

**ENVIRONMENTAL PROTECTION COMMISSION  
OF HILLSBOROUGH COUNTY  
COMMISSIONER'S BOARD ROOM  
JANUARY 12, 2006  
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**

**Temporarily Adjourn EPC Meeting**

**Convene as the Hillsborough County Board of County Commissioners**

Conduct Public Hearing as the Board of County Commissioners to Consider Appropriate  
Action on Environmental Resource Permit Application for Tampa Bay Water  
Carrollwood Wells Collection Main 2

**Re-convene as the Environmental Protection Commission to Consider the Above  
Arbitration Item and Remaining EPC Agenda**

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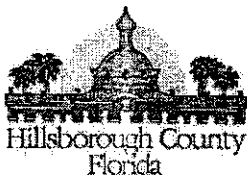
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**VIII. EXECUTIVE DIRECTOR'S REPORT**

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

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# Agenda Item Cover Sheet

Agenda Item N<sup>o</sup> \_\_\_\_\_

Meeting Date January 12, 2006

Consent Section

Regular Section

Public Hearing

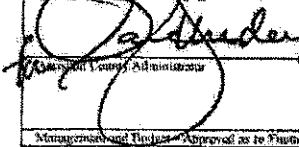
Subject: Tampa Bay Water's Environmental Resource Permit Application for the Carrollwood Collection Main

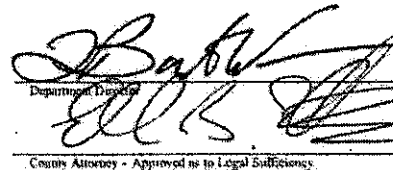
Department Name: Water Resource Services


Contact Person: Bart Weiss, Water Resource Team

Contact Phone: (813) 301-7256

Sign Off Approvals:

 B. GARCIA 12-30-05  
County Administrator Date

 12-30-05  
Department Director Date

 12-29-05  
County Attorney - Approved as to Legal Sufficiency Date

Staff's Recommended Board Motion: Direct staff not to arbitrate Tampa Bay Water's Environmental Resource Permit (ERP) Application for realignment of a portion of the Carrollwood Collection Main pipeline.

Financial Impact Statement: Should the BOCC direct staff to arbitrate this item, arbitration costs could total \$10,000.00 or more. The Water Resource Services Department's FY06 budget includes \$500,000.00 (LAE 68015) in funding for the evaluation of Tampa Bay Water (TBW) water supply projects and arbitration costs.

Background: In accordance with the County's policy on public hearings for TBW Primary Environmental Permits, the following agenda item requires a public hearing because it involves a decision whether or not to seek arbitration under TBW's Interlocal Agreement.

Tampa Bay Water is constructing a new collection main that will connect three existing Carrollwood production wells to the Northwest Hillsborough Regional Wellfield raw water collection main along Gunn Highway. A Noticed General ERP was obtained from SWFWMD for the original pipeline in January 2005, prior to realignment of a portion of the route. There are no wetlands impacts associated with the realignment, but temporary impacts to stormwater managements systems may occur which will be restored in accordance with SWFWMD and County requirements.

Water Resource Team staff has reviewed the draft ERP application and recommends that the County not arbitrate this Tampa Bay Water ERP.

List Attachments: None



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** January 12, 2006

**Subject:** Environmental Resource Permit Application for Tampa Bay Water Carrollwood Wells Collection Main

**Consent Agenda** \_\_\_\_\_ **Regular Agenda:**  X  **Public Hearing** \_\_\_\_\_

**Division:** Legal Department and the Environmental Resource Management Division

**Recommendation:** Direct staff not to arbitrate the Environmental Resource Permit application for the Carrollwood Wells Collection Main and continue to monitor the permit process.

**Brief Summary:** Tampa Bay Water voted on December 19, 2005, to apply to the Southwest Florida Water Management for an Environmental Resource Permit application for construction of the Carrollwood Wells Collection Main to transmit raw water from the recently acquired wells to Tampa Bay Water's regional system. No wetland impacts are proposed and only 0.164 acres of temporary impacts to stormwater systems are proposed and will be restored on-site along Gunn Highway.

**Background:** In accordance with the provisions of Tampa Bay Water's (TBW) Interlocal Agreement, the Environmental Protection Commission of Hillsborough County (EPC) must decide whether or not to request arbitration on any TBW Primary Environmental Permit applications within 30 days of TBW approving submittal of the application to the Southwest Florida Water Management (SWFWMD). An Environmental Resource Permit (ERP) is defined as a Primary Environmental Permit in the Interlocal Agreement.

The Carrollwood Wells Transmission Main project was originally permitted for wetland impacts via SWFWMD ERP No. 47028178.000 in January 2005. The purpose of the project is to connect three existing wells formerly owned by the Florida Governmental Utility Authority (FGUA) to TBW's Northwest Regional Wellfield Collection Main, thus transmitting raw water from the old FGUA system to the TBW regional system. During construction of Contract 1, it became evident to TBW that the proposed construction had some potential conflicts with existing utilities, thus necessitating changes in the alignment. TBW divided the project into two contracts and Contract 2 (the current agenda item) incorporates several directional drills. When the project was previously brought before the EPC for an arbitration discussion TBW had proposed wetland impacts and the EPC did not object to that ERP. TBW now does not propose wetland impacts and the project will be less intrusive to local businesses and residences within the project area as the project will be moved mainly to the median along Gunn Highway. Temporary impacts to an existing stormwater system are being proposed for 0.164 acres of roadside ditches and will be restored on-site.

The EPC staff and the County Water Resource Team have reviewed the draft ERP application and its supporting information and recommend that the EPC direct staff not to arbitrate this Tampa Bay Water Primary Environmental Permit and also direct staff to continue to monitor the process.

**List of Attachments:** None



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** January 12, 2006

**Subject:** Conduct a public hearing to approve adoption of Chp. 1-14 (Mangrove Trimming and Preservation Rule), Rules of the EPC

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

**Division:** Wetlands Management Division / Legal Department

**Recommendation:**

Conduct a public hearing to consider adoption of Chapter 1-14, Rules of the EPC (Mangrove Trimming and Preservation Rule).

**Brief Summary:**

Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve a rule. The EPC staff requests that the EPC Board approve the attached proposed Chapter 1-14 Mangrove Trimming and Preservation Rule at the regularly scheduled meeting on January 12, 2006.

**Background:**

Pursuant to the Hillsborough County Environmental Protection Act (EPC Act) Section 5.2, the EPC Board must hold a noticed public hearing to approve a rule or rule amendment. On November 17, 2005, the EPC Board approved EPC staff's request to hold a rule adoption public hearing at the regularly scheduled meeting on January 12, 2006

As discussed with the EPC Board in previous meetings, the EPC is seeking delegation and the adoption of a local rule concerning the trimming and preservation of mangroves in Hillsborough County. This rule adoption will provide the EPC delegation from the State of Florida Department of Environmental Protection for the regulation of trimming and other impacts to mangroves. This delegation is authorized under sections 403.9321-403.9333, Florida Statutes. This proposed rule will provide for revising standards in the existing State statute and will constitute the sole review for trimming and other impacts to mangroves in Hillsborough County. The proposed rule is attached and will be fully discussed at the public hearing. The staff has issued extensive notices of the rule adoption process and has held three public workshops. Upon approval of the proposed Chapter 1-14 the staff will file its application to the Florida Department of Environmental Protection and the rule will become effective upon state approval of the program.

**List of Attachments:** Draft proposed Chapter 1-14, Rules of the EPC

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

**CHAPTER 1-14**

**MANGROVE TRIMMING AND  
PRESERVATION**

<u>1-14.01</u>	<u>Findings</u>
<u>1-14.02</u>	<u>Intent</u>
<u>1-14.03</u>	<u>Authority</u>
<u>1-14.04</u>	<u>Definitions</u>
<u>1-14.05</u>	<u>Exemptions</u>
<u>1-14.06</u>	<u>Trimming of mangroves; permit requirement</u>
<u>1-14.07</u>	<u>Other trimming and alteration of mangroves; permit Requirement</u>
<u>1-14.08</u>	<u>Professional mangrove trimmers</u>
<u>1-14.09</u>	<u>Enforcement</u>
<u>1-14.10</u>	<u>Fees</u>
<u>1-14.11</u>	<u>Administration</u>

**1-14.01 FINDINGS**

(a) The Environmental Protection Commission of Hillsborough County (Commission) finds that there are over 555,000 acres of mangroves now existing in Florida. Of this total, over 80 percent are under some form of government or private ownership or control and are expressly set aside for preservation or conservation purposes.

(b) The Commission finds that mangroves play an important ecological role as habitat for various species of marine and estuarine vertebrates, invertebrates, and other wildlife, including mammals, birds, and reptiles; as shoreline stabilization and storm protection; and for water quality protection and maintenance; and as food-web support. The mangrove forest is a tropical ecosystem that

provides nursery support to the sports and commercial fisheries. Through a combination of functions, mangroves contribute to the economies of many coastal counties in the state, including Hillsborough County, which has as an economy strongly dependent on tourism and a variety of marine-related industries, most of which are closely correlated to a healthy natural environment and strong fisheries. In addition, Hillsborough County's coastal environment and natural resources are a strong attractant for both businesses and residents.

(c) The Commission finds that since 1950, approximately half of the Tampa Bay area's natural shoreline has been adversely impacted, with some areas of Hillsborough County having lost almost half of their mangroves in that same time frame.

(d) The Commission finds that both the City of Tampa and the Hillsborough County Comprehensive Plans designate mangrove swamps as preservation areas in Hillsborough County. In addition, the Tampa Bay National Estuary Program's Comprehensive Conservation and Management Plan for Tampa Bay ("Charting the Course") supports the protection, conservation and restoration of marine resources and habitats, including mangroves.

