	\$299					\$299.00



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 20, 2004

Subject: Legal Case Summaries for December 2004 and January 2005

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

Division: Legal Department

Recommendation: None, informational update.

Brief Summary: The EPC Legal Department provides a monthly list of all its pending civil matters, administrative matters, and cases that parties have asked for additional time before filing a challenge. This month the EPC provides those case summaries from December 2004 and January 2005.

Background: In an effort to provide the Commission a timely list of pending legal challenges, the EPC staff provides monthly updates. The updates not only can inform the Commission of pending litigation, but may be a tool to check for any conflicts they may have. This month the EPC provides those case summaries from December 2004 because there was no December 2004 EPC meeting and January 2005. The summaries generally detail pending civil matters, administrative matters, and cases that parties have asked for additional time before filing a challenge.

List of Attachments:

1. December 2004 EPC Legal Case Summary
2. January 2005 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
December 2004

A. ADMINISTRATIVE CASES

NEW CASES [0]

EXISTING CASES [6]

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)

Carolina Holdings, Inc. v. EPC [LCHP04-008]: A proposed final agency action letter denying an application for authorization to impact wetlands was sent on May 7, 2004. Carolina Holdings, Inc. requested an extension of time to file an appeal. The EPC entered an Order Granting the Request for Extension of Time on June 3, 2004 and the current deadline for filing an appeal was July 2, 2004. On July 2, 2004, Carolina Holdings, Inc. filed an appeal challenging the decision denying the proposed wetland impacts. The parties are still in negotiations. A pre-hearing conference was conducted on September 22, 2004 to discuss the case. The case is progressing through discovery and a mediation has been scheduled for January 14, 2005. (AZ)

IMC Phosphates, Inc. v. EPC [LIMC04-007]: IMC Phosphates timely requested two extensions of time to file an appeal challenging the Executive Director's decision dated February 25, 2004 regarding the review of justification of wetland impacts for Four Corners MU19E. The EPC entered a second Order Granting the Request for Extension of Time until September 13, 2004 to file the appeal. On September 10, 2004, IMC Phosphates filed it appeal and the matter has been referred to the Hearing Officer. The case has been put in abeyance pending settlement discussions for resolution of this matter and future wetland impact authorizations. (AZ)

CC Entertainment Music – Tampa, LLC and Florida State Fair Authority [LEPC04-022]: A Citation was filed on August 27, 2004 for violations of EPC's Noise rule Ch.1-10 regarding the Ford Amphitheater. Clear Channel and the Fair Authority timely filed requests for extension of time in which to file and appeal. Clear Channel filed its appeal on October 18, 2004 and the Fair Authority filed on November 1, 2004. Settlement negotiations are ongoing. (RT)

RESOLVED CASES [0]

B. CIVIL CASES

NEW CASES [0]

EXISTING CASES [14]

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 obtained a second judicial inspection warrant in May, 2004. On June 1, 2004, the EPC staff executed the search warrant and conducted a site inspection of the property. At the conclusion of the discovery portion of the case the matter will be set for trial. (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)

U-Haul of North Tampa [LUHA04-010]: Authority to take appropriate action against U-Haul of North Tampa for failure to prepare a required addendum to a Site Assessment Report for petroleum contaminant concentrations exceeding soil cleanup target levels was granted July 22, 2004. The parties are currently in negotiations. (AZ)

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

Lewis 8001 Enterprises, Inc. [LEPC04-012]: Authority to take appropriate action against Lewis 8001 Enterprises, Inc. was granted on May 20, 2004. Lewis 8001 Enterprises, Inc. has failed to remove improperly stored solid waste from its property. The parties have been attempting to negotiate a settlement without litigation. (AZ)

Cornerstone Abatement and Demolition Co. [LEPC04-013]: Authority to take appropriate action against Cornerstone Abatement and Demolition Co. for failing to properly handle and remove regulated asbestos-containing material was granted on May 20, 2004. Staff is currently drafting a complaint. (RT)

Julsar, Inc. [LEPC04-014]: Authority to take appropriate action against Julsar, Inc. for illegally removing over 11,400 square feet of regulated asbestos-containing ceiling material was granted on May 20, 2004. Staff is currently drafting a complaint. (RT)

Pedro Molina, d/b/a Professional Repair [LEPC04-015]: Authority to take appropriate action against Pedro Molina, d/b/a Professional Repair for failing to comply with the terms of a previously issued Consent Order regarding a spray paint booth ventilation system and other permit condition violations was granted on July 22, 2004. Staff is currently drafting a complaint. (RT)

U-Haul Company of Florida [LEPC04-016]: Authority to take appropriate action against U-Haul Company of Florida for failure to conduct a landfill gas investigation and remediation plan was granted September 18, 2003. The EPC Legal Department filed a lawsuit on September 3, 2004 and the case is progressing through discovery. (AZ)

Kovacs Geza, Inc. [LEPC04-019]: Authority was granted on August 2004 to take appropriate action against Geza Kovacs and Kovacs Geza, Inc. for failing to comply with the terms of a previously issued Consent Order that required that unauthorized accumulation of solid waste be removed and disposed at a properly permitted facility. Staff is currently drafting a complaint. (AZ)

