

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
AUGUST 18, 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**

SPECIAL RECOGNITION

Present "You've Made a Difference" Award to Rich Paul

2

I. CITIZEN'S COMMENTS

II. CITIZEN'S ENVIRONMENTAL ADVISORY COMMITTEE

Report from the Chair – David Jellerson

III. CONSENT AGENDA

A. Approval of Minutes: March 7, May 4 & June 16, 2005

5

B. Monthly Activity Reports

14

C. Pollution Recovery Trust Fund

31

D. Gardinier Settlement Trust Fund

32

E. Legal Department Monthly Reports – July & August 2005

33

F. Request Authority to Take Appropriate Legal Action Against:

1. Spencer Farms, Inc. (Storage Tank)

45

2. Haaz Investments Two LLC a/k/a Presco Food Store #1 (Storage Tank)

46

G. Authorize Executive Director to Execute Memorandum of Understanding with SWFWMD

47

IV. WASTE MANAGEMENT DIVISION

A. Present Green Yard Certifications to:

53

1. All Auto Hustlers

2. Gagel's Auto Parts

3. Japanese and European Used Auto Parts

B. Status Report on Former Honeywell Facility (Comm. Castor)

54

V. EXECUTIVE DIRECTOR'S REPORT

Presentation of 2004 Annual State of the Environment Report

VI. LEGAL DEPARTMENT

Pursuant to Section 286.011(8), Florida Statutes, the Commissioners will discuss closed door settlement negotiations and litigation strategies regarding Environmental Protection Commission of Hillsborough County vs. CC Entertainment Music – Tampa LLC and Florida State Fair Authority (Case No. 04-11404) and CCE vs. EPC and FSFA (Case No. 05-1565). – 11:15 a.m.

55

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



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2005

Subject: You've Made a Difference Award

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

Division: Administration

Recommendation: Present "You've Made a Difference Award" to Rich Paul

Brief Summary: Rich Paul is being honored with the "You've Made a Difference Award" for his life-long stewardship of the environment. A retired manager of Audubon's Florida Coastal Islands Sanctuaries, Rich dedicated his life to the restoration and protection of the natural resources of Tampa Bay.

Background: The "You've Made a Difference Award" was created by the Board of County Commissioners in 1998 to publicly recognize residents who have proposed an idea or presented a suggestion that has been adopted by the County and has resulted in a project or program of county-wide significance. The project's effectiveness or impact must have been successfully demonstrated over a period of several years. The award is normally presented in November to no more than two recipients per calendar year.



Agenda Item Cover Sheet

Agenda Item N^o. _____

Meeting Date August 17, 2005

Consent Section

Regular Section

Public Hearing

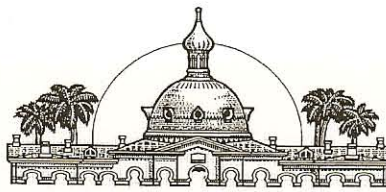
Subject: You've Made a Difference Award			
Department Name: Office Of Public Affairs			
Contact Person: Edith Stewart		Contact Phone: 276-2640	
Sign-Off Approvals:			
Assistant County Administrator _____		Department Director _____	
Date _____		Date _____	
NA		NA	
Management and Budget - Approved as to Financial Impact Accuracy _____		County Attorney - Approved as to Legal Sufficiency _____	
Date _____		Date _____	

Staff's Recommended Board Motion:
 Waive the requirement for review by the Citizens Advisory Committee to the Board and the presentation of the award in November, instead, presenting the "You've Made a Difference" Award to Rich Paul at the Environmental Protection Meeting (EPC) on Thursday, August 18th.

Financial Impact Statement:
 Appropriated from departmental budget. Cost for award is approximately \$100.00.

Background:
 The You've Made a Difference Award was created by the Board of County Commissioners in 1998 to publicly recognize residents who have proposed an idea or presented a suggestion that has been adopted by the County and has resulted in a project or program of county-wide significance. The project's effectiveness or impact must have been successfully demonstrated over a period of several years. The award is normally presented in November to no more than two recipients per calendar year.

List Attachments: Nomination form for Rich Paul. You've Made a Difference Award Criteria



You've Made a Difference Award Criteria

Overview

The Hillsborough County Board of County Commissioners establishes the "You've Made a Difference Award" to publicly recognize residents who have proposed an idea or presented a suggestion that has been adopted by the County and has resulted in a project or program of county-wide significance. The project's effectiveness or impact must have been successfully demonstrated over a period of several years. The award is presented in November to no more than two recipients per calendar year.

Eligibility

- All residents of Hillsborough County are eligible to be nominated.
- Individuals or group of individuals are eligible for nominations.
- Individuals or a group of individuals may be nominated for "ideas" from previous years.

Nominating Procedures

- Nominations may be originated by County Commissioners, county staff or the public.
- Nomination forms are required for all nominees. Incomplete forms cannot be considered.
- Nominations are accepted throughout the year and considered annually in November.
- Up to three pages of pertinent supporting information may be submitted with the nomination form.
- Nomination forms are submitted to the Chairman of the Board of County Commissioners. The Chairman will forward nominations to the Citizens Advisory Committee for review and selection of the two suggested recipients. Following action by the Citizens' Advisory Committee, the nomination will be placed on the next available Board Agenda, in the Commissioner's Section for vote. The BOCC will vote on the recommendations of the Citizen's Advisory Committee and presentations will be made at the next regularly scheduled Board meeting.
- Forms must be received on or before September 15. (In 1997, the deadline will be extended to November 26.)
- The decision of the Board of County Commissioners is final. The nomination form and supporting information become the property of Hillsborough County and cannot be returned.

Documentation

A maximum of three pages of support documentation may be included and should detail the following:

- History, conception and/or origin of idea;
- Value of the project and description of the extent to which it positively impacted the community;
- Duration of the project and ongoing proven impact.

11/1/00

MARCH 17, 2005 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, March 17, 2005, at 10:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Kathy Castor and Commissioners Brian Blair, Jim Norman, Thomas Scott (arrived at 10:10 a.m.), Mark Sharpe, and Ronda Storms (arrived at 10:07 a.m.).

The following member was absent: Commissioner Ken Hagan (illness).

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

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, noted an added item regarding the EPC vs. Clear Channel Entertainment (CCE) Music - Tampa LLC and the Florida State Fair Authority (FSFA), Case 04-11404, and an item added to the Consent Agenda regarding a memorandum of understanding (MOU) with the Southwest Florida Water Management District (SWFWMD). **Commissioner Norman moved the changes, seconded by Commissioner Blair, and carried four to zero.** (Commissioners Scott and Storms had not arrived; Commissioner Hagan was absent.)

CITIZENS COMMENTS

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

CONSENT AGENDA

- A. Approval of minutes: January 20, 2005; January 25, 2005; February 16, 2005; February 17, 2005; and March 9, 2005.
- B. Monthly activity reports.
- C. Pollution Recovery Fund.
- D. Gardinier Settlement Trust Fund.
- E. Legal Department monthly report.
- F. MOU with SWFWMD.

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

THURSDAY, MARCH 17, 2005 - DRAFT MINUTES

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE

Report From the Chairman, David Jellerson - Mr. Jellerson noted at the March 7, 2005, meeting the CEAC received an update from EPC staff and a presentation from Holly Greening, Tampa Bay Estuary Program; and discussed possible agenda items for upcoming meetings including an Environmental Lands Acquisition and Protection Program presentation, fresh water supply issues, the Hillsborough County Comprehensive Plan as it related to environmental impacts, and updates on the National Fish and Wildlife Foundation grant program.

EXECUTIVE DIRECTOR'S REPORT

Dr. Garrity utilized an overhead presentation to discuss Senate Bill 1748, which would authorize the water management districts and the Florida Department of Environmental Protection (FDEP) to promulgate rules that would allow the use of certain wetlands for the storage of irrigation tailwater for the stated purpose of implementing agricultural water conservation measures. Staff recommendation was to send a letter to the Hillsborough County Legislative Delegation opposing any legislative action, which might serve to limit or compromise EPC authority to regulate wetlands. Because the item would encourage best management practices and would support the use of tailwater recovery ponds, **Commissioner Storms moved to support EPC's position to protect the regulatory abilities of EPC, seconded by Commissioner Sharpe, and carried six to zero.** (Commissioner Hagan was absent.)

WASTE MANAGEMENT DIVISION

Recognize Green Yards Facilities - Ms. Kelley Boatwright, EPC staff, utilized an overhead presentation to review the Green Yards program and showed photographs of non-Green Yards facilities and Green Yards facilities. Chairman Castor and Commissioner Storms presented certificates and Green Yards flags to Mr. Timothy Barnett, Ace AA Used Auto Parts Warehouse; Mr. Steven Holland, Brandon Auto Salvage Incorporated; Mr. David Boerner, Davidson Used Auto Parts Incorporated; Mr. Dennis Langston, Langston's Used Auto Parts; Messrs. Brian Turner and James Nettles, Nettles Auto Parts; and Ms. Julie Berkey, Trucks and Parts of Tampa Incorporated. Mr. Holland thanked staff for advice and direction regarding the program and discussed benefits of the program. Ms. Boatwright introduced Ms. Lu Burson, FDEP, Central District, who originated the program. Ms. Burson offered comments. Board Members thanked Green Yards participants. Chairman Castor suggested staff post information on the EPC website; Dr. Garrity agreed.