(e) The Commission finds that the trimming and alteration of mangroves can affect their productivity and habitat value.

(f) The Commission finds that the trimming of mangroves by professional mangrove trimmers following the criteria in these rules has a potential to maintain the beneficial attributes of mangrove resources and that professional mangrove trimmers should be authorized to conduct mangrove trimming, as contained herein.

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**1-14.02 INTENT**

(a) It is the intent of the Commission to protect and preserve mangrove resources valuable to our environment and economy from unregulated removal, defoliation, and destruction.

(b) It is the intent of the Commission that no trimming or alteration of mangroves may be permitted on uninhabited islands which are publicly owned or on lands set aside for mitigation or on certain lands set aside for conservation and preservation, except where necessary to protect the public health, safety, and welfare, or to enhance public use of, or access to, these areas in accordance with management plans approved by the State, County or Municipality.

(c) It is the intent of the Commission to acknowledge waterfront property owners their riparian rights as recognized by section 253.141, Florida Statutes (F.S.) and any other provision of law.

(d) It is the intent of the Commission to also allow mangrove trimming at waterfront properties with mangroves where such trimming can be done consistent with the specific criteria of the Commission.

(e) It is the intent of the Commission to encourage waterfront property owners to voluntarily preserve mangroves, encourage mangrove growth, and plant mangroves along their shorelines.

(f) It is the intent of the Commission that all trimming of mangroves pursuant to this rule on parcels having multifamily residential units be conducted so as to result in an equitable distribution of the riparian rights.

**1-14.03 AUTHORITY**

(a) The Commission obtains the authority to implement this rule pursuant to sections 4, 5, and 8 of the Hillsborough County

Environmental Protection Act, chapter 84-446, Laws of Florida, as amended, the Mangrove Trimming and Preservation Act, sections 403.9321-403.9333, F.S., and section 403.182, F.S..

(b) The Florida Department of Environmental Protection (FDEP) has delegated its authority under chapter 403, F.S. to regulate the trimming and alteration of mangroves to the Commission, which requested such delegation and demonstrated to the FDEP that it has sufficient resources and procedures for the adequate administration and enforcement of a delegated mangrove-regulatory program. In no event shall more than one permit for the alteration or trimming of mangroves be required within the jurisdiction of the Commission.

**1-14.04 DEFINITIONS**

For the purposes of this chapter, the term:

(a) *Alter* means anything other than trimming of mangroves including removal, destruction or defoliation of mangroves or the cutting of prop roots and pneumatophores.

(b) *Commission* means the Environmental Protection Commission of Hillsborough County.

(c) *Defoliate* means the removal of leaves by cutting or other means to the degree that the plant's natural functions have been severely diminished or which results in the death of all or part of the mangrove.

(d) *Executive Director* means the appointed Environmental Director of the Environmental Protection Commission of Hillsborough County or authorized staff.

(e) *Maintenance* means trimming intended to maintain the height and configuration of a mangrove area that was legally trimmed either pursuant to a valid exemption or a previously issued permit from the appropriate governmental agency. However, where a pattern of trimming has

- DRAFT Mangrove Rule Ch. 1-14 -

- stopped such that the use intended and obtained by the trimming has been broken or lost for a sustained period of time, further trimming will not be considered maintenance.
- (f) Mangrove means any specimen of the species Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Avicennia germinans (black mangrove).
- (g) Mangroves on lands that have been set aside as mitigation means mangrove areas on public or private land which have been created, enhanced, restored, or preserved as mitigation under a Mitigation Agreement pursuant to chapter 1-11, Rules of the Commission, or a permit issued under section 403.9328, F.S., or a dredge and fill permit issued under sections 403.91-403.929, F.S. (1984 Supplement, as amended), or a dredge and fill permit, management and storage of surface waters permit, or environmental resource permit issued under part IV of chapter 373, F.S., applicable dredge and fill licenses or permits issued by any other local regulatory agency, a resolution of an enforcement action, or a conservation easement that does not provide for trimming.
- (h) Professional mangrove trimmer means a person who meets the qualifications set forth in section 1-14.08, Rules of the Commission.
- (i) Public lands set aside for conservation or preservation means: (1) Conservation and recreation lands under chapter 259, F.S.; (2) County, State and national parks; (3) State and national reserves and preserves, except as provided in section 403.9326(3), F.S.; (4) State and national wilderness areas; (5) National wildlife refuges (only those lands under Federal Government ownership); (6) Lands acquired through the Water Management Lands Trust Fund, Save Our Rivers Program; (7) Lands acquired under the Save Our Coast program; (8) Lands acquired by the Hillsborough County Environmental Lands Acquisition and Protection Program; (9) Lands acquired under any environmentally endangered lands bond program; (10) Public lands designated as conservation or preservation under a local government comprehensive plan; (11) Lands purchased by a water management district, the Fish and Wildlife Conservation Commission, or any other governmental agency for conservation or preservation purposes; (12) Public lands encumbered by a conservation easement that does not provide for the trimming of mangroves; and (13) Public lands designated as critical wildlife areas by the Fish and Wildlife Conservation Commission.
- (j) Riparian mangrove fringe means mangroves growing along the shoreline of a private property, the depth of which does not exceed 50 feet as measured waterward from the trunk of the most landward mangrove tree in a direction perpendicular to the shoreline to the trunk of the most waterward mangrove tree. Riparian mangrove fringe does not include mangroves on uninhabited islands, or any public lands, including sovereign submerged lands in Hillsborough County, or mangroves on lands that have been set aside as mitigation, if the permit, mitigation agreement, enforcement instrument, or conservation easement establishing the mitigation area did not include provisions for the trimming of mangroves.
- (k) Trim means to cut mangrove branches, twigs, limbs, and foliage, but does not

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mean to cut prop roots or pneumatophores or to remove, defoliate, or destroy the mangroves.

**1-14.05 EXEMPTIONS**

(a) Upon at least 10 days and no more than 30 days prior written notice being provided to the Executive Director the following activities are exempt from the permitting requirements of the Executive Director and any other provision of law if no herbicide or other chemical is used to remove mangrove foliage:

(1) Mangrove trimming in riparian mangrove fringe areas that meet the following criteria:

(i) The riparian mangrove fringe must be located on lands owned or controlled by the person who will supervise or conduct the trimming activities.

(ii) The mangroves that are the subject of the trimming activity may not exceed 10 feet in pretrimmed height as measured from the substrate and may not be trimmed so that the overall height of any mangrove is reduced to less than 6 feet as measured from the substrate. This exemption applies to property with a shoreline of 150 feet or less. Owners of property with a shoreline of more than 150 feet may not trim, under an exemption, more than 65 percent of the mangroves along the shoreline.

(2) Mangrove trimming supervised or conducted exclusively by a professional mangrove trimmer in riparian mangrove fringe areas that meet the following criteria:

(i) The riparian mangrove fringe must be located on lands owned or controlled by the professional mangrove trimmer or by the person contracting with the professional mangrove trimmer to perform the trimming activities.

(ii) The mangroves that are the subject of the trimming activity may not exceed 24 feet in pretrimmed height and may not be trimmed so

that the overall height of any mangrove is reduced to less than 6 feet as measured from the substrate.

(iii) The trimming of mangroves that are 16 feet or greater in pretrimmed height must be conducted in stages so that no more than 25 percent of the foliage is removed annually.

(iv) A professional mangrove trimmer that is trimming red mangroves for the first time under the exemption provided by this paragraph must notify the Executive Director or authorized staff in writing at least 10 days before commencing the trimming activities.

(v) This exemption applies to property with a shoreline of 150 feet or less. Owners of property with a shoreline of more than 150 feet may not trim, under an exemption, more than 65 percent of the mangroves along the shoreline.

(3) Mangrove trimming in riparian mangrove fringe areas which is designed to reestablish or maintain a previous mangrove configuration if the mangroves to be trimmed do not exceed 24 feet in pretrimmed height. The reestablishment of a previous mangrove configuration must not result in the destruction, defoliation, or removal of mangroves. Documentation of a previous mangrove configuration may be established by affidavit of a person with personal knowledge of such configuration, through current or past permits from the state or local government, or by photographs of the mangrove configuration. Trimming activities conducted under the exemption provided by this paragraph shall be conducted by a professional mangrove trimmer when the mangroves that are the subject of the trimming activity have a pretrimmed height which exceeds 10 feet as measured from the substrate. A person trimming red mangroves for the first time under the exemption provided by this paragraph must notify the Executive Director in writing at least 10 days before commencing the trimming activities.

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(4) The maintenance trimming of mangroves that have been previously trimmed in accordance with an exemption or government environmental regulatory authorization, including those mangroves that naturally recruited into the area and any mangrove growth that has expanded from the area subsequent to the authorization, if the maintenance trimming does not exceed the height and configuration previously established. Historically established maintenance trimming is grandfathered in all respects, notwithstanding any other provisions of law. Documentation of established mangrove configuration may be verified by affidavit of a person with personal knowledge of the configuration or by photographs of the mangrove configuration.

(b) The following activities are exempt from the permitting requirements of the Executive Director and any other provision of law if no herbicide or other chemical is used to remove mangrove foliage

(1) The trimming of mangrove trees by a state-licensed surveyor in the performance of her or his duties, if the trimming is limited to a swath of 3 feet or less in width.

(2) The trimming of mangrove trees by a duly constituted communications, water, sewerage, electrical, or other utility company, or by a federal, state, county, or municipal agency, or by an engineer or a surveyor and mapper working under a contract with such utility company or agency, when the trimming is done as a governmental function of the agency.

(3) The trimming of mangrove trees by a duly constituted communications, water, sewerage, electrical, or other utility company in or adjacent to a public or private easement or right-of-way, if the trimming is limited to those areas where it is necessary for the maintenance of existing lines or facilities or for the construction of new lines or facilities in furtherance of providing utility service to its

customers and if work is conducted so as to avoid any unnecessary trimming of mangrove trees.