River Walk MHP, Ltd. [LEPC04-023]: The EPC Board voted on September 9, 2004, to grant authorization to take any legal action necessary against River Walk Mobile Home Park, Ltd., including but not limited to a civil suit and the authority to settle the matter without further Board Action. The MHP located in Gibsonton has, among other violations at its wastewater treatment and disposal facility, discharged effluent from its disposal system to a tidal stream and/or a storm drain, failed to properly operate and maintain the disposal system, failed to install filters in a timely fashion, failed to provide adequate chlorine contact time, and violated other permit conditions. The EPC will seek a negotiated settlement and, if not reached shortly, file a complaint in the Circuit Court. (RM)

RESOLVED CASES [2]

Gittens, Darius and Geraldine Oliveras [LEPC04-020]: Authority was granted on August 2004 to take appropriate action against Darius Gittens and Geraldine Oliveras for failing to comply with the terms of a previously issued Citation that required that unauthorized accumulation of solid waste be removed and disposed at a properly permitted facility. The property was recently purchased at a tax sale and the new owners have entered into an agreement to perform all corrective actions. The party responsible for the violation is currently incarcerated and the case is being closed. (AZ)

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. The parties negotiated a settlement on December 18, 2004 wherein the responsible parties agreed to corrective actions and payment of administrative costs. (AZ)

C. OTHER OPEN CASES [0]

The following is a list of cases assigned to EPC Legal that are not in 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.

Jozsi, Daniel A. and Celina v. EPC [LEPC04-025]: Daniel A. and Celina Jozsi have timely requested an extension of time to file an appeal challenging the approval of a wetland survey line for the Winterroth Property located on Lake Hills Drive, Riverview, FL. The EPC entered an Order Granting Request for Extension of Time on December 8, 2004 and the current deadline for filing an appeal is February 4, 2005.

EPC LEGAL DEPARTMENT MONTHLY REPORT
January 2005

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EXISTING CASES [6]

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EPC vs. CC Entertainment Music – Tampa, LLC and Florida State Fair Authority [LEPC04-026]: On December 21, 2004, the EPC filed a complaint and a motion for temporary injunction against CC Entertainment Music – Tampa, LLC and the Florida State Fair Authority for violations of the EPC Act and Chapter 1-10, Rules of the EPC (Noise) regarding noise level violations and noise nuisance violations stemming from concerts held at the new Ford Amphitheater. The EPC has an injunction hearing scheduled for January 14, 2005, but the Defendants filed an emergency motion for continuance on January 11, 2005 to continue the injunction hearing. The continuance hearing is set for January 12, 2005. Settlement meetings and discovery have commenced. The staff will up date the Commission on the proceedings at the January 20, 2005 Commission meeting. There are also two pending administrative challenges to EPC citations which are a separate matter than this and are described above. (RT)

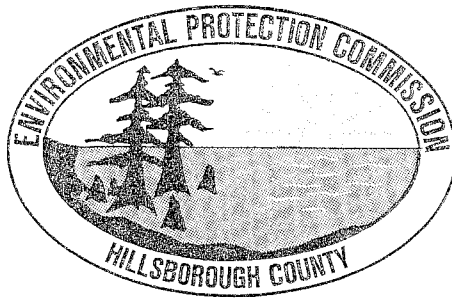
RESOLVED CASES [0]

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COMMISSION
 Brian Blair
 Kathy Castor
 Ken Hagan
 Jim Norman
 Thomas Scott
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 Ronda Storms



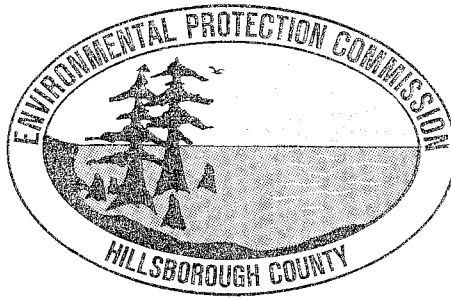
Administrative Offices,
 Legal & Water Management Division
 1900 - 9th Ave. • Tampa, FL 33605
 Ph. (813) 272-5960 • Fax (813) 272-5157
 Waste Management, Wetlands &
 Environmental Resource Management Divisions
 3629 Queen Palm Dr. • Tampa, FL 33619
 Waste Fax (276-2256) Wetlands Fax (272-7144)
 Air Management Division
 1410 N. 21st St. • Tampa, FL 33605
 Fax (272-5605)

Executive Director
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION
 OF HILLSBOROUGH COUNTY
 POLLUTION RECOVERY TRUST FUND
 AS OF DECEMBER 31, 2004