THURSDAY, MARCH 17, 2005 - DRAFT MINUTES

ENVIRONMENTAL RESOURCES MANAGEMENT (ERM) DIVISION

Authorize the Executive Director to Execute the Contract With the National Fish and Wildlife Foundation - Dr. Gerold Morrison, Director, EPC ERM Division, utilized an overhead presentation to discuss the \$30,000 grant, which would allow the development of a countywide seagrass management plan. He discussed expected benefits, project deliverables, and staff recommendation to accept the grant funds and authorize the EPC Executive Director to sign the grant agreement. **Commissioner Storms so moved, seconded by Commissioner Scott, and carried six to zero.** (Commissioner Hagan was absent.)

Discussion on Establishment of the Multiagency Watershed Management Initiative (WMI) - Dr. Morrison utilized an overhead presentation to review the item and staff recommendation to authorize the EPC Executive Director to coordinate with the County Administrator to establish an ad hoc steering committee and task the committee to provide a summary of the scope and anticipated costs of the proposed WMI within six months. **Commissioner Storms so moved, seconded by Commissioner Sharpe.** In response to Chairman Castor, Dr. Morrison discussed the total maximum daily loads program and direction to identify impaired waters and why they were impaired. The idea of the WMI was to compile technical information to create plans and projects to get water bodies to meet federal and State standards without having additional requirements imposed. Dr. Garrity confirmed the County Administrator and the Public Works Department were enthusiastic and supportive of the program. **The motion carried six to zero.** (Commissioner Hagan was absent.)

COMMISSIONERS' REQUESTS

Receive Briefing on Benefits of the Hybrid Vehicle - Mr. Jerry Campbell, Director, EPC Air Management Division, utilized an overhead presentation to discuss hybrid vehicles, including fuel mileage compared to conventional vehicles; tax incentives; environmental and driving benefits; County hybrid vehicle purchases; purchase prices for hybrid vehicles compared to similar conventional vehicles; photographs of hybrid vehicles; and staff recommendation to: (1) promote hybrid vehicles at public outreach events; (2) encourage large fleet owners, including Hillsborough County, to consider purchasing hybrids; and (3) support recognition programs that rewarded organizations for using hybrids.

In response to Board members, Mr. Campbell hoped prices for the hybrids would reduce as more were produced and noted he had not noticed any problems with acceleration in hybrids. Commissioner Sharpe referenced issues in California regarding detrimental effects on the gas tax by increased use of hybrids.

THURSDAY, MARCH 17, 2005 - DRAFT MINUTES

Commissioner Norman pointed out the County gas tax was structured differently and did not perceive those issues happening in Hillsborough County. Commissioner Storms expressed concern with the recommendation to encourage large fleet owners to purchase hybrids; she did not want the added expense passed on to taxpayers. Commissioner Norman suggested staff that traveled more than others could use the hybrids and more savings would be seen. Chairman Castor stated staff could decide where hybrid use was most appropriate. Mr. Campbell noted EPC was working with the County Administrator to roll the sensible purchase of hybrids into the strategic plan. **Commissioner Storms moved staff recommendation, including Recommendation 2, but add the clause "while still remaining fiscally responsible." Commissioner Norman seconded the motion, which carried six to zero.** (Commissioner Hagan was absent.) Mr. Campbell stated Mr. Paul Cooper, EPC staff, had compiled the hybrid presentation and passed away on Monday.

LEGAL DEPARTMENT

Status Report - Ford Amphitheatre - EPC General Counsel Richard Tschantz noted the presiding judge had recused himself, no new proceedings had been set, settlement discussions were ongoing, and negotiation results would be brought back to the EPC Board.

EPC vs. CCE Music - Tampa LLC and FSFA, Case 04-11404, Authorization to Sue and Status Report on Amended Complaint - Attorney Tschantz reviewed previous authorization by the EPC Board at the December 9, 2004, special meeting. Issues had been raised regarding notice for that meeting, but EPC perceived notice was proper. Due to that challenge, staff wanted to reaffirm the initial approval to file the lawsuit. Attorney Tschantz submitted the December 9, 2004, minutes for the record and suggested calling for public comment to allow a full discussion on reasons not to proceed. Chairman Castor called for public comment. Attorney Ronald Noble, with Fowler, White, Boggs, and Banker, 501 East Kennedy Boulevard, requested deferral of the lawsuit and to continue settlement negotiations. **Commissioner Storms moved staff recommendation, seconded by Commissioner Scott.** In response to Commissioner Norman, Attorney Tschantz confirmed the lawsuit was not filed until December 21, 2004. **The motion carried six to zero.** (Commissioner Hagan was absent.)

THURSDAY, MARCH 17, 2005 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 10:56 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

kc

MAY 4, 2005 - ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Special Meeting to consider Tampa Bay Water (TBW) Modifications and Permit Applications, scheduled for Wednesday, May 4, 2005, at 2:20 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

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

The following member was absent: Commissioner Ken Hagan.

Chairman Castor called the meeting to order at 2:20 p.m.

Attorney Rick Muratti, EPC Legal Department, reviewed staff recommendation not to arbitrate the following TBW items: (1) proposed modification of the environmental management plan to incorporate new assessment procedures for wetlands monitored under the TBW consolidated water use permit; (2) environmental resource permit (ERP) application for construction of additional infrastructure associated with the South Central Hillsborough infrastructure improvements project; (3) proposed national pollutant discharge elimination system permit renewal application for the regional surface water treatment facility; and (4) proposed application for modification of the ERP associated with the Brandon urban dispersed wells pipeline. **Commissioner Scott so moved, seconded by Commissioner Norman, and carried six to zero.** (Commissioner Hagan was absent.)

There being no further business, the meeting was adjourned at 2:21 p.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

SW

JUNE 16, 2005 - ENVIRONMENTAL PROTECTION COMMISSION

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, June 16, 2005, at 10:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

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

The following members were absent: Commissioners Ken Hagan, Mark Sharpe, and Ronda Storms.

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

CITIZENS COMMENTS

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

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report From Vice Chairman Wayne Echelberger Jr. - Dr. Echelberger reported the June 6, 2005, CEAC meeting included updates from EPC staff on routine issues; a presentation from Southwest Florida Water Management District regarding the Cockroach Bay and Port Redwing restoration, both of which were partially funded by the pollution recovery fund (PRF); and a presentation from Ms. Mandy Peterson, Pinellas County environmental fund, whose program had funded restoration projects in Hillsborough County in cooperation with the Hillsborough County pollution recovery program. As a reminder, Dr. Echelberger stated applications for the next PRF cycle were due on August 1, 2005. Application forms and instructions were available on the EPC website.

CONSENT AGENDA

- A. Approval of minutes: May 18, 2005, and May 19, 2005.
- B. Monthly activity reports.
- C. PRF.
- D. Gardinier Settlement Trust Fund.
- E. Legal Department monthly update.
- F. Request authority to take appropriate legal action against L and D Petroleum Incorporated, also known as Lutz Chevron (storage tank).
- G. Authorize the Executive Director to execute amended clean-up contracts.

THURSDAY, JUNE 16, 2005

Chairman Castor called for a motion to approve the Consent Agenda. **Commissioner Norman so moved, seconded by Commissioner Scott, and carried four to zero.** (Commissioners Hagan, Sharpe, and Storms were absent.)

WASTE MANAGEMENT DIVISION

Green Star Program - Dr. Richard Garrity, EPC Executive Director, introduced Ms. Kelley Boatwright, EPC staff, who explained the Green Star program was a new program, similar to the Green Yards program, and dealt with the auto repair industry. Green Star was an industry-friendly program geared to encourage auto repair facilities to go above and beyond environmental compliance by implementing best management practices and pollution prevention strategies. Most auto repair facilities had issues with storing fluids, managing disposal of those fluids, proper storage of parts, and work performed over bare soil. The goal for the Green Star program was to change the mind-set and culture of the auto industry. The program was nonregulatory and voluntary. Facilities interested in the Green Star program would complete and submit a checklist to EPC for review. After review, EPC would conduct a certification inspection. Facilities in compliance with criteria would be certified as a Green Star facility. EPC planned to reinspect or recertify the facilities once every five years. Ms. Boatwright submitted the written presentation.

Dr. Garrity said the Board of County Commissioners flagged the staff position at the budget meeting. He explained the total cost for staff to run the programs was approximately \$493,000. However, revenue generated from user fees through the small quantity generator program was \$620,000. The difference between the figures would be returned to the General Fund.

EXECUTIVE DIRECTOR'S REPORT

Dr. Garrity reported except for the laboratory, EPC had moved to the new headquarters in Sabal Park at 3629 Queen Palm Drive. He provided the new telephone number and noted the old telephone number would continue working for a while. He invited EPC Board members to visit the location. Information was available on the website, epchc.org.

LEGAL DEPARTMENT - 10:30 A.M. TIME CERTAIN

Pursuant to Section 286.011(8), Florida Statutes, Closed Session to Discuss Settlement Negotiations and Litigation Strategies Regarding EPC of Hillsborough County vs. CC Entertainment Music - Tampa LLC (CCE) and Florida State Fair Authority (FSFA), Case 04-11404, and CCE vs. EPC and FSFA, Case 05-

THURSDAY, JUNE 16, 2005

1565 - Chairman Castor called a recess at 10:15 a.m. to convene in closed session, listed those attending the closed session, reconvened the meeting at 11:35 a.m., and announced the closed session had ended and no further action was to be taken that day.