(4) The trimming of mangrove trees by a duly constituted communications, water, sewerage, or electrical utility company on the grounds of a water treatment plant, sewerage treatment plant, or electric power plant or substation in furtherance of providing utility service to its customers, if work is conducted so as to avoid any unnecessary trimming of mangrove trees.

(5) Minor mangrove trimming pertaining to construction of docks and associated structures permitted by another appropriate regulatory agency when such application for construction has been reviewed and specifically approved in writing by EPC staff; and regular maintenance trimming necessary to maintain the footprint of the permitted structure.

(c) Any rule, regulation, or other provision of law must be strictly construed so as not to limit directly or indirectly the exemptions provided by this section for trimming in riparian mangrove fringe areas except as provided in section 403.9329(7)(b), F.S.. Any rule or policy of the FDEP, or Commission, that directly or indirectly serves as a limitation on the exemptions provided by this section for trimming in riparian mangrove fringe areas is invalid.

(d) The designation of riparian mangrove fringe areas as aquatic preserves or Outstanding Florida Waters shall not affect the use of the exemptions provided by this section.

(e) Trimming that does not qualify for an exemption under this section requires a permit as provided.

#### **1-14.06 TRIMMING OF MANGROVES: PERMIT REQUIREMENTS**

- DRAFT Mangrove Rule Ch. 1-14 -

(a) For those projects that do not qualify under the provisions of section 1-14.05, Rules of the Commission the Executive Director shall authorize mangrove trimming via a permit issued pursuant to this section, provided the trimming is consistent with the following criteria:

(1) The mangroves to be trimmed are located on lands owned or controlled by the applicant or on sovereign submerged lands immediately waterward and perpendicular to such lands.

(2) The mangroves to be trimmed are located immediately waterward of the shoreline.

(3) The mangroves to be trimmed are not located on any of the following areas, except where necessary to protect the public health, safety, and welfare, or to enhance public use of, or access to, conservation areas in accordance with management plans approved by the State, County or Municipality:

(i) uninhabited islands; or

(ii) lands that have been set aside for mitigation; or

(iii) public lands set aside for conservation and preservation, except those as set forth solely pursuant to sub-section 1-14.04(i)(10), Rules of the Commission.

(4) The trimming of mangroves is supervised on-site or conducted exclusively by a professional mangrove trimmer or designee.

(5) The mangroves subject to trimming under the permit do not extend more than 500 feet waterward of the wetland jurisdictional line as established in chapter 1-11, Rules of the Commission, in a direction perpendicular to the shoreline.

(6) No more than 33 percent of the drip line area (footprint) of mangroves eligible for trimming under this subsection at the property will be trimmed.

(7) No mangrove will be trimmed so that the overall height of any mangrove is

reduced to less than 6 feet as measured from the substrate.

(8) No herbicide or other chemical will be used for the purpose of removing leaves of a mangrove.

(9) The trimming does not result in the alteration of the mangroves.

(10) All trimming of live mangroves must be conducted in stages so that no more than 25 percent of the pretrimmed foliage or height of the trees is removed annually. Regrowth from the previous year's trimming may be trimmed in addition to the 25 percent mentioned above.

(11) Trimming may only be conducted from April 1 through November 1.

(12) Only non-petroleum based lubricants must be used in chainsaws.

(13) All species listed as a noxious weed or invasive plant pursuant to the Florida Statutes or Florida Administrative Code that are within 25 feet of the mangrove canopy to be trimmed must be removed from the applicant's property. Where the removal is to a degree that a potential for erosion is created, the area must be re-stabilized. Stumps and roots may be killed and left in place if desired.

(14) All trimmed branches and trunks shall be removed from the wetlands and disposed of, as provided by law, unless otherwise permitted in an authorization from the Executive Director.

(b) Requests for permits to trim mangroves must be submitted on the Executive Director's application form and must contain sufficient information to enable the Executive Director to determine the scope of the proposed trimming and whether the activity will comply with the conditions of this section.

(c) Requests to trim mangroves that exceed any of the requirements as set forth above shall be reviewed in accordance with section 1-14.07.

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**1-14.07 OTHER TRIMMING AND ALTERATION OF MANGROVES; PERMIT REQUIREMENT**

(a) The Executive Director, when deciding to issue or deny a permit for mangrove trimming that exceeds the requirements set forth in sections 1-14.05 and 1-14.06, Rules of the Commission or mangrove alteration under this section, shall use the criteria in section 373.414(1) and (8), F.S., as follows: (1) Whether the activity will adversely affect the public health, safety, or welfare or the property of others; (2) Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats; (3) Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling; (4) Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity; (5) Whether the activity will be of a temporary or permanent nature; (6) Whether the activity will adversely affect archaeological resources under the provisions of section 267.061, F.S.; (7) The current condition and relative value of functions being performed by areas affected by the proposed activity; and (8) The cumulative impact of similar activities pursuant to section 373.414(8), F.S..

(b) If the applicant is unable to meet these criteria, the Executive Director and the applicant shall first consider measures to reduce or eliminate the unpermissible impacts. If unpermissible impacts still remain, the applicant may propose, and the Executive Director shall consider, measures to mitigate the otherwise unpermissible impacts.

(c) The request must be made with sufficient specificity to enable the Executive Director to determine the scope and impacts of the proposed alteration activities.

(d) A request for a permit for trimming that exceeds the requirements set forth in sections 1-

14.05 and 1-14.06, Rules of the Commission shall be reviewed pursuant to section 1-11.08, Rules of the Commission and this rule chapter.

(e) A request for a permit for the alteration of mangroves will be reviewed pursuant to both the entire chapter 1-11, Rules of the Commission and this rule chapter.

(f) The use of herbicides or other chemicals for the purposes of removing leaves from a mangrove is strictly prohibited.

**1-14.08 PROFESSIONAL MANGROVE TRIMMERS**

(a) For purposes of the Executive Director, the following persons are considered professional mangrove trimmers: (1) Certified arborists, certified by the International Society of Arboriculture; (2) Professional wetland scientists, certified by the Society of Wetland Scientists; (3) Certified environmental professionals, certified by the Academy of Board Certified Environmental Professionals; (4) Certified ecologists certified by the Ecological Society of America; (5) Landscape architects licensed under part II of chapter 481, F.S.. Only those landscape architects who are certified in the state may qualify as professional mangrove trimmers under this chapter, notwithstanding any reciprocity agreements that may exist between this state and other states; (6) Persons who have conducted mangrove trimming as part of their business or employment and who are able to demonstrate to the Executive Director, as provided in subsection (b), a sufficient level of competence to assure that they are able to conduct mangrove trimming in a manner that will ensure the survival of the mangroves that are trimmed; and (7) Persons who have been qualified by any delegated local government and meet the standards set forth in subsection (b).

- DRAFT Mangrove Rule Ch. 1-14 -

(b) A person who seeks to assert professional mangrove trimmer status under paragraphs (a)(6) or (7) to trim mangroves under the exemptions in section 1-14.05, Rules of the Commission and permits provided in sections 1-14.06 and 1-14.07, Rules of the Commission, must request in writing professional mangrove trimmer status from the Executive Director. The Executive Director shall grant or deny any written request for professional mangrove trimmer status within 60 days after receipt of a complete application. If professional mangrove trimmer status has been granted by the Executive Director, no additional requests for professional mangrove trimmer status need be made to the Executive Director to trim mangroves under the exemptions provided. Persons applying for professional mangrove trimmer status must provide to the Executive Director a notarized sworn statement attesting: (1) that the applicant has successfully conducted trimming on a minimum of 10 mangrove-trimming projects authorized by the Florida Department of Environmental Protection or a local government program. Each project must be separately identified by project name, professional mangrove trimmer and permit number where applicable; (2) That a mangrove-trimming or alteration project of the applicant is not in violation of sections 403.9321-403.9333, F.S., chapters 1-11 and 1-14, Rules of the Commission, or any lawful rules adopted thereunder; and (3) That the applicant possesses the knowledge and ability to correctly identify mangrove species occurring in this state.

(c) The Executive Director may deny a request for professional mangrove trimmer status if the Executive Director finds that the information provided by the applicant is incorrect or incomplete, or if the applicant has demonstrated a past history of noncompliance with the provisions of sections 403.9321-403.9333, F.S.,

chapters 1-11 and 1-14, Rules of the Commission, or any adopted mangrove rules.

(d) A professional mangrove trimmer status granted by the Executive Director may be revoked by the Executive Director for any person who is responsible for any violations of sections 403.9321-403.9333, F.S., chapters 1-11 and 1-14, Rules of the Commission, or any adopted mangrove rules.

(e) The Executive Director's decision to grant, deny, or revoke a professional mangrove trimmer status is subject to appeal pursuant to section 1-2.30, Rules of the Commission.

(f) All professional mangrove trimmers working in Hillsborough County must register with the Executive Director by paying an annual registration fee as provided in chapter 1-6, Rules of the Commission and by demonstrating that they meet the criteria of this section.

(g) All professional mangrove trimmers working in Hillsborough County must notify in writing the Executive Director prior to conducting any mangrove trimming or alteration including those activities authorized under the exemptions provided.

(h) All professional mangrove trimmers or their designee working in Hillsborough County must be on site when mangrove trimming activities are performed under their supervision.

**1-14.09 ENFORCEMENT**

(a) A person may not alter or trim, or cause to be altered or trimmed, any mangrove within the landward extent of wetlands and other surface waters, as defined in sections 1-11.03 and 1-11.04, Rules of the Commission and section 62-340.200(19), Florida Administrative Code, using the methodology in section 373.4211, F.S., and chapter 62-340, Florida Administrative Code, except as applicable under the exemptions of section 1-14.05, Rules of the Commission, or under a permit issued under sections 1-14.06 or 1-14.07, Rules of the

- DRAFT Mangrove Rule Ch. 1-14 -

Commission by the Executive Director. Any violation of this chapter is presumed to have occurred with the knowledge and consent of any owner, trustee, or other person who directly or indirectly has charge, control, or management, either exclusively or with others, of the property, including the upland riparian property, upon which the violation occurs. However, this presumption may be rebutted by competent, substantial evidence that the violation was not authorized by the owner, trustee, or other person.