Fund Balance as of 10/01/04	\$1,737,812
Interest Accrued	11,091
Deposits FY05	68,992
Disbursements FY05	73,388
Intrafund Transfers	4,845
 Fund Balance	 \$1,749,352
Encumbrances Against Fund Balance:	
Artificial Reef	103,276
(66) Asbestos Abatement	4,486
(73) Balm Road Scrub	- 0 -
(84b) Cockroach Bay Aerial Photos	3,392
(90) Upper Tampa Bay Trail	- 0 -
(91) Alafia River Basin	21,283
(92) Brazilian Pepper	26,717
(93) Rivercrest Park	1,743
(97) COT Parks Dept/Cypress Point	100,000
(99) Seagrass Restoration Cockroach Bay	58,020
(100) Agriculture Pesticide Collection	8,115
(101) Pollution Prevention Program	38,194
Old Landfills/Coronet	20,174
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/Greenways	7,200
Stormwater Mgmt/Florida Aquarium	30,000
Water Drop Patch/Girl Scouts	7,350
Tampa Shoreline Restoration	30,000
 Total of Encumbrances	 890,366
 Minimum Balance (Reserve)	 120,000 *
 Fund Balance Available December 31, 2004	 \$ 738,986

COMMISSION
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 Fax (272-5605)

Executive Director
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION
 OF HILLSBOROUGH COUNTY
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
 AS OF DECEMBER 31, 2004

Fund Balance as of 10/01/04	\$ 818,538
Interest Accrued	4,531
Disbursements FY05	123,756
 Fund Balance	 \$ 699,313

Encumbrances Against Fund Balance:

SP462 Port Redwing	- 0 -
Sp464 Davis Tract	- 0 -
SP591 Mechanical Seagrass Planting	3,584
SP597 Fantasy Island Restoration	1,633
Marsh Creek/Ruskin Inlet	47,500
SP604 Desoto Park Shoreline	150,000
SP610 H.C. Resource Mgmt/Apollo Beach Restoration	35,000
Tampa Bay Scallop Restoration	117,544
SP612 Riverview Civic Center	4,244
SP615 Little Manatee River Restoration	50,000
SP616 Manatee Protection Areas	2,246
SP614 Manatee & Seagrass Protection	3,200
Fantasy Island	20,000
E.G. Simmons Park	43,200
Cockroach Bay ELAPP Restoration	221,162
 Total of Encumbrances	 699,313

Fund Balance Available December 31, 2004	\$ - 0 -
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**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

AGENDA ITEM COVER SHEET

DATE: December 30, 2004

TO: Environmental Protection Commissioners

FROM: Sheila Luce, Enforcement Coordinator, Waste Management Division

SUBJECT: Request for Authority to Take Legal Action regarding Omar T. Chaudhry, President, C and C Food Corporation.

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

BACKGROUND: C and C Food Corporation (C & C) owns and operates a retail fuel facility known as Kwik Food Store on property located at 5018 N. Armenia Avenue, Tampa, Florida. The property is also owned by C & C. The property and facility include underground storage tank (UST) systems. Omar T. Chaudhry is the President of C & C. C & C has owned and exercised control over the property since at least 1998.

EPC has contracted with the Florida Department of Environmental Protection (DEP) to administer the UST program in Hillsborough County. EPC also had independent authority under its enabling act, Chapter 84-446, Laws of Florida as amended, and has adopted by reference in EPC Rules Chapter 1-12, the storage tank rule of the DEP [Chapter 62-761, Florida Administrative Code (FAC)].

C & C's history of non-compliance with UST regulations has been documented by EPC staff. On May 2, 2000, EPC staff conducted an annual UST compliance inspection that revealed ten separate UST violations. On May 25, 2000 a follow up inspection was conducted that revealed three violations were still not corrected. On June 13, 2000 EPC staff issued a Warning Notice for the uncorrected violations which were finally corrected on June 29, 2000. On August 29, 2001 EPC staff conducted an annual compliance inspection that revealed four repeated violations, another Warning Notice was issued on September 6, 2001 and the violations were corrected on November 19, 2001. On July 31, 2002 EPC staff conducted another annual compliance inspection that again revealed ten separate violations, eight of which were repeated violations. On November 11, 2002 EPC staff issued a Notice of Intent to Initiate enforcement (NOI) for the ten violations. The most recent annual compliance inspection, of April 27, 2003, revealed four repeated violations. On May 19, 2003 EPC staff issued a Citation and Order to Correct to C & C. C & C failed to appeal the Order which became final on June 10, 2004. C & C has violated Chapter 62-761, FAC, Chapter 1-12, Rules of the EPC, and Section 12 of the Hillsborough County Environmental Protection Act by failing to properly operate and maintain UST's. Since the property and facility owner has not responded to EPC staff efforts to resolve this matter, staff recommends the initiation of appropriate legal action for enforcement.

ACTION TAKEN BY THE COMMISSION

[] Approved [] Disapproved [] Continued/Deferred Until _____

Other: _____

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY**

AGENDA ITEM COVER SHEET

DATE: December 30, 2004

TO: Environmental Protection Commissioners

FROM: Sheila Luce, Enforcement Coordinator, Waste Management Division

SUBJECT: Request for Authority to Take Legal Action regarding Thrifty Rent-A-Car and June Campbell, Trustee

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

BACKGROUND: Thrifty Rent-A-Car, Inc. (Thrifty) owns and operates a car rental facility known as Thrifty Car Rental on property located at 1965 North Westshore Blvd., Tampa, Florida. The property is owned by June C. Campbell, Trustee (Campbell). The facility includes multiple underground storage tank (UST) systems and above ground systems. In addition, the facility also formerly included one 10,000 gallon UST.