There being no further business, the meeting was adjourned at 11:36 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
PAT FRANK, CLERK

By: _____
Deputy Clerk

SW

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
JUNE

A.	Public Outreach/Education Assistance:		
	1. Phone Calls:		182
	2. Literature Distributed:	<u>50</u>	
	3. Presentations:	<u>0</u>	
	4. Media Contacts:	<u>2</u>	
	5. Internet:	<u>72</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:		8
	b. Construction:	<u>2</u>	
	c. Amendments:	<u>1</u>	
	d. Transfers/Extensions:	<u>0</u>	
	e. General:	<u>1</u>	
	f. Title V:	<u>0</u>	
	2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected) - (² Counted by Number of Emission Units affected by the Review):		
	a. Operating ¹ :		10
	b. Construction ¹ :	<u>5</u>	
	c. Amendments ¹ :	<u>0</u>	
	d. Transfers/Extensions ¹ :	<u>2</u>	
	e. Title V Operating ² :	<u>50</u>	
	f. Permit Determinations:	<u>0</u>	
	g. General:	<u>2</u>	
	3. Intent to Deny Permit Issued:		<u>0</u>
C.	Administrative Enforcement		
	1. New cases received:		<u>2</u>
	2. On-going administrative cases:		
	a. Pending:		7
	b. Active:	<u>17</u>	
	c. Legal:	<u>5</u>	
	d. Tracking compliance (Administrative):	<u>25</u>	
	e. Inactive/Referred cases:	<u>0</u>	
		Total	<u>54</u>
	3. NOIs issued:		<u>1</u>
	4. Citations issued:		<u>0</u>
	5. Consent Orders Signed:		<u>2</u>
	6. Contributions to the Pollution Recovery Fund: \$		<u>7,366.00</u>
	7. Cases Closed:		<u>2</u>

D.	Inspections:	
	1. Industrial Facilities:	<u>14</u>
	2. Air Toxics Facilities:	
	a. Asbestos Emitters	<u>0</u>
	b. Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>6</u>
	c. Major Sources	<u>0</u>
	3. Asbestos Demolition/Renovation Projects:	<u>17</u>
E.	Open Burning Permits Issued:	<u>5</u>
F.	Number of Division of Forestry Permits Monitored:	<u>315</u>
G.	Total Citizen Complaints Received:	<u>90</u>
H.	Total Citizen Complaints Closed:	<u>80</u>
I.	Noise Sources Monitored:	<u>34</u>
J.	Air Program's Input to Development Regional Impacts:	<u>5</u>
K.	Test Reports Reviewed:	<u>16</u>
L.	Compliance:	
	1. Warning Notices Issued:	<u>16</u>
	2. Warning Notices Resolved:	<u>22</u>
	3. Advisory Letters Issued:	<u>16</u>
M.	AOR's Reviewed:	<u>2</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>2</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
JUNE

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$ -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>\$3,600.00</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>\$6,840.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$ 80.00</u>
4. Non-delegated permit revision for an air pollution source	<u>\$ -0-</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$ -0-</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	\$5,000.00
(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>\$ 300.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$5,500.00</u>
8. Open burning authorization	<u>\$3,000.00</u>
9. Enforcement Costs	<u>\$ 832.47</u>

MONTHLY ACTIVITIES REPORT
AIR MANAGEMENT DIVISION
JULY

A. Public Outreach/Education Assistance:		
1. Phone Calls:		137
2. Literature Distributed:		<u>0</u>
3. Presentations:		<u>0</u>
4. Media Contacts:		<u>4</u>
5. Internet:		<u>66</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>3</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>1</u>
e. General:		<u>1</u>
f. Title V:		<u>0</u>
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected) - (² Counted by Number of Emission Units affected by the Review):		
a. Operating ¹ :		<u>0</u>
b. Construction ¹ :		<u>1</u>
c. Amendments ¹ :		<u>0</u>
d. Transfers/Extensions ¹ :		<u>1</u>
e. Title V Operating ² :		<u>0</u>
f. Permit Determinations:		<u>2</u>
g. General:		<u>2</u>
3. Intent to Deny Permit Issued:		<u>0</u>
C. Administrative Enforcement		
1. New cases received:		
		<u>2</u>
2. On-going administrative cases:		
a. Pending:		<u>7</u>
b. Active:		<u>17</u>
c. Legal:		<u>5</u>
d. Tracking compliance (Administrative):		<u>24</u>
e. Inactive/Referred cases:		<u>0</u>
	Total	<u>53</u>
3. NOIs issued:		<u>2</u>
4. Citations issued:		<u>0</u>
5. Consent Orders Signed:		<u>2</u>
6. Contributions to the Pollution Recovery Fund:		<u>\$24,391.00</u>
7. Cases Closed:		<u>3</u>

D.	Inspections:	
	1. Industrial Facilities:	<u>16</u>
	2. Air Toxics Facilities:	
	a. Asbestos Emitters	<u>0</u>
	b. Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>11</u>
	c. Major Sources	<u>0</u>
	3. Asbestos Demolition/Renovation Projects:	<u>12</u>
E.	Open Burning Permits Issued:	<u>7</u>
F.	Number of Division of Forestry Permits Monitored:	<u>350</u>
G.	Total Citizen Complaints Received:	<u>41</u>
H.	Total Citizen Complaints Closed:	<u>34</u>
I.	Noise Sources Monitored:	<u>16</u>
J.	Air Program's Input to Development Regional Impacts:	<u>4</u>
K.	Test Reports Reviewed:	<u>22</u>
L.	Compliance:	
	1. Warning Notices Issued:	<u>26</u>
	2. Warning Notices Resolved:	<u>18</u>
	3. Advisory Letters Issued:	<u>9</u>
M.	AOR's Reviewed:	<u>30</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>3</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION
JULY

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$ 480.00
(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>\$1,240.00</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>\$ 80.00</u>
4. Non-delegated permit revision for an air pollution source	<u>\$ -0-</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$ -0-</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	\$2,200.00
(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>\$ 900.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$5,500.00</u>
8. Open burning authorization	<u>\$5,200.00</u>
9. Enforcement Costs	<u>\$1,512.44</u>

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
JUNE, 2005**

A. ENFORCEMENT

1. New Enforcement Cases Received:		2
2. Enforcement Cases Closed:		6
3. Enforcement Cases Outstanding:		51
4. Enforcement Documents Issued:		6
5. Recovered costs to the General Fund:		\$908.02
6. Contributions to the Pollution Recovery Fund:		\$3,000.00
<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Gandy Townhomes	Placement of CS in service w/out acceptance letter	\$500.00
b. Tampa Marine Institute	Placement of CS in service w/out acceptance letter	\$500.00
c. Arby's Fowler Ave.	Placement of CS in service w/out acceptance letter	\$500.00
d. Madison Park Subdivision	Construction w/out a permit	\$1,000.00
e. Countryside Baptist Church of Dover	Placement of CS in service w/out acceptance letter	\$500.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:		36
a. Facility Permit:		5
(i) Types I and II		1
(ii) Types III		4
b. Collection Systems-General		13
c. Collection Systems-Dry Line/Wet Line:		18
d. Residuals Disposal:		0
2. Permit Applications Approved:		31
a. Facility Permit:		5
b. Collection Systems-General:		10
c. Collection Systems-Dry Line/Wet Line:		16
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:	62
a. Facility Permit:	16
b. Collection Systems-General:	35
c. Collection Systems-Dry Line/Wet Line:	11
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:	0
C. INSPECTIONS - DOMESTIC	98
1. Compliance Evaluation:	16
a. Inspection (CEI):	2
b. Sampling Inspection (CSI):	12
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	2
2. Reconnaissance:	35
a. Inspection (RI):	8
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	25
d. Enforcement Inspection (ERI):	2
3. Engineering Inspections:	47
a. Reconnaissance Inspection (RI):	5
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	12
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:	4
a. Facility Permit:	0
(i) Types I and II	1
(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	1
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0
2. Permits Recommended to DEP for Approval:	1
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	42
a. ARs:	0
b. Phosphate DMRs:	0
c. Phosphate:	28
d. Industrial Wastewater:	9
e. Others:	5

E. INSPECTIONS - INDUSTRIAL

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:	20
a. Inspection (RI):	11
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	9
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	1
a. Compliance Evaluation (CEI):	1
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:	20
(i) Received:	14
(ii) Closed:	6
b. Industrial:	7
(i) Received:	3
(ii) Closed:	4
2. Warning Notices:	
a. Domestic:	10
(i) Received:	6
(ii) Closed:	4
b. Industrial:	7
(i) Received:	2
(ii) Closed:	5
3. Non-Compliance Advisory Letters:	19
4. Environmental Compliance Reviews:	68
a. Industrial:	17
b. Domestic:	51
5. Special Project Reviews:	
a. ARs:	0
b. Others:	0
G. RECORD REVIEWS	8
1. Permitting:	6
2. Enforcement:	2
H. ENVIRONMENTAL SAMPLES ANALYZED FOR:	
1. Air Division:	60
2. Waste Division:	0
3. Water Division:	8
4. Wetlands Division:	0
5. ERM Division:	143
I. SPECIAL PROJECT REVIEWS:	7
1. DRIs:	6
2. ARs:	0
3. Technical Support:	1
4. Other:	0