(b) Any area of mangroves that have been trimmed or altered in violation of this rule must be restored. Restoration must be accomplished by replanting mangroves within six months of the initial violation, in the same location and of the same species as each mangrove altered or trimmed, to achieve within 5 years a canopy area equivalent to the area altered or trimmed. Where all or a portion of the restoration is not practicable, as determined by the Executive Director, the impacts resulting from the alteration or trimming of the mangroves must be offset by mitigation. Mitigation must be accomplished pursuant to section 1-11.08, Rules of the Commission. Finally, where all or a portion of the mitigation is not practicable, as determined by the Executive Director, the impacts resulting from the alteration or trimming of the mangroves must be offset by purchasing credits from an approved mitigation bank created under section 373.4135, F.S., at a mitigation ratio of no less than 2-to-1 and no greater than 5-to-1 credits to affected area. To be accepted by the Executive Director, mitigation credits must be specifically obtained for any of the following: creation; restoration; and/or enhancement of mangrove wetlands located in Hillsborough County.

(c) In all cases, the applicant, permittee, landowner and/or upland riparian owner, and person responsible for performing the trimming are jointly and severally liable for performing

restoration or mitigation under paragraph (b) and for ensuring that the restoration or mitigation successfully results in a mangrove community that will offset the impacts caused by the trimming or alteration of mangroves. The applicant, landowner and/or upland riparian owner, and person responsible for performing the trimming or alteration are also jointly and severally subject to penalties.

(d) Any replanting for restoration under this subsection must result in at least 85 percent documented survival of the planted mangroves 1 year after planting. Replanting must be sufficient to achieve a canopy area equivalent to the area altered or trimmed within 5 years of the alteration or trimming.

(e) Pursuant to section 403.9332, F.S., the Executive Director shall enforce the provisions of this chapter in the same manner and to the same extent provided for in sections 17, 18 and 19 of the Hillsborough County Environmental Protection Act, chapter 84-446, Laws of Florida, as amended and/or sections 403.121, 403.141, and 403.161, F.S., for the first violation, which includes, but is not limited to, the imposition of a civil penalty in an amount of not more than \$10,000 per offense along with restoration of the mangroves consistent with the criteria of subsection (b) above.

(f) Pursuant to subsection 403.9332(3), F.S. for second and subsequent violations, the Executive Director, in addition to the provisions of sections 403.121, 403.141 and 403.161, F.S., shall impose additional monetary penalties for each mangrove illegally trimmed or altered as follows: (1) Up to \$100 for each mangrove illegally trimmed; or (2) Up to \$250 for each mangrove illegally altered.

(g) In addition to the penalty provisions provided in subsections (b)-(f), pursuant to subsection 403.9332(4), F.S., for second and all subsequent violations by a professional mangrove trimmer, the Executive Director shall impose a separate penalty upon the professional

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

- DRAFT Mangrove Rule Ch. 1-14 -

mangrove trimmer up to \$250 for each mangrove illegally trimmed or altered.

Adopted xx/xx/xx  
Effective date: xx/xx/xx

**1-14.10 FEES**

(a) All applications for mangrove trimming permits shall be accompanied by a fee as provided for in chapter 1-6, Rules of the Commission.

**1-14.11 ADMINISTRATION**

(a) Permits issued shall expire one year from permit issuance if the project has not been completed, or if the initial trim has not been completed for those projects where trimming is to be phased in annually. Extensions may be granted by the Executive Director for good cause shown.

(b) The Executive Director may revoke any permit issued, for fraud, misrepresentation or violation of the conditions imposed on the permit. Written notice of the intent of the Executive Director to revoke a permit shall be provided to the applicant, setting forth the specific reasons for the revocation. Upon notice of the Executive Director's intent to revoke the permit, the applicant shall immediately cease all trimming and alteration activities on site. The applicant shall have thirty days to show cause why the permit should not be revoked.

(c) The Executive Director may issue either a citation to cease and order to correct or a notice of violation for any site where trimming or alteration has commenced and a permit has not been obtained but is required pursuant to this chapter. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this chapter for any person to fail or to refuse to comply with a citation to cease and order to correct or a notice of violation issued under the provisions of this section.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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**Environmental Protection  
Commission**

**Proposed Mangrove Rule  
1-14**

# 1996 Mangrove Trimming & Preservation Act

## Chapter 403, Florida Statutes

- Eliminated all authority for local governments to regulate mangrove trimming
- Requires the Statutory Exemptions to remain in place Requires that only "one permit" shall be required for mangrove trimming
- Requires the FDEP to delegate its regulatory authority to a local authority
- Allows Local Government to establish stricter standards for permitting criteria



# **PUBLIC NOTIFICATION RULE DEVELOPMENT**

## **- PUBLIC WORKSHOPS -**

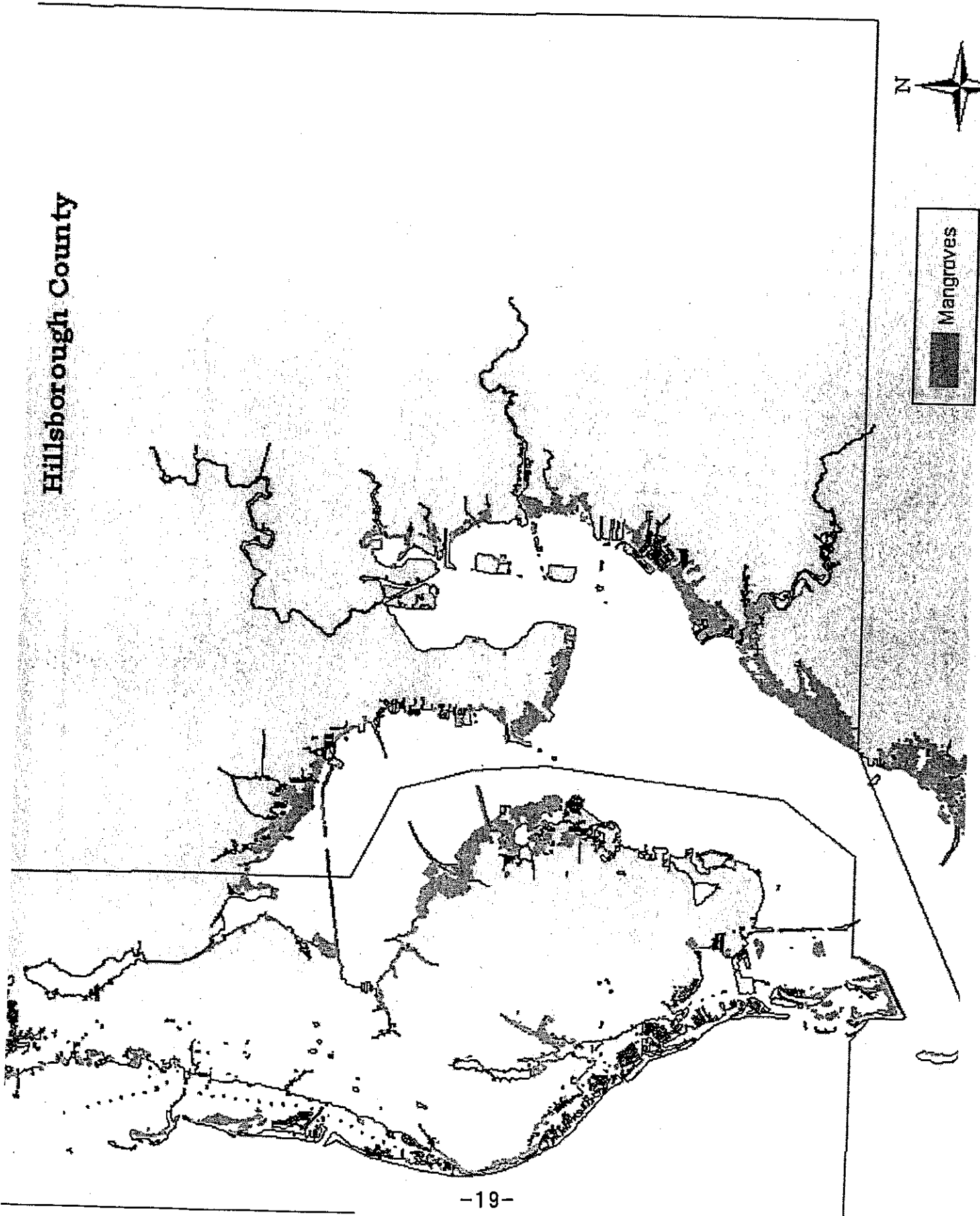
- **AUGUST 18, 2004**  
**EPC Website posting \* Postcard Mailing \* Tampa  
Tribune Legal Notice**
  
- **JULY 26, 2005**  
**EPC Website posting \* HTV22 Message Board \*  
Postcard Mailing \* Tampa Tribune Legal Notice \*  
Press Release**
  
- **OCTOBER 26, 2005**  
**EPC Website posting \* HTV22 Message Board \*  
Postcard Mailing \* Tampa Tribune Display Ad \*  
Press Release**

# **PUBLIC NOTIFICATION RULE DEVELOPMENT**

- Presentations and Hearing -

- **AGENCY ON BAY MANAGEMENT** — 02/10 2005
- **CEAC** — 09/12/2005
- **CEAC** — 01/09/2005
- **PUBLIC HEARING** — 01/12/2006
  - EPC Website posting
  - HTV22 Message Board
  - Tampa Tribune Legal Notice — 12/28/2005