EPC has contracted with the Florida Department of Environmental Protection (DEP) to administer the UST program in Hillsborough County. EPC also had independent authority under its enabling act, Chapter 84-446, Laws of Florida as amended, and has adopted by reference in EPC Rules Chapter 1-7, the petroleum contamination rules of the DEP [Chapter 62-770, Florida Administrative Code (FAC)].

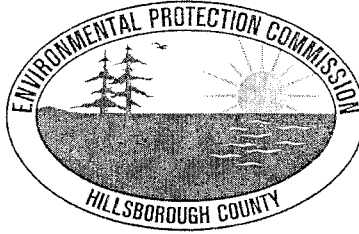
On November 13, 1996, Thrifty submitted a Discharge Reporting Form to EPC staff for the discovery of a discharge observed during closure and removal of the 10,000 gallon UST from the property. On February 18, 1997, EPC staff received the closure assessment report which revealed petroleum contaminant concentrations exceeding site rehabilitative levels pursuant to Chapter 62-770, FAC. On November 13, 1997, EPC staff received a Contamination Assessment Report (CAR) from Thrifty. EPC staff approved the CAR and its recommendations of completing a Remedial Action Plan (RAP), with the condition that additional information be submitted to EPC. The parties have failed to submit the additional information and failed to perform the RAP.

On August 13, 2003, EPC staff issued a Citation of Violation and Order to Correct to Thrifty and Campbell. Thrifty and Campbell failed to appeal the Order which became final on September 18 and September 5, 2003 respectively. The parties have violated Chapter 62-770, FAC, Chapter 1-7, Rules of the EPC, and Section 12 of the Hillsborough County Environmental Protection Act by failing to complete the assessment and remediation of petroleum contaminated site in accordance with State and Local regulations. Since the property owner and facility owner and operator have not responded to EPC staff efforts to resolve this matter, staff recommends the initiation of appropriate legal action for enforcement.

ACTION TAKEN BY THE COMMISSION

Approved Disapproved Continued/Deferred Until _____

Other: _____



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 20, 2005

Subject: Board Approval for Temporary Wetland Impact Lasting More Than One (1) Year for Florida Fill Haulers, Inc. at the Villa Rosa Borrow Pit

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

Division: Wetlands Management

Recommendation: Staff recommends approval for a ninety (90) day extension of the permitted time-line subject to the existing permit conditions.

Brief Summary: Chapter 1-11.09 1. a., Wetlands, Rules of the Environmental Protection Commission of Hillsborough County (EPC), requires Commission approval for adverse impacts to wetlands of a temporary nature lasting more than a year's duration. The existing wetland impact is for use of a temporary haul road required to haul fill material from a permitted borrow pit. EPC approval for the temporary haul road expired December 17, 2004. The permit applicant proposes to continue using the haul road for an additional ninety (90) day period.

Background: Chapter 1-11.09 1. a., Wetlands, Rules of the Environmental Protection Commission of Hillsborough County (EPC), requires Commission approval for adverse impacts to wetlands of a temporary nature lasting more than a year's duration. The existing wetland impact is for use of a temporary haul road required to haul fill material from a permitted borrow pit. EPC approval for the temporary haul road expired December 17, 2004. The permit applicant proposes to continue using the haul road for an additional ninety (90) day period. EPC staff recommends approval of the request to extend the temporary wetland impact for a limited duration and subject to all previous permit conditions. There are no attachments included.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 20, 2005

Subject: Budget Workshop

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

Division: Finance and Administration

Recommendation:

Authorize staff to schedule an EPC Budget Workshop

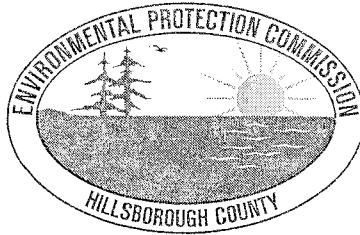
Brief Summary:

Background:

Prior to submitting the agency's budget for Fiscal Years FY06/07, staff would like to conduct a workshop with the EPC Board to review the EPC Goals and Objectives as they relate to the budget. In addition staff would like to incorporate in its budget submittal any items the Board may wish to incorporate into the budget. The completed budget submittals are due by March 4, 2005.

We request the Board authorize staff to schedule a budget workshop during the month of February, 2005.

List of Attachments: Let any attachments or put none at the end of the background.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 20, 2005

Subject: EPA Audit for the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) Program

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

Division: Executive Director's Report

Recommendation:

Accept the briefing and provide guidance as necessary.

Brief Summary:

The EPA conducted an evaluation of the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) enforcement programs for eight state regulatory agencies and four local regulatory agencies, including Hillsborough County. The evaluation included EPA's analysis of state and local responses to an asbestos enforcement program survey. The evaluation further included federal oversight inspections of state and local inspectors.

The EPA's overall assessment of the EPC's NESHAP program is excellent. The EPA commended the EPC on the quality and level of effort demonstrated by EPC staff's performance.

Background:

The EPC has delegation from the Florida Department of Environmental Protection (FDEP) to regulate the National Emission Standard for Hazardous Air Pollutants (NESHAP) in Hillsborough County. Hillsborough County is one of eight local agencies operating under specific operating agreement (SOA) with the FDEP.