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
JULY, 2005**

A. ENFORCEMENT

1. New Enforcement Cases Received:	9	
2. Enforcement Cases Closed:	2	
3. Enforcement Cases Outstanding:	57	
4. Enforcement Documents Issued:	3	
5. Recovered costs to the General Fund:	\$5,120.49	
6. Contributions to the Pollution Recovery Fund:	\$271,000.00	
<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Mosaic Fertilizer	Water Pollution/Unpermitted Discharge	\$270,000.00
a. Diamond Hill Phase 1A	Placement of C/S into service without acceptance letter	\$500.00
b. Outdoor America Images	Placement of C/S into service without acceptance letter	\$500.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	29
a. Facility Permit:	3
(i) Types I and II	2
(ii) Types III	1
b. Collection Systems-General	20
c. Collection Systems-Dry Line/Wet Line:	6
d. Residuals Disposal:	0
2. Permit Applications Approved:	23
a. Facility Permit:	2
b. Collection Systems-General:	11
c. Collection Systems-Dry Line/Wet Line:	10
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	1
a. Facility Permit:	0
b. Collection Systems-General:	1
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:	58
a. Facility Permit:	7
b. Collection Systems-General:	44
c. Collection Systems-Dry Line/Wet Line:	7
d. Residuals Disposal:	0
7. Permit Determination:	3
8. Special Project Reviews:	1
a. ARs:	1
b. Reuse:	0
c. Residuals/AUPs:	0
d. Others:	0
C. INSPECTIONS - DOMESTIC	83
1. Compliance Evaluation:	13
a. Inspection (CEI):	5
b. Sampling Inspection (CSI):	6
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	2
2. Reconnaissance:	37
a. Inspection (RI):	22
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	15
d. Enforcement Inspection (ERI):	0
3. Engineering Inspections:	33
a. Reconnaissance Inspection (RI):	2
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	7
e. Post Construction Inspection (XCI):	24
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	2
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0

b. General Permit:	1
c. Preliminary Design Report:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0
2. Permits Recommended to DEP for Approval:	3
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	54
a. ARs:	0
b. Phosphate DMRs:	0
c. Phosphate:	27
d. Industrial Wastewater:	14
e. Others:	13
E. INSPECTIONS - INDUSTRIAL	27
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:	19
a. Inspection (RI):	2
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	17
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	0
a. Compliance Evaluation (CEI):	0
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0

F. INVESTIGATION/COMPLIANCE

1. Citizen Complaints:	
a. Domestic:	26
(i) Received:	15
(ii) Closed:	11
b. Industrial:	25
(i) Received:	17
(ii) Closed:	8
2. Warning Notices:	22
a. Domestic:	17
(i) Received:	9
(ii) Closed:	8
b. Industrial:	5
(i) Received:	5
(ii) Closed:	0
3. Non-Compliance Advisory Letters:	17
4. Environmental Compliance Reviews:	188
a. Industrial:	71
b. Domestic:	117
5. Special Project Reviews:	3
a. ARs:	2
b. Others:	1

G. RECORD REVIEWS

1. Permitting:	6
2. Enforcement:	1

H. ENVIRONMENTAL SAMPLES ANALYZED FOR:

1. Air Division:	71
2. Waste Division:	0
3. Water Division:	9
4. Wetlands Division:	0
5. ERM Division:	141

I. SPECIAL PROJECT REVIEWS:

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

COMMISSION
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 Kathy Castor
 Ken Hagan
 Jim Norman
 Thomas Scott
 Mark Sharpe
 Ronda Storms



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 Water 627-2670 ERM 627-2650
 Air 627-2660 Lab 272-5157

Executive Director
 Richard D. Garrity, Ph.D.

MEMORANDUM

DATE: August 9, 2005

TO: Tom Koulianos, Director of Finance and Administration

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

**SUBJECT: WASTE MANAGEMENT'S JUNE & JULY 2005
 AGENDA INFORMATION**

A. ADMINISTRATIVE ENFORCEMENT

	JUNE	JULY
1. New cases received	1	2
2. On-going administrative cases	104	104
a. Pending	11	11
b. Active	45	45
c. Legal	5	5
d. Tracking Compliance (Administrative)	29	29
e. Inactive/Referred cases	14	14
3. NOI's issued	0	5
4. Citations issued	7	6
5. Settlement Documents Signed	2	2
6. Civil Contributions to the Pollution Recovery Fund	\$10,023	\$1,648
7. Enforcement Costs collected	\$4,589	\$580
9. Cases Closed	1	2

B. SOLID AND HAZARDOUS WASTE

	JUNE	JULY
1. Permits (received/reviewed)	2/0	0/2
2. EPC Authorization for Facilities NOT requiring DEP permit	1/0	1/1
3. Other Permits and Reports		
a. County Permits	0	4/4
b. Reports	92/35	83/78
4. Inspections (Total)	260	213
a. Complaints	33	33
b. Compliance/Reinspections	20	23
c. Facility Compliance	40	13
d. Small Quantity Generator	166	143
e. P2 Audits	1	1
5. Enforcement		
a. Complaints Received/Closed	36/36	29/29
b. Warning Notices Issued/Closed	5/5	4/4
c. Compliance letters	134	105
d. Letters of Agreement Issued/Closed	1/0	0
e. DEP Referrals	5	1
6. Pamphlets, Rules and Material Distributed	334	307

C. STORAGE TANK COMPLIANCE

	JUNE	JULY
1. Inspections		
a. Compliance	2	84
b. Installation	26	33
c. Closure	15	8
d. Compliance Re-Inspections	60	18
2. Installation Plans Received/Reviewed	8/6	10/10
3. Closure Plans & Reports		
a. Closure Plans Received/ Reviewed	2/2	9/9
b. Closure Reports Received/Reviewed	7/14	5/3
4. Enforcement		
a. Non-compliance Letters Issued/Closed	7/67	55/20
b. Warning Notices Issued/Closed	7/4	1/1
c. Cases referred to Enforcement	1	1
d. Complaints Received/Investigated	2/2	4/4
e. Complaints Referred	0	0
5. Discharge Reporting Forms Received	6	2
6. Incident Notification Forms Received	8	3
7. Cleanup Notification Letters Issued	4	1
8. Public Assistance	200+	200+

D. STORAGE TANK CLEANUP

	JUNE	JULY
1. Inspections	45	25
2. Reports Received/Reviewed	133/147	124/120
a. Site Assessment	27/32	32/23
b. Source Removal	4/4	2/2
c. Remedial Action Plans (RAP's)	19/19	26/19
d. Site Rehabilitation Completion Order/ No Further Action Order	2/4	3/4
e. Others	81/88	61/72
3. State Cleanup		
a. Active Sites	NO LONGER ADMINISTERED	
b. Funds Dispersed		

E. RECORD REVIEWS

21 - June 25 - July

F. PUBLIC INFORMATION PROJECTS

June

Green Star presentation to the EPC Board

July

No projects

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Executive Director
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION
 OF HILLSBOROUGH COUNTY
 POLLUTION RECOVERY TRUST FUND
 AS OF JULY 31, 2005

Fund Balance as of 10/01/04	\$1,737,812
Interest Accrued	41,830
Deposits FY05	537,268
Disbursements FY05	229,594
Intrafund Transfers	34,582
Fair Value Adjustment	(8,507)

Fund Balance	\$2,113,391
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Encumbrances Against Fund Balance:

Remed Illeg Dump Asbestos (66)	4,486
USF Seagrass Restoration (99)	10,421
HCC Seagrass Restoration	24,020
Agr Pesticide Collection (100)	18,355
Riverview Library Inv. Plnt Removal	10,000
Simmons Park Inv. Species Removal	60,000
Fla. Aquarium/Stormwater Mgmt	30,000
Tampa Adopt a Shore Vol. Restoration	10,416
Water Drop Patch/Girl Scouts	7,350
Brazilian Pepper (92)	26,717
COT Parks Dept/Cypress Point (97)	100,000
Palm River Habitat	200,000
Bahia Beach Rest. (contract 04-03)	150,000
Tampa Shoreline Restoration	30,000
Health Advisory Signs for Beaches	1,531
Field Measurement for Wave Energy	125,000
Water & Coastal Area Rest. & Maint.	41,379
Port of Tampa Stormwater Improvement	45,000
G. Maynard Underground Storage Tank Closure	20,000
School Bus Diesel Retrofit	100,000
Natures Classroom Capital Campaign	44,000
Artificial Reef Program	30,428
Pollution Prevention/Waste Reduction Program (101)	30,036

Total of Encumbrances	1,119,139
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Minimum Balance (Reserve)	120,000 *
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Fund Balance Available July 31, 2005	\$ 874,252
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Executive Director
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION
 OF HILLSBOROUGH COUNTY
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
 AS OF JULY 31, 2005

Fund Balance as of 10/01/04	\$ 818,538
Interest Accrued	15,463
Disbursements FY05	225,051
Fair Value Adjustment	(3,197)
Fund Balance	\$ 605,753

Encumbrances Against Fund Balance:

SP625 Marsh Creek/Ruskin Inlet	47,500
SP604 Desoto Park Shoreline	150,000
SP627 Tampa Bay Scallop Restoration	56,948
SP615 Little Manatee River Restoration	50,000
SP636 Fantasy Island	20,000
SP630 E.G. Simmons Park	43,200
SP634 Cockroach Bay ELAPP Restoration	238,105
Total of Encumbrances	605,753

Fund Balance Available July 31, 2005	\$ - 0 -
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EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2005

Subject: Legal Case Summary for July and August 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.