Hillsborough County



# Chapter 1-14

## Mangrove Trimming

- Section 1-14.01-.04 Findings, Intent, Authority, Definitions
- Section 1-14.5 Exemptions
- Section 1-14.06 Trimming
- Section 1-14.07 Alteration (mitigation)
- Section 1-14.-8 Professional Mangrove Trimmers
- Section 1-14.09 Enforcement

# Exemptions

## Section 1-14.05

- Maintenance Trimming for previous exemptions or permits
- Swaths cuts for surveyors; utility easements and rights-of way, etc.
- Privately owned riparian mangrove fringes
- Trimming to allow for construction of docks and associated structures

# Permitting Criteria for Trimming

## Section 1-14.06

- Applies to areas owned or controlled by applicant, < 500 in depth measured perpendicular to shore
- Not in a Conservation Easement, or on uninhabited islands
- Authorized only through a permit that may contain site specific conditions i.e. annual staged trimming of taller trees

# OTHER TRIMMING AND ALTERATION

## SECTION 1-14.07

- Must demonstrate trimming is in the public interest
- May be required to mitigate for activities outside the general permitting criteria from trimming
- Allow EPC to review alterations pursuant to Chapter 1-11, Wetlands and 1-14, Mangrove Trimming

# Professional Mangrove Trimmers

## Section 1-14.08

- Must register with EPC
- Eligibility status determined within 30 days
- Registration fees to be determined
- Notification by PMT to EPC prior to conducting any trimming or alteration
- PMT must be on-site and supervise all activities at time of trimming



# Permit Application Review Process and Enforcement

- Agency's Decision on Permit subject to review through an appeal process as provided in the EPC Enabling Act and Administrative Procedures Rule
- Rule and permit violations subject to standard enforcement mechanisms such as warning notice, citation, and civil litigation.



# Environmental Protection Commission

## Proposed Mangrove Rule 1-14

OCTOBER 20, 2005 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, October 20, 2005, at 9:30 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Kathy Castor and Commissioners Brian Blair (arrived at 9:45 a.m.), Ken Hagan, Jim Norman, Thomas Scott, Mark Sharpe, and Ronda Storms (arrived at 10:06 a.m.).

Chairman Castor called the meeting to order at 9:34 a.m. Commissioner Sharpe led in the pledge of allegiance to the flag and gave the invocation. Chairman Castor explained the meeting was earlier than usual, so the EPC could have a special presentation and public hearing on the amphitheatre matter.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, deleted Item VII, fish advisory update, which would be presented to the EPC in November 2005, and added an item, as requested by Commissioner Storms, regarding the delegation of State and federal wetlands permitting.

CITIZENS COMMENTS

Ms. Deborah Cope, chairman, Tampa Bay Group of the Sierra Club, showed a video on Sunset Beach sanctuary. Ms. Mariette Coulter, 6812 Diana Court, Apartment 302-C, utilized aerial maps and commented on canal locations, mangroves, permits to trim mangroves, and the need to retain mangroves. Chairman Castor said the EPC was scheduled to consider new rules for the regulation, trimming, and preservation of mangroves on November 17, 2005. Dr. Garrity explained the Department of Environmental Protection (DEP) currently regulated trimming; EPC was prevented from addressing that issue unless the EPC adopted its own rules. Dr. Garrity would help Ms. Coulter forward information to DEP.

CONSENT AGENDA

- A. Approval of minutes: September 13, 2005, and September 15, 2005.
- B. Monthly activity reports.
- C. Pollution Recovery Fund (PRF).
- D. Gardinier Settlement Trust Fund.
- E. Legal Department monthly reports.
- F. Approve extension of time, The Florida Aquarium, PRF project.
- G. Approve extension of time, Girl Scouts Suncoast Council, PRF project.

THURSDAY, OCTOBER 20, 2005 - DRAFT MINUTES

- H. Request authority to hold a public hearing on November 17, 2005, to consider adoption of Chapter 1-14, rules of the EPC, mangrove trimming and preservation.
- I. Request approval for use of grant funds from the International City/County Management Association.
- J. Report on EPC assumption of Land Development Code wetlands setback regulations.
- K. Tampa Port Authority grant for sediment analysis.

**Commissioner Scott so moved, seconded by Commissioner Sharpe, and carried six to zero.** (Commissioner Storms had not arrived.)

ENVIRONMENTAL RESOURCES MANAGEMENT (ERM) DIVISION

Authorize Staff to Negotiate an Interlocal Agreement Addressing Watershed Management, the Development of Basin Management Action Plans, and Implementation of Total Maximum Daily Loads - Dr. Gerold Morrison, Director, EPC ERM Division, said the Board of County Commissioners (BOCC) had authorized County staff to go forward with negotiating the proposed interlocal agreement. Dr. Morrison summarized the item and recommended the EPC authorize staff to negotiate the multiparty interlocal agreement addressing those issues. Staff would bring the finalized document to EPC in February 2006. **Commissioner Scott moved staff recommendation, seconded by Commissioner Sharpe, and carried four to zero.** (Commissioners Blair and Hagan were out of the room; Commissioner Storms had not arrived.)

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson reported on the October 3, 2005, meeting, highlighting updates on issues and a review by Dr. Garrity on the 2005 goals and objectives. CEAC supported the recommendation to connect residents on Buster Bean Drive to County water. CEAC had received 15 applications for PRF and would review each application to develop recommendations for EPC. All applications had been posted on the EPC website. The total dollar amount requested by the applicants exceeded available funds.

WASTE MANAGEMENT DIVISION

Update - Buster Bean Drive County Potable Water Supply Connection - Mr. Paul Schipfer, EPC staff, submitted a petition from Buster Bean Drive residents requesting public water connection and stated for the past 20 years, the county had sampled six wells in proximity to the subject properties on a

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monthly basis due to concern regarding contaminates. If the County connected the houses to public water, the sampling could be reduced to twice a year versus twelve times a year for a cost savings of \$18,000 annually. The Environmental Protection Agency, EPC, and Solid Waste Management Department agreed that could be done. Within two years, the County could recoup the cost of hookup, about \$30,000. Mr. Schipfer asked that EPC request the BOCC direct staff to move forward. Ms. Cam Oberting, Taylor Road Civic Association, commented on the need for public water.

In reply to Commissioner Norman, Mr. Schipfer said the Solid Waste Management Department wanted to make it clear that they were not stating the Taylor Road landfill was the source of pollution. Commissioner Norman did not want to set a precedent. Mr. Schipfer clarified County water was available up to that point; in fact, the Solid Waste Management Department had hooked up water to the first four houses on Buster Bean Road due to contaminates. Commissioner Norman wanted EPC or someone to provide a reason why the County would not be creating a circumstance that would set precedence that would cost millions of dollars. Dr. Garrity said the situation was unique; DEP would release the County from monitoring requirements if the homes were connected to County water. **Commissioner Scott moved staff recommendation with the understanding, because of what Dr. Garrity just pointed out for the unique situation.** Wells had to be tested now monthly, the issue had been ongoing, approval was based on DEP releasing the County from having to test wells monthly, and there was a cost savings. **Commissioner Sharpe seconded the motion. Following discussion, the motion carried five to zero.** (Commissioner Blair was out of the room; Commissioner Storms had not arrived.)

AIR MANAGEMENT DIVISION

Fish Advisory Update - Deleted from the agenda.

PUBLIC HEARING - 10:00 A.M. TIME CERTAIN

Consider the Request for Variance from Clear Channel Entertainment Music - Tampa LLC (CCE) - Dr. Garrity outlined the proceedings. EPC General Counsel Richard Tschantz asked EPC to convene the public hearing to address the CCE request for variance from EPC noise level limits; Chairman Castor confirmed the public hearing was open. Attorney Tschantz gave a brief summary of the lawsuit, litigation, and court-ordered mediation that resulted in CCE presenting a variance to see if settlement could be reached. Attorney Tschantz reviewed criteria for EPC consideration and stated legal and

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technical staff had reviewed the application and found the variance request met minimum criteria for EPC consideration.

Mr. Jerry Campbell, Director, EPC Air Management Division, confirmed staff had reviewed the application and supplemental information and stated CCE was requesting relief for noise generated from the Ford Amphitheatre before 11:00 p.m. EPC standards were based on noise received at the residential, commercial, and industrial land uses, based on the time of day. The primary concern was residential. At 10:00 p.m., the current EPC rule became more stringent, decreasing from 60 decibels or less to no higher than 55 decibels. CCE was requesting a different way to measure decibel levels that would allow them to exceed 65 decibels over a five-minute period 10 percent of the time and requested that relief until 11:00 p.m., after which they would meet the current EPC standard of 55 decibels. There were two standards for noise, what was heard, the A scale, and what was felt, the low frequency or decibel scale. CCE was also requesting relief from low frequency of 75 decibels for 10 percent of any five-minute period, up to 11:00 p.m.; the current EPC standard was 65 decibels, 24 hours. Having reviewed the application and monitoring over 40 concerts over the past 14 months, staff found the amphitheatre as constructed and operated could not comply with the current standard. Mr. Campbell pointed out EPC current regulations regulated volume, not content; some residents objected to content.

Mr. Campbell stated EPC staff had reviewed the different way to measure noise as requested and opined allowing some peak periods was reasonable, which would mean CCE would comply with 65 decibels 90 percent of the time, with peaks or spikes 10 percent of the time. The peak of what residents would hear would be two to three times louder than the current standard. Because the EPC standard became more stringent at 10:00 p.m., the noise level would be three to four times louder between 10:00 p.m. and 11:00 p.m. Mr. Campbell summarized a range of community standards for amphitheatres operated by CCE nationally. CCE was proposing to put up a sound barrier, constructed of permanent building material with special sound absorption ability, and had shown staff drawings of the wall; however, CCE had been unable to provide a final drawing of the wall. The proposed wall would make the facility quieter. For the first time, CCE had discussed volume control, making a policy in the mix area to turn down the volume in conjunction with the wall to meet standards in neighborhoods imposed by EPC.