List of Attachments: EPA Asbestos Enforcement Initiative and cover letter dated December 14, 2004

JE



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

TO THE ATTORNEY GENERAL
STATE OF FLORIDA
TAMPA

DEC 16 2004

EPA OF FL
AIR MANAGEMENT

Jerry Campbell, Director
Air Management Division
Environmental Protection Commission
of Hillsborough County
1401 North 21st Street
Tampa, Florida 32202-4111

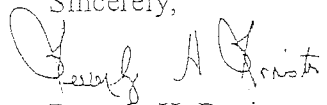
DEC 14 2004

Dear Mr. Campbell:

The Environmental Protection Agency (EPA) Region 4 conducted an evaluation of the eight states' and four select local agencies' Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) enforcement programs within Region 4. The evaluation included EPA's analysis of the states' and local agencies' responses to an asbestos enforcement program survey. The data requested in the survey was for fiscal year 2002. Fiscal year 2002 data was used because this effort was started in 2003, and fiscal 2002 was the most recent year for which we had data for a full year. The evaluation further included federal oversight inspections to determine the level of inspector expertise in the field.

EPA has completed this evaluation. Enclosed are two reports. The first report is the evaluation of your local program with specific findings and recommendations. EPA's overall assessment of your asbestos NESHAP program is excellent. EPA commends you on the quality and level of effort demonstrated by your staff's performance. The second report is a summary of EPA's overall findings of the evaluation of the eight state agencies and four local agencies. This report also includes specific actions that EPA is going to take to further enhance the Asbestos NESHAP enforcement program.

EPA appreciates your participation in this effort. If you have questions or comments regarding this evaluation, please call me at (404) 562-9077.

Sincerely,

Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division

Enclosures

cc: Michael Cooke

ASBESTOS ENFORCEMENT INITIATIVE

I. Introduction and Background

EPA conducted an evaluation of the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) enforcement programs for eight state regulatory agencies and four local regulatory agencies. The evaluation included EPA's analysis of state and local responses to an asbestos enforcement program survey. The evaluation further included federal oversight inspections of state and local inspectors. As part of this effort, EPA also mailed an *EPA Region 4 Enforcement Bulletin* to asbestos abatement contractors, school superintendents, and training course providers throughout Region 4 to inform them of the pending asbestos inspections.

II. Hillsborough County, Florida - Asbestos Enforcement Program Survey Findings

Hillsborough County has an effective enforcement program to help ensure compliance with the Asbestos NESHAP contained in 40 C.F.R. Part 61, Subpart M. Hillsborough County is one of eight local agencies operating under a specific operating agreement (SOA) with the Florida Department of Environmental Protection (FDEP). Hillsborough County received six-hundred and thirty-one (631) Asbestos NESHAP notifications and conducted three-hundred and ninety-seven (397) Asbestos NESHAP inspections during fiscal year 2002 (FY-02). Three (3) enforcement actions for notification, work practice, and disposal violations resulted in penalties collected of \$11,920 during FY-02. In addition, forty-four (44) warnings were issued for failure to notify, failure to thoroughly inspect, improper notification, and work practice violations. Hillsborough County checks supervisor training certificates required by the Asbestos NESHAP and worker training certificates required by the Occupational Safety and Health Administration (OSHA) and Chapter 469, Florida Statutes.

Hillsborough County has one (1) full-time employee and five (5) part-time employees in the County's asbestos enforcement program. The five (5) part-time employees consist of one (1) inspector that spends 50% of his time on asbestos enforcement activities and four (4) enforcement and supervisory staff members that spend between 5% and 30% of their time on such activities. The County has two inspectors both of which are qualified to enter an asbestos containment area. Five inspections conducted during FY-02 included entering the asbestos containment area. No violations were discovered as a result of entering the asbestos containment area.

Waste shipment records (WSRs) are checked on-site during an inspection if a project is of such duration that WSRs are available on site. The WSRs are requested after inspection if a compliance problem is known or suspected. In such cases, information from the WSRs would be included in a follow-up inspection report. Inspection reports do not indicate whether or not

copies of all WSRs (including signed copies sent by disposal facilities) are maintained by the generator for at least two (2) years. This information may be included in a follow-up inspection report.

EPA does think that checking the WSRs post-disposal is adequate to ensure that the WSR contains the information regarding the origination and the destination of the asbestos-containing waste material (ACWM) as required by 40 C.F.R. § 61.150(d)(1). However, Hillsborough County checks WSRs post-disposal only if a compliance problem is known or suspected. Owners/operators subject to the Asbestos NESHAP are required to retain a copy of all WSRs, including a copy of the WSR signed by the owner or operator of the designated waste disposal site, for at least two (2) years by 40 C.F.R. § 61.150(d)(5). EPA encourages Hillsborough County to verify compliance with the disposal provisions of the Asbestos NESHAP including the requirements of 40 C.F.R. § 61.150(d)(1) and 40 C.F.R. § 61.150(d)(5) in all instances, not just in instances where a compliance problem is known or suspected. The disposal requirements of the Asbestos NESHAP are applicable in and of themselves regardless of whether or not compliance problems are known or suspected. Hillsborough County noted that inspection reports can not verify that ACWM is disposed of properly as soon as practical as required by 40 C.F.R. § 61.150(b).