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 the July and August 2005 case summaries. 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: July and August 2005 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
July 2005

A. ADMINISTRATIVE CASES

NEW CASES [0]

EXISTING CASES [8]

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 parties have conducted a mediation to attempt to resolve the matter without a hearing. The EPC is waiting for a final site plan for the development and the matter may be resolved. (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 its 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. The EPC has moved for consolidation and it was granted on March 29, 2005. The EPC Executive Director also defended a motion to dismiss filed by the Fair, and the Hearing Officer recommended that the motion be denied. (RT)

Jozsi, Daniel A. and Celina v. EPC and Winteroth [LEPC04-025]: Daniel A. and Celina Jozsi timely requested an extension of time to file an appeal challenging the approval of a wetland survey line for the Winteroth Property located on Lake Hills Drive, Riverview, Florida. On February 10, 2005, the Appellants filed their appeal challenging the wetland line set on their neighbor's property. The matter has been referred to a Hearing Officer. The parties are currently in settlement discussions. (AZ)

EPC vs. USACOE and Florida Department of Environmental Protection [LEPC05-005]: On 02/11/05 EPC requested additional time to file an appeal of the FDEP's intent to issue an Environmental Resource Permit (ERP) permitting the dredging and deepening of the Alafia River Channel. The FDEP provided the EPC until March 16, 2005 to file the appeal. On February 17, 2005, the EPC board authorized the EPC Legal Department to file the appeal challenging the proposed FDEP permit. The EPC filed its request for a Chapter 120, F.S. administrative hearing challenging the conditions imposed in the permit on March 16, 2005. The parties are in negotiations to resolve the case. (AZ)

Cole, Brian v. EPC and Holt, William [LEPC05-014]: On May 25, 2005, the Appellant, Brian Cole challenged an EPC Executive Director decision authorizing wetland impacts on a property owned by his neighbor William Holt. The Appellant alleges he will be adversely affected by the wetland impacts. The matter is being referred to a Hearing Officer to conduct a hearing. (AZ)

RESOLVED CASES [0]

B. CIVIL CASES

NEW CASES [2]

L and D Petroleum, Inc. a/k/a Llutz Chevron [LEPC05-015]: Authority was granted on June 16, 2005 to pursue appropriate legal action against L and D Petroleum, Inc. for violations of the EPC and state underground storage tank (UST) rules. On January 6, 2004, a Citation of Violation and Order to Correct was issued to L and D Petroleum, Inc. for the unresolved violations. EPC staff had received no response to their attempts to resolve the matter.

FDOT vs. Michael Halikoytakis, EPC, et al. [LEPC05-016]: FDOT filed suit against various parties including EPC and Hillsborough County in order to exercise its eminent domain powers for expansion of a transportation facility southeast of Causeway Blvd and 50th Street. The EPC previously entered into a recorded mitigation agreement with Hillsborough County on one of the parcel's the DOT will take. The take will not impact the wetland mitigation at Delaney Creek that the County must perform for the EPC. EPC is pursuing a settlement agreement with the FDOT.

EXISTING CASES [16]

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 EPC staff have begun preparations to perform the corrective actions utilizing PRF money. Upon completion of the work the EPC will seek to recover those costs from the property owner as a lien. (AZ)

Integrated Health Services [LHFS00-005]: 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)

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)

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 responsible party has failed to respond to the Legal Department's requests and on February 3, 2005 a lawsuit was filed compelling compliance and to recover penalties and costs for the violations. The parties are currently in negotiations to resolve the matter. (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. The property was purchased by Kimball Weatherington in March 2005. The new owner has agreed to perform all necessary corrective actions at the property. The EPC staff is currently determining whether to seek penalties and costs from the responsible party. (AZ)

Riverwalk MHP, Ltd. [LEPC04-023]: The EPC Board voted on September 9, 2004, to grant authorization to take any

legal action necessary against Riverwalk 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. The parties have discussed settlement terms and are negotiating a settlement via a consent order. (RM)

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 (CCE) 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. A Temporary Injunction hearing was begun on February 26, 2005. Settlement meetings and extensive discovery have commenced. Mediation occurred on February 22, 2005. The injunction hearing was heard in part all day on February 26, 2005, but was continued. Subsequently, Judge Holder was recused and Judge Honeywell was assigned to the matter. CCE filed a writ of mandamus to the Second District Court of Appeal asking that appellate court to reinstate the recused judge. CCE then asked for the circuit court case to be stayed until the appellate court ruled. The writ was denied by the appellate court. The parties continue with required pleadings, motion practice, and discovery. The EPC's motion for temporary injunction will resume August 29-31, 2005. A separate citizens' suit was partially consolidated with the EPC suit. There is also a consolidated administrative challenge to EPC citations which is a separate matter and is described above. The parties have mediation and further motions to dismiss scheduled for late July. (RT)

Sterling Jackson [LEPC05-004]: The EPC granted authority on February 17, 2005 to take appropriate legal action for violations of the EPC's Underground Storage Tank (UST) regulations. The responsible party has failed to close the USTs and has failed to adequately respond to the EPC. In addition, the party has failed to comply with a Citation and Order to Correct issued in 2002. On April 15, 2005, the EPC filed a lawsuit requesting corrective actions and payment of penalties and costs. The deadline for filing a response was May 10, 2005. The Defendant has failed to respond and the EPC has moved for entry of a default on May 13, 2005. The property was recently purchased by a new entity who has tentatively agreed to perform all corrective actions at the site. (AZ)

CC Entertainment Music – Tampa, LLC vs. EPC and Florida State Fair Authority [LEPC05-006]: On February 17, 2005 CC Entertainment filed a Complaint for Declaratory Relief against the Environmental Protection Commission and the Florida State Fair Authority regarding regulation of the Ford Amphitheatre. Among other issue, CCE has raised constitutional challenges against portions of the EPC Act and rules as they relate to noise, and also CCE has suggested they should benefit from any sovereign immunity the Fair claims it has. EPC moved for a stay in this matter. (RT)

Temple Crest Automotive [LEPC05-009]: Authority was granted on April 21, 2005 to pursue appropriate legal action against Juan and Rafaela Lasserre to enforce the agency requirement that a limited environmental assessment report and a plan to properly contain and manage oil to prevent future discharges to the environment be submitted to EPC. On October 5, 2004 EPC staff issued a Citation and Order to Correct to Juan B. and Rafaela Lasserre for violations of Chapters 61-701 and 61-730, F.A.C. and Chapters 1-1, 1-5, and 1-7, Rules of the EPC. Mr. and Mrs. Lasserre did not appeal the Citation and it became a final agency order on October 28, 2004. Until April 21, 2005, EPC staff had received no response to their attempts to resolve the matter. On April 21, 2005 EPC was contacted by Mr. and Mrs. Lasserre's legal counsel with a request to review the file prior to entering a discussion regarding resolution. (AZ)

RESOLVED CASES [0]

C. OTHER OPEN CASES [5]

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.

Kimmins Contracting Corp. v. EPC [LEPC05-003]: Kimmins Contracting Corp. was issued a Notice of Violation and Orders For Corrective Action on February 3, 2005, regarding alleged improper handling of asbestos containing materials at a renovation project. A request for informal conference was timely filed by Kimmins to resolve the issues addressed in the Notice of Violation. The parties met and discussed settlement, and the EPC has transmitted a draft Consent Order for their consideration. The parties entered into a Consent Order in April 2005 and the case is closed. (RM)

Montrey Virgil Davis, Cen-Com Associates, Inc and APC Rentals, Inc. vs. EPC [LEPC05-011]: On May 14, 2005 the legal counsel for Montrey Virgil Davis, Cen-Com Associates, Inc. and APC Rentals, Inc. filed a request for an extension of time to file notice of appeal of a citation finding waste management violations at a site. The Legal Department granted the request and provided the Respondents a deadline of July 20, 2005 for filing an appeal. (AZ)

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

Fleming, Ruth v. Tatum Manufacturing, Inc. and EPC [EPC05-017]: On June 24, 2005, Petitioner filed a petition for a Chapter 120, F.S., administrative hearing challenging the issuance of a Title V Air Construction permit to a spa manufacturer. The petition was dismissed as insufficient under the Chapter 120, F.S. rules governing filing petitions. Petitioner was granted time to amend her petition. (AZ)

EPC LEGAL DEPARTMENT MONTHLY REPORT
August 2005

A. ADMINISTRATIVE CASES

NEW CASES [1]

Robert Nixon [EPC05-020] On August 5, 2005, Robert Nixon filed an appeal challenging a Citation of Violation and Order to Correct that was issued on July 6, 2005. The appeal was not timely filed as the deadline for filing was August 1, 2005. The Citation found violations of the EPC Wetland Rule involving the unauthorized construction of a seawall in a jurisdictional wetland. The corrective actions required the seawall be removed. The Legal Department is reviewing the appeal to determine if there is excusable neglect for it not being timely filed. (AZ)

EXISTING CASES [7]