Staff recommended EPC consider granting a variance to CCE for the Ford Amphitheatre, which would allow an L10 over five minutes of 62 decibels; on

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the octave bands, staff recommended an L10 over five minutes of 75 decibels, and that be granted up to 11:00 p.m.

Dr. Garrity stated the recommendation was based on several factors and generally, staff perceived the proposed standard was reasonable with conditions that included electronic limiters on lawn speakers, establishing standards at the mix area by policy, allowing EPC staff access to all noise monitoring data in the future, monitoring the height of speaker placement on stage, continuing interim measures until final measures were in place, EPC staff reporting to EPC within 12 months of completion of the wall, acknowledging EPC authority to regulate noise from the amphitheatre, and that CCE bear the burden of EPC cost for future noise monitoring in the neighborhoods.

Responding to Commissioner Storms, Dr. Garrity explained the sound demonstration included ambient sounds, a concert at 70 decibels/83 base level, and variance request by CCE of 65/75 decibels, as heard from the property line at the apartment complex across the interstate. EPC members moved to the designated audience chairs for the demonstration provided by Mr. Robert Lilkendey, Siebein Associates Incorporated, 625 Northwest 60th Street, Suite C, Gainesville, Florida. Dr. Garrity stated CCE had informed staff they would not do a sound demonstration.

Attorney John Foster, representing CCE, pointed out CCE hired a new sound consultant for the settlement negotiations and did not use the consultant who did the original sound modeling for developing the amphitheatre or the consultant who was involved in the litigation, opined the graph of complaints indicated three or four concerts generated the most complaints, stated people who had complained had expressed concern about profanity, and perceived the proposed wall would address the issue regarding content. Attorney Foster commented on EPC exceptions granted to special events and the raceway and agreed to staff recommendation. Regarding the variance request, Attorney Foster asked that all readings and measurements be taken according to American Society for Testing and Materials recommendations as an added condition, referenced a provision that contemplated CCE submitting more data assuring EPC that CCE could meet the new standard, and requested a time limitation of two weeks for CCE to submit the data and two weeks for EPC to make a determination.

Mr. Jack Wrightson, with Wrightson, Johnson, Haddon, and Williams Incorporated, an acoustical consulting firm, said CCE had agreed to turn down the sound within the facility and make architectural modifications. He

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perceived the proposed wall would allow CCE to operate the facility within the numbers mandated by EPC. Commissioner Blair asked how the wall would look.

Commissioner Scott asked if staff had information to verify CCE could decrease the noise level to 62 decibels and 75 decibels. Dr. Garrity explained staff had recently been provided the model information and did not have that assurance; therefore, if EPC granted a variance, it should be with the caveat for that assurance to be provided to staff for analysis. Mr. Wrightson opined EPC had data obtained from other concerts showing CCE had met the standards being recommended. Commissioner Scott asked why CCE could not reduce the levels to 60 decibels, the current standard. Mr. Wilson Rogers, chief operating officer, Cellar Door South, the operating unit for CCE, explained the variance request was a change in the measurement standard.

Commissioner Storms opined CCE should make a sound demonstration for comparison. Mr. Wrightson utilized a calibration sound level meter to demonstrate motor sports noise and music. Commissioner Storms pointed out the promise was to hear nothing. Mr. Wrightson clarified the demonstration was the difference in noise levels and demonstrated music at 62 decibels. Commissioner Sharpe asked if a wall would further mitigate the decibel level. Mr. Campbell said the demonstration at 62 decibels and 75 decibels was with a wall, worst-case scenario, outside the apartments. Commissioner Scott said children lived in the community and had to go to school the next day. Mr. Rogers encouraged EPC to approve the proposal.

Chairman Castor called for public comment. The following people opposed the variance request: Mr. Christopher Clifton, Temple Terrace, who stated the demonstration of 83 decibels was what they heard inside their home four miles away; Mr. Richard Dakin, who represented 1,000 households; Mr. Joseph Gross, co-compliance director, city of Temple Terrace, who discussed complaints lodged by people living two miles from the fairgrounds; Mr. Edward Schroering, 806 Pyramid Drive; Mr. Arnold Stark, 6305 Eureka Springs Road, who perceived the matter was legal and civil issues; Mr. Chapman Kah, 5606 Staley Drive; Ms. Mary McNatt, Staley's subdivision; Ms. Barbara Merritt, 7212 East Chelsea Street; and Mr. Terrell Asio, 78th Street and Sligh Avenue. They cited issues of quality of life, rattling windows, vibrating walls, booming base, the perception that concerts were taking place across the street, canceled church services, health and safety matters, wetlands, and development.

Following demonstration of measurements, **Commissioner Scott moved to deny the variance request of CCE, also that CCE comply with the existing rule, that CCE move forward to build the wall and do whatever they needed to do, put limiters**



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or whatever, to reduce the sound and bring it down to the current standard; at that time, come back to EPC to prove and demonstrate to the community that they had taken every effort to get down to the current standard. Commissioner Storms seconded the motion. Discussion included the number of complaints, rights of individuals to have quiet in their homes, how best to resolve the problem for the neighbors, and whether remediation and variance would tone down noise. Dr. Garrity perceived the recommendation was the best staff could do without going back to court. Commissioner Scott did not perceive constructing a wall would resolve the problem. Commissioner Norman opined the offer would lower the sound. Commissioner Hagan agreed with Commissioner Norman and perceived the community would suffer more by dragging out the problem. Chairman Castor said if the standard was freedom from excessive and unnecessary noise, that standard had not been met; the volume needed to be turned down and comply with the current rule. **The motion carried four to three; Commissioners Blair, Hagan, and Norman voted no.** Commissioner Scott clarified the motion was to deny the variance; CCE would still construct the wall, do all the remediation; once they demonstrated to the community that they had tried to comply, then come back to EPC and talk about a variance. CCE must comply with the current rule.

COMMISSIONER'S REQUEST

Delegation of State and Federal Wetlands Permitting - Responding to Chairman Castor, Commissioner Storms agreed the item could be continued to the next meeting.

There being no further business, the meeting was adjourned at 12:19 p.m.

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

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

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

Deputy Clerk

SW

NOVEMBER 17, 2005 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, November 17, 2005, at 9:30 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Kathy Castor and Commissioners Brian Blair, Ken Hagan, Jim Norman, Thomas Scott (arrived at 9:42 a.m.), Mark Sharpe, and Ronda Storms (arrived at 9:57 a.m.).

Chairman Castor called the meeting to order at 9:39 a.m., led in the pledge of allegiance to the flag, and called for a moment of silence in honor of Mr. Rich Paul, You've Made a Difference Award recipient, who had passed away.

CHANGES TO THE AGENDA

Dr. Richard Garrity, EPC Executive Director, added the following items: Florida State Fair Authority (Fair Authority) proposed settlement agreement regarding the Ford Amphitheatre added to Item IV.A., Clear Channel Entertainment Music - Tampa LLC (CCE) proposed settlement offer; IV.C., update on the Environmental Protection Agency (EPA) proposed changes to the toxic release inventory requirements; and IV.D., Honeywell International. Commissioner Castor stated the Board of County Commissioners would convene following the EPC meeting to discuss a HARTline appointment. **Commissioner Sharpe moved the changes, seconded by Commissioner Norman, and carried five to zero.** (Commissioners Scott and Storms had not arrived.)

CITIZENS COMMENTS

Mr. Richard Dakin, Tampa resident, explained he was not representing the ad hoc committee because notice was received the prior day; he objected to the proposed settlement agreement, citing issues of cost to taxpayers, courtyard concerts, weather conditions, time allowed for noise abatement, \$50,000 allotted for monitoring concerts, and a possible variance request. Mr. Dakin suggested requiring CCE to forfeit \$10,000 for each concert that did not comply.

Ms. Barbara Merritt, 7212 East Chelsea Street, said EPC monitored the concert from her yard on Veteran's Day; pointed out the settlement agreement did not specifically address courtyard concerts, which were not held inside the amphitheatre; opined courtyard concerts should not be allowed until the wall was completed; noted she had been unable to hear the television inside her home on Veteran's Day; and opined a surety bond would be good for the County and would protect CCE. Ms. Merritt perceived many questions were unanswered in the negotiation and a public hearing should have been held for input from the neighborhoods. (Resumed later in the meeting.)

THURSDAY, NOVEMBER 17, 2005 - DRAFT MINUTES

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson reported on the November 7, 2005, CEAC meeting, listed Pollution Recovery Fund (PRF) applications, noted final presentations would be heard at the next CEAC meeting, and stated applications had been posted on the EPC website. The total dollar amount requested exceeded available funds by nearly \$300,000.

CONSENT AGENDA

- A. Approval of minutes: August 18, 2005.
- B. Monthly activity reports.
- C. PRF report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary.
- F. Approve amended interlocal agreement with the city of Tampa.
- G. Authorize a nonprocurement purchase order to reimburse Hillsborough County School Board for diesel retrofit of 150 school buses.
- H. Request authority to conduct a public hearing on January 12, 2006, to consider adoption of Chapter 1-14, rules of the EPC, mangrove trimming, and preservation.