Hillsborough County did not conduct any asbestos compliance assistance activities during FY-02. The County did not offer any suggestions on how EPA could enhance the implementation of their asbestos enforcement program.

III. Hillsborough County, Florida - Overview Inspection Observations

On June 25, 2003, Ms. Nancy Lebedzinski (EPA contractor) accompanied Ms. Alanna Lynn and Mr. Rigoberto Delgado (both with Hillsborough County) while they inspected two schools undergoing renovation: Thomas Jefferson High School in Tampa, Florida, and Plant City High School in Plant City, Florida.

No active abatement was ongoing at Thomas Jefferson High School. The abatement crew had completely abated and encapsulated an area that was awaiting final air clearance. The inspectors witnessed an abated mechanical room and a mechanical room being prepped for abatement. No remaining RACM was seen in the abated room. Ms. Lynn and Mr. Delgado conducted a thorough review of the workers' and the supervisor's training certificates. They also verified that all individuals who had been working that day had their credentials on site.

Since the high school is subject to the Asbestos Hazard Emergency Response Act (AHERA), Ms. Lynn and Mr. Delgado asked to see the school's Management Plan (MP) documents. The school was overdue for its 3-year reinspection (most recently inspected on February 29, 2000). In addition, no two-hour asbestos awareness training had been conducted for the school's maintenance staff since 1988. Mr. Riverol, the head custodian who has worked at the school for ten (10) years, knew nothing about the three-year reinspection or the two-hour asbestos awareness training requirements. Ms. Lynn and Mr. Delgado described the AHERA training requirements to Mr. Riverol and emphasized that he and his staff must be given site-

specific asbestos training. Ms. Lynn and Mr. Delgado also found no records regarding annual notification to staff members and parents regarding asbestos in the school. The most recent six-month reinspection report in the MP was dated January 28, 1997. Ms. Lynn eventually spoke with Mr. Lou Shelton, Safety Specialist for the Hillsborough County Schools, and discussed the deficiencies the County had noted in the MP.

The inspectors proceeded to the Plant City High School. No abatement activity was occurring. An area had been completely abated. The contractor would not return until air sampling results for air samples taken that morning had been received. No suspect RACM debris was observed in an area in the school that had been abated and had passed air clearance testing. The inspectors also examined the outside (a hallway) of the area that was awaiting final air clearance. Several small (approximately one square inch) breaches in the containment at the top of the wall were pointed out by the inspectors. No suspect debris was observed. The local exhaust ventilation (LEV) units were being properly operated. Several roll-off waste containers in the parking lot were observed. One covered container marked with an asbestos warning sign was unlocked. Bagged waste was observed inside. One bag was selected, and the outermost bag was cut open by the inspectors. The materials in the innermost bag felt mushy. The inspectors thus verified that the ACWM was adequately wet.

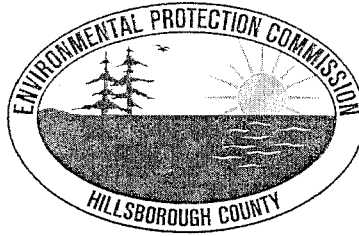
Ms. Lynn and Mr. Delgado examined the MP. Ms. Lynn noticed that fire doors were not mentioned in the most recent three-year reinspection report dated January 24, 2000. Ms. Lynn and Mr. Delgado also discovered that the school had not conducted appropriate six-month reinspections and asbestos awareness training sessions.

Mr. Pedro Fernandes is the Senior Project Manager and Industrial Hygienist for Chastain Skillman, Inc. (CS). CS has received a multi-year contract from the Hillsborough County School District to conduct air monitoring and to conduct oversight at the asbestos abatement worksites. Mr. Fernandes told the Hillsborough County inspectors that he hoped to get the schools in the district (over 300 schools) back on schedule for the required 3-year reinspections. He proposed reinspecting 100 schools per year over the next three years in order to minimize the school district's financial burden. Ms. Lebedzinski, Ms. Lynn, and Mr. Delgado all expressed their concerns since some schools would then have six (6) years between inspections. Ms. Lebedzinski suggested that funding options be explored by the school district in order to comply with the reinspection requirements.

Ms. Lynn and Mr. Delgado are enthusiastic and knowledgeable individuals who conduct inspections in a professional and comprehensive manner. Although they did not enter an active abatement area, they are well prepared and willing to do so. Although not funded by EPA to conduct AHERA inspections nor authorized by EPA to take AHERA enforcement actions, Hillsborough County inspectors provided compliance assistance and regulatory guidance during these inspections regarding AHERA requirements.

IV. Summary of Recommendations

- > Hillsborough County should selectively examine waste shipment records (WSRs) and verify compliance with the regulatory provisions, including those applicable to WSRs, contained in 40 C.F.R. § 61.150. If WSRs are not available at the time of inspection, they should be requested from the generator post-inspection. The generator is required by 40 C.F.R. § 61.150(d)(5) to keep the WSRs for at least two years.
- > EPA recommends that Hillsborough County take measures to verify if ACWM is disposed of as soon as practical as required by 40 C.F.R. § 61.150(b). EPA recognizes that there is no firm guidance defining "as soon as practical".
- > Hillsborough County should ensure that enforcement data is included in the ACTS report or use an alternate method to report enforcement accomplishments to EPA.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 20, 2005

Subject: The proposed cleanup strategy for the Exide Battery contaminated site located on Hwy. 41, south of Causeway Blvd.