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 parties have conducted a mediation to attempt to resolve the matter without a hearing. The applicant has re-submitted the new final site plan for re-zoning determination and the EPC is waiting for the decision. Upon approval of the re-zoning for the new site plan the matter may be resolved. (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 its 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 an appeal. Clear Channel filed its appeal on October 18, 2004 and the Fair Authority filed on November 1, 2004. The EPC has moved for consolidation and it was granted on March 29, 2005. The EPC Executive Director also defended a motion to dismiss filed by the Fair, and the Hearing Officer recommended that the motion be denied. (RT)

Jozsi, Daniel A. and Celina v. EPC and Winteroth [LEPC04-025]: Daniel A. and Celina Jozsi timely requested an extension of time to file an appeal challenging the approval of a wetland survey line for the Winteroth Property located on Lake Hills Drive, Riverview, Florida. On February 10, 2005, the Appellants filed their appeal challenging the wetland line set on their neighbor's property. The matter has been referred to a Hearing Officer. The parties are currently in settlement discussions. (AZ)

EPC vs. USACOE and Florida Department of Environmental Protection [LEPC05-005]: On 02/11/05 EPC requested additional time to file an appeal of the FDEP's intent to issue an Environmental Resource Permit (ERP) permitting the dredging and deepening of the Alafia River Channel. The FDEP provided the EPC until March 16, 2005 to file the appeal. On February 17, 2005, the EPC board authorized the EPC Legal Department to file the appeal challenging the proposed FDEP permit. The EPC filed its request for a Chapter 120, F.S. administrative hearing challenging the conditions imposed in the permit on March 16, 2005. The matter is currently in abeyance until September 12, 2005. The parties are in negotiations to resolve the case. (AZ)

Cole, Brian v. EPC and Holt, William [LEPC05-014]: On May 25, 2005, the Appellant, Brian Cole challenged an EPC Executive Director decision authorizing wetland impacts on a property owned by his neighbor William Holt. The Appellant alleges he will be adversely affected by the wetland impacts. The matter was referred to a Hearing Officer to conduct a hearing. On August 8, 2005, the Executive Director withdrew the agency decision that the wetlands were eligible for impacts under a pre-existing Executive Director authorization. The EPC requested the Hearing Officer relinquish jurisdiction back to the agency for closure of the case. (AZ)

RESOLVED CASES [1]

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. The appeal case has been closed based on the entry of the Settlement Letter. (RT)

B. CIVIL CASES

NEW CASES [0]

EXISTING CASES [18]

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)

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Riverwalk MHP, Ltd. [LEPC04-023]: The EPC Board voted on September 9, 2004, to grant authorization to take any legal action necessary against Riverwalk 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. The parties have discussed settlement terms and are negotiating a settlement via a consent order. (RM)

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 (CCE) 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. A Temporary Injunction hearing was begun on February 26, 2005. Settlement meetings and extensive discovery have commenced. Judge Honeywell ruled in July that the Fair enjoyed sovereign immunity, but that the EPC could amend its complaint to show how the Fair has waived sovereign immunity. The EPC amended its complaint. Also, on July 25, 2005, the Judge ruled that CCE did not enjoy sovereign immunity from EPC laws and regulations. On July 27, 2005, after two days of mediation, the Court agreed to stay the proceedings to no later than October 28, 2005, to see if the ongoing mediation will result in a settlement. The citizens' law suit, which the EPC is not a party to, but was consolidated with the EPC suit, was dismissed without prejudice as part of the mediation. There is also a consolidated administrative challenge to EPC citations which is a separate matter and is described above. (RT)

Sterling Jackson [LEPC05-004]: The EPC granted authority on February 17, 2005 to take appropriate legal action for violations of the EPC's Underground Storage Tank (UST) regulations. The responsible party has failed to close the USTs and has failed to adequately respond to the EPC. In addition, the party has failed to comply with a Citation and Order to Correct issued in 2002. On April 15, 2005, the EPC filed a lawsuit requesting corrective actions and payment of penalties and costs. The deadline for filing a response was May 10, 2005. The Defendant has failed to respond and the EPC has moved for entry of a default on May 13, 2005. The property was recently purchased by a new entity who has tentatively agreed to perform all corrective actions at the site. The Waste Management Division is waiting to confirm all corrective actions have been completed and then will decide to take whatever appropriate action against the previous owner for the violations. (AZ)

CC Entertainment Music – Tampa, LLC vs. EPC and Florida State Fair Authority [LEPC05-006]: On February 17, 2005 CC Entertainment filed a Complaint for Declaratory Relief against the Environmental Protection Commission and the Florida State Fair Authority regarding regulation of the Ford Amphitheatre. Among other issue, CCE has raised constitutional challenges against portions of the EPC Act and rules as they relate to noise, and also CCE has suggested they should benefit from any sovereign immunity the Fair claims it has. This case has been consolidated with the EPC suit Case No. 04-11404. (RT)

Temple Crest Automotive [LEPC05-009]: Authority was granted on April 21, 2005 to pursue appropriate legal action against Juan and Rafaela Lasserre to enforce the agency requirement that a limited environmental assessment report and a plan to properly contain and manage oil to prevent future discharges to the environment be submitted to EPC. On October 5, 2004 EPC staff issued a Citation and Order to Correct to Juan B. and Rafaela Lasserre for violations of Chapters 61-701 and 61-730, F.A.C. and Chapters 1-1, 1-5, and 1-7, Rules of the EPC. Mr. and Mrs. Lasserre did not appeal the Citation and it became a final agency order on October 28, 2004. Until April 21, 2005, EPC staff had received no response to their attempts to resolve the matter. On April 21, 2005 EPC was contacted by Mr. and Mrs. Lasserre's legal counsel with a request to review the file prior to entering a discussion regarding resolution. (AZ)

L and D Petroleum, Inc. a/k/a Llutz Chevron [LEPC05-015]: Authority was granted on June 16, 2005 to pursue appropriate legal action against L and D Petroleum, Inc. for violations of the EPC and state underground storage tank (UST) rules. On January 6, 2004, a Citation of Violation and Order to Correct was issued to L and D Petroleum, Inc. for the unresolved violations. EPC staff had received no response to their attempts to resolve the matter. The Legal Department is preparing to file a civil lawsuit. (AZ)

FDOT vs. Michael Halikoytakis, EPC, et al. [LEPC05-016]: FDOT filed suit against various parties including EPC and Hillsborough County in order to exercise its eminent domain powers for expansion of a transportation facility southeast of Causeway Blvd and 50th Street. The EPC previously entered into a recorded mitigation agreement with Hillsborough County on one of the parcel's the DOT will take. The take will not impact the wetland mitigation at Delaney Creek that the County must perform for the EPC. The Judge ordered the taking of the parcels. EPC is pursuing a settlement agreement with the FDOT. (RM)

RESOLVED CASES [0]

C. OTHER OPEN CASES [6]

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.

Montrey Virgil Davis, Cen-Com Associates, Inc and APC Rentals, Inc. vs. EPC [LEPC05-011]: On May 14, 2005 the legal counsel for Montrey Virgil Davis, Cen-Com Associates, Inc. and APC Rentals, Inc. filed a request for an extension of time to file notice of appeal of a citation finding waste management violations at a site. The Legal Department granted the request and provided the Respondents a deadline of July 20, 2005 for filing an appeal. A second request for extension was filed and granted by the Legal Department. The current deadline is September 19, 2005. (AZ)

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

Fleming, Ruth v. Tatum Manufacturing, Inc. and EPC [EPC05-017]: On June 24, 2005, Petitioner filed a petition for a Chapter 120, F.S., administrative hearing challenging the issuance of a Title V Air Construction permit to a spa manufacturer. The petition was dismissed as insufficient under the Chapter 120, F.S. rules governing filing petitions. Petitioner was granted time to amend her petition. On July 6, 2005, an amended petition was filed and the amended petition was also insufficient and an Order Dismissing Amended Petition with Leave to Amend was issued on July 15, 2005. On July 20, 2005, Ms. Fleming filed a third petition. The second amended petition was also deemed insufficient under the required rules and on August 5, 2005, an Order dismissing the second amended petition with prejudice was entered and the permit was ultimately issued. The matter is now closed. (AZ)

Northview Hills Civic Association, Inc. [LEPC05-018]: On July 12, 2005, Northview Hills Civic Association, Inc. filed a petition requesting to delay the issuance of a construction permit to Tatum Manufacturing. The petition was not timely filed and on July 15, 2005 an Order Dismissing Petition with Leave to Amend to explain why it was not timely filed was issued. The appellant had until July 25, 2005 to file an amended petition. They failed to respond and the case has been closed. (AZ)

Rentokil Initial Environmental Services, Inc. [EPC05-021]: On August 8, 2005, Rentokil Initial Environmental Services, Inc. filed a request for extension of time to file an appeal of a Citation of Violation and Order to Correct for unresolved petroleum contamination violations existing at the subject property. (AZ)

Mosaic Phosphates Co. [EPC05-010]: On May 6, 2005, Mosaic Phosphates Co. (Mosaic) requested additional time to file an appeal of a conceptual approval letter authorizing wetland impacts for the minewide application to impact

wetlands. An order was granted providing Mosaic until July 7, 2005 to file an appeal. A second extension of time was provided to Mosaic until August 9, 2005 to file an appeal. Finally, on August 10, 2005, a third extension of time was provided to Mosaic to file the appeal before December 7, 2005. The extensions of time were provided to allow the parties to negotiate a settlement without the need of filing an appeal. (AZ)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2005

Subject: Request for Authority to Take Legal Action regarding Spencer Farms, Inc.