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

LEGAL DEPARTMENT

Consider the CCE Proposed Settlement Offer and the Fair Authority Proposed Settlement Agreement Regarding the Ford Amphitheatre - EPC General Counsel Richard Tschantz gave a brief history of the mediation process and stated the prior variance request had failed because the EPC perceived the request was premature. However, following the prior meeting, CCE had agreed to go forward and comply with EPC terms. Attorney Tschantz reviewed the agreement drafted to carryout the intent of the EPC motion on October 20, 2005. Dr. Garrity reviewed staff recommendation for approval; also, the courtyard concerts mentioned by Ms. Merritt and Mr. Dakin had been discussed with Mr. Wilson Rogers, chief operating officer, Cellar Door South, the operating unit for CCE. Mr. Rogers explained the courtyard concert held on Veteran's Day was the

last show booked. Courtyard concerts would not be held in the future in their current configuration or if criteria were not achieved. Mr. Sandy McKinnon, Fair Authority chairman, thanked Dr. Garrity, EPC, and staff and expressed gratitude for reaching a solution compatible to the parties involved.

**Commissioner Norman moved the settlement.** Commissioner Scott wanted to ensure everything outlined in the prior motion was part of the settlement agreement. Dr. Garrity confirmed staff had followed the transcript and perceived the agreement completely covered what was stated in the motion; concert monitoring would continue. Attorney Tschantz pointed out there would be a free flow of information with CCE regarding data collected. Commissioner Scott was hopeful the issue could be resolved before the December 31, 2006, deadline and before his term limit expired in November 2006. Mr. Rogers responded to queries from Commissioner Scott regarding the cost to construct the wall; he would keep Dr. Garrity and Attorney Tschantz apprised. In reply to Commissioner Scott, Attorney Gordon Schiff, P.O. Box 1531, Tampa, representing the Fair Authority, said the Fair Authority agreement would be presented to the Fair Authority board on December 8, 2005, which date was referenced in the agreement. **Commissioner Norman amended the motion to make approval contingent upon the Fair Authority board approving the agreement.** In answer to Commissioner Scott, Attorney Tschantz said the agreement referenced a citizen advisory committee that would be put in place, but no date was in the agreement to do that. Mr. Rogers said that would be as soon as the agreement was approved. **Commissioner Blair seconded the motion.**

Following discussion, Chairman Castor expressed concern regarding the one-year interim period where EPC gave up its right to issue violations. Mr. Rogers clarified the December 2006 date was to accommodate an issue relative to construction. An interim agreement was in place to maintain the temporary wall, move lawn speakers down, monitor the height of speakers brought in by entertainment acts, maintain subwoofers on the floor rather than on stage, maintain a decibel limit at the monitor mix, and continue to enforce to the best of CCE's ability. Following discussion, **the motion carried six to one; Chairman Castor voted no.**

Authorize the Executive Director to Negotiate and Execute a Professional Services Contract for Outside Legal Services, Case 04-CA-002576 - Attorney Tschantz presented the item, as provided in agenda material. **Commissioner Scott moved staff recommendation, seconded by Commissioner Storms, and carried seven to zero.** Attorney Tschantz would bring the contract back for ratification.

THURSDAY, NOVEMBER 17, 2005 - DRAFT MINUTES

Update on the EPA Proposed Changes to the Toxic Release Inventory Requirements - Attorney Tschantz introduced the item and distributed written information. Attorney Rick Muratti, EPC Legal Department, utilized a slide presentation to highlight the EPC goal to reduce the burden on industry by streamlining and improving software, make more facilities eligible to use a short form for reporting, and move from annual reporting of releases to every other year. The deadline to comment on form changes was December 5, 2005. EPC would try to keep the current rule in place. Staff would continue to review the rule and comment to the EPA as appropriate. **Commissioner Scott moved staff recommendation, seconded by Commissioner Storms, and carried seven to zero.**

Request to Intervene in the Honeywell International vs. the Department of Environmental Protection (DEP) Administrative Case Regarding the Remedial Action Plan Modification Issued by DEP - Attorney Tschantz presented the item. **Commissioner Storms so moved, seconded by Commissioner Sharpe, and carried seven to zero.**

#### ENVIRONMENTAL RESOURCES MANAGEMENT (ERM) DIVISION

Update on Red Tide - Dr. Cynthia A. Heil, Fish and Wildlife Research Institute, Florida Fish and Wildlife Conservation Commission, utilized an overhead presentation and videotape to provide facts about red tide, highlighting methods to track red tide, measure toxins, funding, nutrient sources, and research programs. Red tide was not linked to discharge from Piney Point. Severe red tide years occurred every 15 to 20 years. Dr. Garrity would supply the videotape to the National Estuary Program for distribution to other counties.

Discussion Regarding the Proposed Alternative Dissolved Oxygen Criteria - Dr. Gerold Morrison, Director, EPC ERM Division, distributed and reviewed a slide presentation, which included a brief history, issues, requests to DEP, and DEP response to forward the proposed alternatives to the local community for a 30-day review period. After Tampa Bay Water addressed local issues, a public hearing would be held in the area to review the draft proposals. If DEP decided to adopt the alternative criteria, a 21-day opportunity would be provided if there was a need to challenge the decision. Staff was satisfied with that response and would be active participants in the process; any further issues would be brought to EPC. No action was necessary.

#### AIR MANAGEMENT DIVISION

Fish Advisory Update Presentation - Dr. Garrity introduced the item and recalled the state of the environment report, which included information about

THURSDAY, NOVEMBER 17, 2005 - DRAFT MINUTES

mercury and fish. Dr. Debra Price, EPC staff, recalled EPC direction to contact the Children's Board and do a public service announcement on Hillsborough Television Channel 22 (HTV22) regarding the fish advisory and an information request on fresh water species, discussed the formation of a workgroup to disseminate information, and submitted a rack card/fact sheet. Ms. Barbara Motte, EPC staff, introduced a public service announcement developed by HTV22, which would begin airing on HTV22, if approved. **Commissioner Scott so moved, seconded by Commissioner Storms, and carried six to zero.** (Commissioner Hagan was out of the room.)

Commissioner Storms suggested information be distributed through the Hillsborough County Medical Association to area pediatricians, opined care pregnancy centers would benefit from the information, and recommended including examples of fish in the public service announcements.

COMMISSIONERS' REQUEST

Delegation of State and Federal Wetlands Permitting - Attorney Andrew Zodrow, EPC Legal Department, gave a status report on legislation directing EPC to the Army Corps of Engineers and federal government to obtain delegation of wetland permitting authority for wetland impacts of ten acres or less. People were seeking streamlining, because the federal government took a long time to process permit applications; however, those requirements would not go away if permitting were delegated to the State without additional congressional action. More importantly, staff had looked at EPC obtaining delegation of the State program; a statute provided for and encouraged that. Attorney Zodrow pointed out EPC could obtain delegation and keep the stricter standards. Staff recommended EPC request staff evaluate the steps necessary for EPC to obtain wetland delegation from the State DEP and from the federal government. After commenting on the benefit of local permitting, **Commissioner Storms moved staff recommendation that EPC begin to analyze how EPC could be the delegated authority under wetlands management, seconded by Commissioner Blair.** Chairman Castor said research showed the Army Corps of Engineers, from 1999 to 2003, issued 12,000 permits and denied only 1; the federal policy was no net loss of wetlands, but research demonstrated Florida lost over 80,000 acres of wetlands during that time. **The motion carried six to zero.** (Commissioner Hagan was out of the room.)

EXECUTIVE DIRECTOR'S REPORT

Health Department Memorandum of Understanding (MOU) - Dr. Garrity reported the ten-year MOU had addressed water in the past. The new, recently signed MOU

THURSDAY, NOVEMBER 17, 2005 - DRAFT MINUTES

went beyond that, it was proactive and addressed both environmental and health issues. Environmental health teams had been established that would be prepared to identify populations at risk for various episodes and normal duties of each agency were detailed so there would be no confusion for the public or staff.

Southwest Florida Water Management District (SWFWMD) MOU - Dr. Garrity said the MOU had been signed, which involved mitigation compliance and complaint investigation, avoided duplication, and promoted streamlining and efficiency.

Dr. Douglas Holt, Director, Hillsborough County Health Department, said staff at EPC and the Health Department were dedicated and determined professionals who frequently worked together even though the current MOU was somewhat limited. There would be times staff disagreed, but the MOU would help ensure the valuable partnership continued.

Responding to Chairman Castor, Dr. Garrity asked EPC to ratify both MOUs. **Commissioner Scott so moved, seconded by Commissioner Storms, and carried six to zero.** (Commissioner Hagan was out of the room.)

CITIZENS COMMENTS - RESUMED

Ms. Denise Layne, representing the Tampa Bay Group of the Sierra Club, said the Cypress Creek town center was in permitting discussions with SWFWMD and the Army Corps of Engineers. The deadline to file with SWFWMD had passed, but developers had to answer 132 questions. She asked that EPC send e-mail to SWFWMD to be placed on the list to receive notification when SWFWMD reached a decision so the Water Resource Team would be aware. The deadline to file comments was November 13, 2005. Regarding the wetland bill, Ms. Layne reported a new bill proposed would go beyond the ten acres and would try to delegate and demand local review of wetland permitting be given to the State.

In answer to Chairman Castor, Attorney Tschantz confirmed he was monitoring legislation, particularly in relation to delegation of authority on wetlands, and stated EPC was on the list to speak at the local delegation meeting.

THURSDAY, NOVEMBER 17, 2005 - DRAFT MINUTES

There being no further business, the meeting was adjourned at 11:16 a.m.