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

Division: Waste

Recommendation: Continue reviewing proposed strategy, consult with other County Divisions, meet with the Florida Department of Environmental Protection and submit final comments to the FDEP. Staff recommend that the Board send a letter to the FDEP indicating interest in the outcome of the project, our intention to be involved in review of the final remedy and our appreciation that the FDEP is working with us on this issue.

Brief Summary: EPC attended a public meeting describing the proposed cleanup strategy for the Exide site. We have concerns over the long term success of the proposed strategy. We have begun reviewing the background and technical information for the site and have had preliminary discussions expressing our concerns with the Florida Department of Environmental Protection concerning the permit they intend to issue for cleanup of the site.

Background:

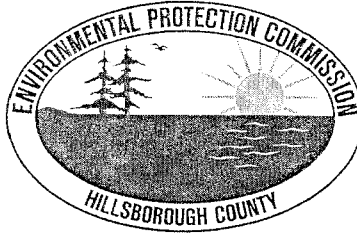
The site is situated along the east and west sides of Hwy 41 and encompasses approximately 33 acres. The former facility manufactured and recycled batteries, typically car batteries. The contamination at the site is from onsite disposal of batteries (whole and broken) and various wastes from manufacturing. The soil and groundwater are contaminated, as well as, the sediment in Delaney Creek.

The proposed remedy is to excavate all the batteries from the west side of Hwy 41 and place them on the east side of the road basically in an engineered land disposal "unit". The unit would have an impermeable cover and three sides would have a subsurface slurry wall designed to keep the groundwater from infiltrating the buried batteries and the southern subsurface wall, adjacent to Delaney Creek, would be composed of limestone which is to react with any groundwater or surface water that might infiltrate through the batteries and become contaminated. The unit is designed to incorporate the 36th Avenue South right-of-way, therefore, the responsible party will need to close the right of way and rebuild the road if the plan is approved.

Staff have the following concerns based on a preliminary review of the plans:

- 1) The slurry wall is made of bentonite. Bentonite is a clay that must be hydrated to be impermeable. The water table is approximately five feet below land surface, therefore, the upper five feet of the subsurface wall may be ineffective as an impermeable barrier.
- 2) They do not plan on using an engineered lining for the bottom of the unit. There is a natural clay layer which they believe to be adequate. We are concerned that the clay may not be continuous and therefore unsuitable as a liner.
- 3) The reactive wall is on the banks of Delaney Creek. When there is flooding, the water from the creek will enter the vault, wash the batteries and contaminated soil and then flow back into Delaney Creek. There is also the potential for the creek to erode the reactive wall and slurry walls during times of flooding. This site is located in an "A" Hurricane Evacuation Zone. Staff are also concerned about the "useful life" of the reactive wall.
- 4) They plan no treatment of the wastes prior to re-disposal. This has never occurred in Hillsborough County at a battery site to date. This could set a precedent with which staff are not comfortable. Additionally, there is an EPA CERCLIS site with the same type of contamination, directly to the west and contiguous to the Exide site, known as the Raleigh Street Dump whose remedy could be influenced by the actions of Exide. The FDEP has indicated that any batteries excavated and moved will require treatment. This is an issue still to be resolved between the FDEP and Exide.
- 5) Exide intends to place and leave batteries in the county right of way. We have contacted the Department of Public Works and are working with them on this issue. This has numerous ramifications, especially considering the properties to the east along 36th Ave. South have not yet been provided with public water or sewer. Trying to install utilities through batteries will present a challenge, especially as the integrity of the impermeable cover could be compromised.
- 6) The unit will be located adjacent to Hwy 41. They will essentially be two mounds with a valley along 36th Avenue South. The northern portion of the unit is to be 42 feet above sea level, which is 35 feet above grade, the southern portion of the vault will be 30 feet above grade. It is unclear if there is a specific land use required by PGMD for this type of installation.
- 7) It is not clear what ramifications the alteration of 36th Avenue South will have on property owners to the east.

Staff will continue to investigate this situation and will continue to work with the Department of Public Works/Engineering and Planning and Growth Management. Our intent is to meet with the FDEP in the first two weeks of February, all schedules permitting.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: Jan. 20, 2005

Subject: Hillsborough Independent Monitoring Program (HIMP) Pre-Operational Report

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

Division: Environmental Resources Management (ERM)

Recommendation:

This item is provided for information purposes only. No Board action is requested.

Brief Summary:

Staff will provide an overview of the HIMP Pre-Operational Report, which summarizes monitoring data collected from 2000 through 2002 in the HIMP study areas (Hillsborough River, Palm River, Alafia River, Apollo Beach/Big Bend; and Little Manatee River)

Background:

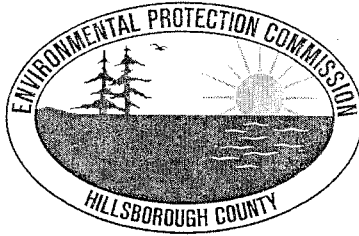
The Hillsborough Independent Monitoring Program (HIMP) was established to detect and quantify environmental changes that may occur as a result of four new regional water supply projects that are being implemented in Hillsborough County by Tampa Bay Water.