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

Division: Waste Management Division

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

Brief Summary: An active farm / corporation with aboveground storage tank systems has documentation of EPC Waste Management violations. The violations have not being fully addressed by the person (s) responsible for them.

Background: Spencer Farms, Inc. owns property located at 6198 Edna Street, (folio #078000.0000) Wimauma, Section 05, Township 32, Range 20, in Hillsborough County, Florida, and has owned and exercised control of the Property since at least 1976. William H. Spencer is the President and Registered Agent of Spencer Farms, Inc. There is currently a 10,000 gallon, a 3,000 gallon and six 500 gallon aboveground storage tank systems (AST's) located on the property. The AST's are apparently no longer being used.

On September 3 and September 24, 2003, and March 14, 2005, inspections of the AST's by EPC staff revealed on-going violations of Chapter 1-12, Rules of EPC, The Storage Tank Rule, including: failure to provide proof of financial responsibility, failure to pay registration fees, failure to perform release detection, and failure to meet requirements for out-of-service systems.

On October 28, 2003, EPC staff issued Warning Notice #2003-0419H to Spencer Farms, Inc. for the above violations. On January 22, 2004, a Notice of Intent to Initiate Enforcement was issued, and on March 18, 2005 a Citation of Violation and Order to Correct (Citation) was issued. The Citation was not appealed and became a final order of the Executive Director on April 11, 2005.

Representatives of Spencer Farms, Inc. have indicated on numerous occasions that they intend to have the tanks properly closed, however, to date the tanks have not been brought back into compliance or closed.

List of Attachments: [None]



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2005

Subject: Request for Authority to Take Legal Action regarding Haaz Investments Two LLC a/k/a Presco Food Store #1

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

Division: Waste Management Division

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

Brief Summary: An active convenience/service station with underground storage tank systems has documentation of petroleum contamination. The contamination has not being fully addressed by the person (s) responsible for the discharge.

Background: Haaz Investments Two L.L.C. (Haaz) owns property located at 2409 W. Trapnell Road (folio #092335.0002), in Plant City. Haaz purchased the property on May 1, 2001 and has exercised control over the property since that time. Unresolved petroleum contamination issues were well documented in the public record at the time Haaz purchased the property.

On February 18, 1999, EPC staff received a Discharge Report Form from the previous property owners for the discharge of gasoline near the dispensing system discovered during the removal of three underground storage tanks (UST's). The closure assessment report confirmed petroleum contaminant concentrations exceeding soil and groundwater cleanup target levels pursuant to Chapter 62-777, F.A.C. All sites contaminated with petroleum or petroleum products must be remediated in accordance with the requirements of Chapter 62-770, F.A.C., which requires the initiation of a site assessment within 30 days of discovery of contamination, and the submittal of a site assessment report (SAR) within 270 days of discovery of contamination. On April 15, 2003, a Citation of Violation and Order to Correct was issued to Haaz, for failure to complete a Site Assessment. The Citation was not appealed and became a Final Order on May 8, 2003. Although some partial assessment activities have taken place, a full Site Assessment Report has not been submitted.

Haaz Investments Two, LLC has rejected all settlement offers and therefore staff recommends initiation of appropriate legal action to compel compliance with the Final Order and EPC Rules.

List of Attachments: [none]



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2005

Subject: Memorandum of Understanding Between the Southwest Florida Water Management District and the Environmental Protection Commission of Hillsborough County Regarding Coordination of Regulatory Activities

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

Division: Wetlands Management

Recommendation: EPC staff recommends that the Board provide staff permission to execute the MOU with SWFWMD.

Brief Summary: In an effort to effect regulatory streamlining, on or about May 1, 1997, the Southwest Florida Water Management District ("SWFWMD") and the Environmental Protection Commission of Hillsborough County ("EPC") entered into a Memorandum of Understanding Regarding Coordination of Regulatory Activities ("MOU"). EPC and SWFWMD staff drafted amendments to the MOU to further coordinate regulatory activities between the signatory agencies and to effect the delegation of ERP mitigation compliance responsibilities to the EPC as provided in the original MOU. EPC staff seeks Board approval to execute the final draft of the MOU.

Background: In an effort to effect regulatory streamlining, on or about May 1, 1997, the Southwest Florida Water Management District ("SWFWMD") and the Environmental Protection Commission of Hillsborough County ("EPC") entered into a Memorandum of Understanding Regarding Coordination of Regulatory Activities ("MOU"). The MOU, in summary, provided for coordination of the following activities between the agency staffs:

- Provided that each of the signatory agencies would accept wetland delineations performed by either agency's staff for environmental resource permitting ("ERP") review and evaluation purposes and EPC's permitting process;
- Provided that SWFWMD staff would forward complaints regarding unpermitted activities in Hillsborough County related to wetlands and surface waters to EPC staff for investigation and potential enforcement actions; and,
- Provided that the agency staffs would coordinate site investigations and meetings regarding mitigation compliance, and that the agencies would strive to effect a delegation of ERP mitigation compliance responsibilities to EPC.

EPC and SWFWMD staff drafted amendments to the MOU to further coordinate regulatory activities between the signatory agencies and to effect the delegation of ERP mitigation compliance responsibilities to the EPC as provided in the original MOU. The proposed amendments to the MOU would:

- Limit EPC's acceptance of wetland delineations to formal determinations pursuant to chapter 373.421, Florida Statutes; and,
- Effect the delegation of ERP mitigation compliance responsibilities to the EPC and establish conditions for such delegation.

The EPC Board ("Board") voted to have staff move forward with negotiation of final terms of the MOU at the March 17, 2005 Board meeting. The final draft MOU was completed subsequent to this meeting, and the SWFWMD Governing Board voted to approve the MOU at its May 24, 2005 meeting. If the Board votes to accept the MOU, the final document would be executed by the Executive Directors of both the EPC and the SWFWMD, and would become effective upon such execution.

EPC staff recommends that the Board provide staff permission to execute the MOU with SWFWMD.

List of Attachments: Proposed Memorandum of Understanding Between the Southwest Florida Water Management District and the Environmental Protection Commission of Hillsborough County Regarding Coordination of Regulatory Activities

EXHIBIT 1
Memorandum of Understanding Between the
Southwest Florida Water Management District and
The Environmental Protection Commission
of Hillsborough County
Regarding Coordination of Regulatory Activities

WHEREAS, the Environmental Protection Commission of Hillsborough County (EPC) and the Southwest Florida Water Management District (SWFWMD) both have authority to regulate activities affecting water pollution in Hillsborough County;

WHEREAS, it is in their interest to coordinate activities and eliminate duplication or unnecessary expenditures wherever possible;

WHEREAS, EPC already has a significant infrastructure specifically directed toward delineating wetlands, responding to complaints, monitoring mitigation compliance, and performing investigations within Hillsborough County; and

WHEREAS, SWFWMD and the Florida Department of Environmental Protection have split environmental resource permitting responsibilities as per the Operating Agreement dated October 27, 1998, and attached hereto as Exhibit "A".

NOW THEREFORE, EPC and SWFWMD agree to coordinate their activities subject to that Operating Agreement as follows:

1. WETLAND DELINEATIONS:

- a. For environmental resource permitting review and evaluation purposes, SWFWMD and EPC will accept formal determinations of the landward extent of wetlands and other surface waters performed by either agency's staff. The determination must delineate all wetlands and surface waters located within the specified property boundary as legally described within an application, as provided under Chapter 1-11, Rules of the EPC, and Chapter 40D-4, Florida Administrative Code (F.A.C.), Basis of Review, Section 3.4, and in accordance with the statewide methodology established by Chapter 62-340, F.A.C., as ratified in Section 373.4211, Florida Statutes (F.S.).
- b. To enable each agency to maintain current information on wetland delineation activities in Hillsborough County, each agency, upon request, will provide the other with copies of surveys or other appropriate documentation, reflecting each approved wetland delineation performed by its staff in Hillsborough County subsequent to the effective date of this Agreement. SWFWMD will provide, upon receipt, copies to EPC of all petitions for formal wetland determinations in Hillsborough County, as well as proposed agency actions and final agency actions regarding Environmental Resource Permits proposed for issuance in Hillsborough County.

2. COMPLAINT INVESTIGATION:

- a. When SWFWMD staff observes or receives a complaint regarding activities in, on, or over wetlands or other surface waters, they will forward the complaint to EPC for investigation within 24 hours or as soon as reasonably practical thereafter. In notifying EPC, SWFWMD will not distinguish between cases involving thresholds, or exemptions in Rule 40D-4, F.A.C., or Chapters 373 or 403, F.S. After performing a site investigation, EPC will provide SWFWMD with a copy of all complaint investigation forms within 14 days. EPC will notify SWFWMD if unpermitted construction activities are observed, even if the construction is occurring landward of wetlands or waters.
- b. EPC will investigate all referred complaints on behalf of SWFWMD and, where appropriate, issue a Warning Notice or appropriate enforcement document. EPC will forward a copy of the Warning Notice or enforcement document to SWFWMD within 14 days of issuance. If the complaint is not substantiated or a minor violation can be resolved prior to the issuance of a Warning Notice or enforcement document, EPC will provide SWFWMD with a copy of the closed complaint form within 14 days of completion.
- c. SWFWMD may choose to intervene and independently pursue resolution of any case, and specifically those cases involving unpermitted activities in uplands, construction of appurtenances or works, or cases related to flooding or stormwater treatment. In such cases, SWFWMD will notify EPC in writing of its intent to independently conduct enforcement actions. Independent enforcement actions conducted by SWFWMD will not in any way be construed to preclude or diminish the ability or responsibility of EPC to independently conduct enforcement activities under its own rules.
- d. Nothing herein is intended to create an obligation on the part of EPC to conduct enforcement actions for those activities outside EPC jurisdiction under its own rules.