The four new water supply projects whose potential impacts are being addressed include:

- Additional surface water withdrawals from the Alafia River upstream of Bell Shoals Road (which were initiated in February 2003);
- Additional surface water diversions from the Hillsborough River into the Tampa Bypass Canal (which were initiated in September 2002);
- Additional surface water withdrawals from the Tampa Bypass Canal upstream of the Palm River (which were initiated in September 2002); and
- Construction of a desalination plant in the Apollo Beach/Big Bend area of Tampa Bay (which began limited operation in March 2003).

The purpose of the pre-operational HIMP report is to provide background information describing the environmental conditions present in these four "potentially impacted" areas, and in two comparable "control" areas, during the 3-year period (2000 – 2002) immediately prior to the initiation of the new water supply projects. (Staff also plan to prepare a follow-up report, once the water supply projects have been operational for three years, to characterize any environmental impacts observed in the monitoring areas.)

List of Attachments: None (copies of the report will be provided at the January 20 Board meeting)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 20, 2005

Subject: Green Yard Certification Procedure

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

Division: Waste Management

Recommendation:

Request EPC Board approval of the Green Yard Program Certification Procedure

Brief Summary:

EPC staff would like to recognize auto salvage yards for successfully meeting the criteria of the Green Yard Program. Owners of auto salvage yards who are currently in environmental compliance and who voluntarily follow established Best Management Practices (BMPs) will be invited to be officially recognized as a "Green Yard." Owners will be presented with a certificate and Green Yard flag from the Board.

Background:

The Green Yard Program is a voluntary program that began as a pilot program in the Central District of the Florida Department of Environmental Protection. It was first introduced to the Commissioners during the EPC Legislative Environmental Tour in January 2004. In March 2004, the EPC Board approved EPC implementing the Green Yard Program in Hillsborough County. Auto salvage owners submit documents to EPC staff certifying compliance with the Program requirements. After all the documents have been submitted and reviewed, EPC staff perform a comprehensive on-site inspection to confirm that all Green Yard requirements are actually being implemented. Once this is confirmed, each facility is publicly recognized as a "Green Yard" by being presented a certificate and Green Yard flag. This public recognition is a major component of the Program. Please note that the Green Yard certificate and flag are awarded in recognition of BMPs implemented currently and not necessarily historically. Since BMPs concern ongoing operations and do not address the potential effect of past activities, this recognition has no effect regarding obligations to clean up contamination, whether known or as yet unidentified.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: January 20, 2004

Subject: Amphitheater Update

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

Division: Legal Department and the Air Management Division

Recommendation: None, status update.

Brief Summary: On December 21, 2004, the EPC filed a complaint and a motion for temporary injunction against CC Entertainment Music – Tampa, LLC and the Florida State Fair Authority for violations of the EPC Act and Chapter 1-10, Rules of the EPC (Noise) regarding noise level violations and noise nuisance violations stemming from concerts held at the new Ford Amphitheater. The EPC had an injunction hearing scheduled for January 14, 2005, to attempt to halt all concerts at the facility until laws can be complied with, but the Defendants filed an emergency motion for continuance on January 11, 2005, to continue the hearing. The motion was heard January 12, 2005, and Judge Holder granted a continuance until February 4, 2005.

Background: Pursuant to Commission direction, on December 21, 2004, the EPC filed a complaint and a motion for temporary injunction against CC Entertainment Music – Tampa, LLC and the Florida State Fair Authority for violations of the EPC Act and Chapter 1-10, Rules of the EPC (Noise) regarding noise level violations and noise nuisance violations stemming from concerts held at the new Ford Amphitheater. Among other things, the complaint seeks to assess penalties and implement permanent corrective measures at the facility due to the Defendants' violations of rule-based noise level standards and for nuisance violations. The temporary injunction seeks to halt all concerts at the Amphitheater until the EPC can seek final relief.

The EPC had a hearing scheduled for January 14, 2005 to address the injunction sought against the Defendants, but the Defendants filed an emergency motion for continuance on January 11, 2005 to continue the injunction hearing. The continuance motion hearing occurred on January 12, 2005, and Judge Holder granted a continuance until February 4, 2005. The judge granted the continuance of the injunction hearing in order to allow for discovery, citing the many technical matters that need to be explored in order for the parties to conduct a fair injunction hearing. The judge also ordered mediation to be held prior to February 4, 2005, and encouraged the parties to negotiate prior to the concert set for January 29, 2005. Settlement meetings and discovery have commenced. The staff will up-date the Commission on the proceedings at the January 20, 2005 Commission meeting.

There are also two pending administrative challenges to EPC citations which are a separate matter from this civil suit. It should be noted that the EPC staff cannot discuss the administrative challenges with the Commission, as the Commission will be asked render a final decision after an administrative hearing is held.

List of Attachments: None