3. MITIGATION COMPLIANCE MONITORING:

- a. As of the effective date of this Agreement, SWFWMD will delegate to EPC responsibility for monitoring compliance with Environmental Resource Permit (ERP) mitigation requirements for all wetland impacts occurring in Hillsborough County which are subject to Chapter 1-11, Rules of the EPC, when the mitigation site is located in Hillsborough County and the permit is issued after the effective date.
- b. SWFWMD will include EPC in any discussions regarding the development and implementation of District-wide mitigation success criteria guidelines that will be used to review mitigation sites for compliance with permit conditions. Deviation from such uniform guidelines may occur on a case-by-case basis. If deviation from the guidelines is warranted, EPC and SWFWMD will make reasonable efforts to jointly develop alternative success criteria.

- c. Prior to EPC assuming responsibilities for compliance and monitoring oversight of a mitigation project, and prior to authorizing commencement of the required monitoring and maintenance period, both agencies will strive to conduct a joint initial compliance inspection of the site or sites within forty-five (45) days of SWFWMD's receipt of the construction completion report to ensure construction in accordance with the permitted plans. SWFWMD will formally transfer to EPC the mitigation information associated with an ERP permit within forty-five (45) days of its receipt of the construction completion report unless as-built deviations exist which affect the mitigation site.
- d. Upon transfer of specific ERP mitigation permit responsibilities from SWFWMD to EPC, EPC staff will respond with a written acknowledgment of permit receipt. This acknowledgement shall be sent to an email address designated by SWFWMD for this purpose. All correspondence sent to permittees, or their agents, by either agency in regards to the monitored project shall be copied to the other agency.
- e. EPC will provide SWFWMD with quarterly reports that document the status of all ERP mitigation sites being monitored by EPC. Each quarterly report will reference the ERP number.
- f. Minor modifications of a permitted mitigation plan, such as changes in the species to be planted, may be made through written correspondence with the permittee or their agent. EPC will provide SWFWMD with copies of all correspondence related to such minor modifications in a timely manner and will note such changes in the quarterly status report.
- g. Major modifications of a permitted mitigation plan will require prior written approval by SWFWMD. EPC will not approve a major modification until prior written approval from SWFWMD has been received.
- h. Upon EPC's determination that a mitigation site has successfully complied with all EPC permit conditions, EPC will provide written notice to SWFWMD of the site's release from EPC's monitoring and maintenance requirements and EPC's intent to issue a Certificate of Completion for the site. An EPC Certificate of Completion issued for a site that is also subject to ERP permit conditions will specify that a separate release is required from SWFWMD, and that additional monitoring or maintenance activities may be required to meet the ERP conditions. EPC will not conduct any mitigation compliance activities for the site following issuance of the Certificate of Completion.
- i. Neither agency may release or modify a Conservation Easement, required by either agency, over a mitigation site subject to the jurisdiction of both agencies without the prior written approval of the other agency.
- j. For projects permitted prior to the effective date of this Agreement, EPC and SWFWMD will strive to coordinate site investigations and meetings regarding mitigation sites that appear to be out of compliance with permit conditions. EPC and SWFWMD will participate in joint training and information exchange to facilitate this coordination.

k. SWFWMD may retain ERP mitigation compliance responsibility for specific projects in its sole discretion upon written notification to EPC. In such cases, the ability and responsibility of EPC to independently conduct compliance activities under its own rules is not precluded or diminished in any way.

4. PRE-APPLICATION MEETINGS:

SWFWMD and EPC will notify applicants that representatives of the other agency may attend pre-application meetings unless the applicant objects.

This Agreement will take effect upon the signature by the Executive Director of the EPC and the Executive Director of the SWFWMD. The Agreement will be reviewed by the signatory agencies two (2) years subsequent to its date of execution to review its effectiveness. This Agreement can be modified by mutual agreement of the parties, or revoked by either party at any time upon notice to the other.

Hillsborough County Environmental
Protection Commission

Southwest Florida Water
Management District

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

David L. Moore
Executive Director



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2005

Subject: Green Yard Certification

Consent Agenda

Regular Agenda

Public Hearing

Division: Waste Management

Recommendation:

Recognize three auto salvage yards that have achieved Green Yard status. The auto salvage yards that have met the criteria of a Green Yard are All Auto Hustlers, Gagel's Auto Parts, and Japanese and European Used Auto Parts.

Brief Summary:

Background:

The Green Yard Program is an industry friendly program that encourages auto salvage yards to go above and beyond environmental compliance through the use of Best Management Practices (BMPs) and Pollution Prevention (P2) strategies. In recognition of the facilities that successfully complete the program, a Certificate of Recognition and Green Yard flag are presented to a representative of each facility at the EPC Board meeting.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2005

Subject: Status report on former Honeywell facility, located near Waters and Dale Mabry.

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

Division: Waste Management

Recommendation: We recommend that the Board send letter to FDEP expressing concern over the status of the property, requesting that the EPC be provided with the proposed date for the next public meeting so we may be an active participant.

Brief Summary: This is a 16 acre parcel of property that has been vacant and underutilized for almost 10 years. It was used from 1965-1986 for circuit board manufacturing. Discharges from this facility contaminated the soil, groundwater, and the sediments of Gold Lake with solvents and/or heavy metals. Currently, some soil under the building is being remediated and the groundwater from the surficial and Floridan aquifer is undergoing pumping and treatment. A remedial plan for Gold Lake has not been agreed upon.

The property is owned by the Simon Trusts and the environmental restoration is being conducted by Honeywell under the supervision of the Florida Department of Environmental Protection. Progress has been made on the site, however, as the years have passed, this property has become underutilized and is now a blight on the community. There is currently no property tax collected on the site as it has been given a just market value of \$100 by the Property Appraiser's Office. It is unclear why this site cannot or has not been redeveloped using the principles of "Brownfields Redevelopment" and continues to be an eyesore and detriment to the community.

Background: This site has been undergoing assessment and remediation since 1982. The EPC attended Public Meeting June 2, 2004. At that time the remedial system for cleaning the soil under the building was presented to the public. EPC anticipated that there would be a public meeting to present the cleanup plan for Gold Lake by the end of 2004. The cleanup target levels have been agreed upon by the FDEP, Honeywell, and the Simon Trust. FDEP issued an Order on the Remedial Design for Gold Lake; however, Honeywell filed a Motion for Extension of Time to File a Petition challenging the FDEP Order. We recommend that the EPC Board send a letter to the FDEP expressing concern over the status of both the property and the pace of the cleanup at the site. The letter should also request that EPC be informed of the next public meeting so we may participate.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: August 18, 2005

Subject: Amphitheatre Litigation Closed Session and Update

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

Division: Legal Department

Recommendation: Hold a closed session regarding the Amphitheatre litigation.

Brief Summary: On December 21, 2004, the EPC filed a complaint and a motion for temporary injunction against CC Entertainment Music – Tampa, LLC (CCE) 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 Amphitheatre. Judge Honeywell encouraged the parties to seek a mediated settlement. After two days of mediation, the parties entered into an interim agreement and the Temporary Injunction that began on February 26, 2005, but was not completed, is postponed. On July 27, 2005, the Court agreed to stay the proceedings to no later than October 28, 2005, to see if mediation will result in a full settlement. The General Counsel requests a closed session to discuss the settlement negotiations and litigation strategies resulting from the mediation process.

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 (CCE) and the Florida State Fair Authority (Fair) 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. Judge Honeywell ruled in July that the Fair enjoyed sovereign immunity, but that the EPC could amend its complaint to show how the Fair has waived sovereign immunity. On July 21, 2005, the EPC filed an amended complaint alleging various grounds by which the Fair has waived its sovereign immunity. That issue remains to be ruled on. On July 25, 2005, the Judge ruled that CCE did not enjoy sovereign immunity from EPC laws and regulations. On July 27, 2005, after two days of mediation, the Court agreed to stay the proceedings to no later than October 28, 2005, to see if the ongoing mediation will result in a settlement. The citizens' law suit, which the EPC is not a party to, but was consolidated with the EPC suit, was dismissed without prejudice as part of the mediation.

On Thursday August 18, 2005, at 11:15 a.m., during the regularly scheduled EPC meeting the Commissioners will go into closed session pursuant to Section 286.011(8), Florida Statutes. The Commissioners will discuss settlement negotiations and litigation strategies regarding Environmental Protection Commission of Hillsborough County vs. CC Entertainment Music – Tampa LLC and Florida State Fair Authority (Case No. 04-11404) and CCE vs. EPC and FSFA (Case No. 05-1565).

List of Attachments: None.