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

ATTEST:  
PAT FRANK, CLERK

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

sd



MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION  
**November**

A.	Public Outreach/Education Assistance:	
1.	Phone Calls:	<u>358</u>
2.	Literature Distributed:	<u>0</u>
3.	Presentations:	<u>4</u>
4.	Media Contacts:	<u>1</u>
5.	Internet:	<u>68</u>
6.	Host/Sponsor Workshops, Meetings, Special Events (Farm Festival, Great American Teach In)	<u>2</u>
B.	Industrial Air Pollution Permitting	
1.	Permit Applications Received (Counted by Number of Fees Received):	
a.	Operating:	<u>7</u>
b.	Construction:	<u>17</u>
c.	Amendments:	<u>0</u>
d.	Transfers/Extensions:	<u>2</u>
e.	General:	<u>0</u>
f.	Title V:	<u>0</u>
2.	Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected) - ( <sup>2</sup> Counted by Number of Emission Units affected by the Review):	
a.	Operating <sup>1</sup> :	<u>3</u>
b.	Construction <sup>1</sup> :	<u>7</u>
c.	Amendments <sup>1</sup> :	<u>0</u>
d.	Transfers/Extensions <sup>1</sup> :	<u>0</u>
e.	Title V Operating <sup>2</sup> :	<u>15</u>
f.	Permit Determinations:	<u>0</u>
g.	General:	<u>2</u>
3.	Intent to Deny Permit Issued:	<u>1</u>
C.	Administrative Enforcement	
1.	New cases received:	<u>1</u>
2.	On-going administrative cases:	
a.	Pending:	<u>8</u>
b.	Active:	<u>14</u>
c.	Legal:	<u>5</u>
d.	Tracking compliance (Administrative):	<u>25</u>
e.	Inactive/Referred cases:	<u>0</u>
	Total	<u>52</u>
3.	NOIs issued:	<u>0</u>
4.	Citations issued:	<u>0</u>
5.	Consent Orders Signed:	<u>2</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$2,906.25</u>
7.	Cases Closed:	<u>1</u>

D.	Inspections:	
1.	Industrial Facilities:	<u>12</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>0</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>13</u>
E.	Open Burning Permits Issued:	<u>5</u>
F.	Number of Division of Forestry Permits Monitored:	<u>210</u>
G.	Total Citizen Complaints Received:	<u>48</u>
H.	Total Citizen Complaints Closed:	<u>33</u>
I.	Noise Sources Monitored:	<u>9</u>
J.	Air Program's Input to Development Regional Impacts:	<u>6</u>
K.	Test Reports Reviewed:	<u>179</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>15</u>
2.	Warning Notices Resolved:	<u>12</u>
3.	Advisory Letters Issued:	<u>13</u>
M.	AOR's Reviewed:	<u>8</u>
N.	Permits Reviewed for NESHP Applicability:	<u>0</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION  
November

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$ 0
(b) all others	<u>\$ 960</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>\$2,640.00</u>
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$6,400.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$ 0</u>
4. Non-delegated permit revision for an air pollution source	<u>\$ 0</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$ 0</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	\$2,800.00
(b) for structure greater than 50,000 sq ft	<u>\$ 400.00</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$1,500.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$2,000.00</u>
8. Open burning authorization	<u>\$2,200.00</u>
9. Enforcement Costs	<u>\$ 0</u>

MONTHLY ACTIVITIES REPORT  
AIR MANAGEMENT DIVISION  
December 2005

A. Public Outreach/Education Assistance:		
1. Phone Calls:		193
2. Literature Distributed:		<u>50</u>
3. Presentations:		<u>1</u>
4. Media Contacts:		<u>2</u>
5. Internet:		<u>67</u>
6. Host/Sponsor Workshops, Meetings, Special Events		<u>0</u>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		1
b. Construction:		<u>10</u>
c. Amendments:		<u>0</u>
d. Transfers/Extensions:		<u>0</u>
e. General:		<u>0</u>
f. Title V:		<u>0</u>
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval ( <sup>1</sup> Counted by Number of Fees Collected) - ( <sup>2</sup> Counted by Number of Emission Units affected by the Review):		
a. Operating <sup>1</sup> :		8
b. Construction <sup>1</sup> :		<u>4</u>
c. Amendments <sup>1</sup> :		<u>0</u>
d. Transfers/Extensions <sup>1</sup> :		<u>2</u>
e. Title V Operating <sup>2</sup> :		<u>49</u>
f. Permit Determinations <sup>2</sup> :		<u>2</u>
g. General:		<u>0</u>
3. Intent to Deny Permit Issued:		<u>1</u>
C. Administrative Enforcement		
1. New cases received:		<u>3</u>
2. On-going administrative cases:		
a. Pending:		9
b. Active:		<u>16</u>
c. Legal:		<u>5</u>
d. Tracking compliance (Administrative):		<u>25</u>
e. Inactive/Referred cases:		<u>0</u>
	Total	<u>55</u>
3. NOIs issued:		<u>0</u>
4. Citations issued:		<u>0</u>
5. Consent Orders Signed:		<u>1</u>
6. Contributions to the Pollution Recovery Fund:		<u>\$8,281</u>
7. Cases Closed:		<u>0</u>

D.	Inspections:	
1.	Industrial Facilities:	<u>6</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>3</u>
c.	Major Sources	<u>2</u>
3.	Asbestos Demolition/Renovation Projects:	<u>0</u>
E.	Open Burning Permits Issued:	<u>8</u>
F.	Number of Division of Forestry Permits Monitored:	<u>400</u>
G.	Total Citizen Complaints Received:	<u>69</u>
H.	Total Citizen Complaints Closed:	<u>45</u>
I.	Noise Sources Monitored:	<u>1</u>
J.	Air Program's Input to Development Regional Impacts:	<u>2</u>
K.	Test Reports Reviewed:	<u>53</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>12</u>
2.	Warning Notices Resolved:	<u>6</u>
3.	Advisory Letters Issued:	<u>4</u>
M.	AOR's Reviewed:	<u>0</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>7</u>

FEES COLLECTED FOR AIR MANAGEMENT DIVISION  
December 2005

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	\$ <u>0</u>
(b) all others	\$ <u>960</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	\$ <u>0</u>
(b) class A2 facility - 5 year permit	\$ <u>0</u>
(c) class A1 facility - 5 year permit	\$ <u>0</u>
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	\$ <u>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>2,000.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	\$ <u>0</u>
4. Non-delegated permit revision for an air pollution source	\$ <u>0</u>
5. Non-delegated permit transfer of ownership, name change or extension	\$ <u>0</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	\$ <u>5,200.00</u>
(b) for structure greater than 50,000 sq ft	\$ <u>300.00</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>3,000.00</u>
8. Open burning authorization	\$ <u>3,600.00</u>
9. Enforcement Costs	\$ <u>1,324.00</u>

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



Roger P. Stewart Center  
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 Ph: (813) 627-2600  
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 Admin. 627-2620 Waste 627-2640  
 Legal 627-2602 Wetlands 627-2630  
 Water 627-2670 ERM 627-2650  
 Air 627-2660 Lab 272-5157

Executive Director  
 Richard D. Garrity, Ph.D.

**MEMORANDUM**

**DATE:** January 4, 2006

**TO:** Tom Koulianos, Director of Finance and Administration

**FROM:** *JHM* Joyce H. Moore, Administrative Specialist, Waste Management Division  
 through  
 Hooshang Boostani, Director of Waste Management

**SUBJECT:** **WASTE MANAGEMENT'S NOVEMBER & DECEMBER 2005  
 AGENDA INFORMATION**

**A. ADMINISTRATIVE ENFORCEMENT**

	November	December
1. New cases received	1	0
2. On-going administrative cases	103	103
a. Pending	2	2
b. Active	53	53
c. Legal	5	5
d. Tracking Compliance (Administrative)	29	29
e. Inactive/Referred cases	14	14
3. NOI's issued	0	0
4. Citations issued	0	0
5. Settlement Documents Signed	1	0
6. Civil Contributions to the Pollution Recovery Fund	\$5,000	0
7. Enforcement Costs collected	\$3,271	\$626
9. Cases Closed	1	1

**B. SOLID AND HAZARDOUS WASTE**

	<b>November</b>	<b>December</b>
1. Permits (received/reviewed)	52/62	52/47
2. EPC Authorization for Facilities NOT requiring DEP permit	1 / 2	0/1
3. Other Permits and Reports		
a. County Permits	2/2	2/1
b. Reports	48/58	52/41
4. Inspections (Total)	286	1,444
a. Complaints	20	17
b. Compliance/Reinspections	18	12
c. Facility Compliance	55	41
d. Small Quantity Generator	193	1,374
e. P2 Audits	0	0
5. Enforcement		
a. Complaints Received/Closed	16/20	20/10
b. Warning Notices Issued/Closed	2/2	7/5
c. Compliance letters	55	36
d. Letters of Agreement Issued/Closed	0	0
e. DEP Referrals	4	3
6. Pamphlets, Rules and Material Distributed	121	73

**C. STORAGE TANK COMPLIANCE**

	<b>November</b>	<b>December</b>
1. Inspections		
a. Compliance	89	88
b. Installation	24	36
c. Closure	10	6
d. Compliance Re-Inspections	20	19
2. Installation Plans Received/Reviewed	7/7	9/13
3. Closure Plans & Reports		
a. Closure Plans Received/ Reviewed	7/8	7/7
b. Closure Reports Received/Reviewed	10/10	10/1
4. Enforcement		
a. Non-compliance Letters Issued/Closed	41/21	56/27
b. Warning Notices Issued/Closed	2/2	2/1
c. Cases referred to Enforcement	0	0
d. Complaints Received/Investigated	3/3	1/1
e. Complaints Referred	0	0
5. Discharge Reporting Forms Received	3	4
6. Incident Notification Forms Received	4	2
7. Cleanup Notification Letters Issued	4	1
8. Public Assistance	200+	200+



**D. STORAGE TANK CLEANUP**

	<b>November</b>	<b>December</b>
1. Inspections	63	27
2. Reports Received/Reviewed	100/100	113/110
a. Site Assessment	16/20	9/9
b. Source Removal	1 /2	2/2
c. Remedial Action Plans (RAP's)	12/11	58/58
d. Site Rehabilitation Completion Order/ No Further Action Order	3/6	8/8
e. Others	68/61	36/33
3. State Cleanup		
a. Active Sites	<b>NO LONGER ADMINISTERED</b>	
b. Funds Dispersed		

**E. RECORD REVIEWS**

**33 - November    24 - December**

**F. PUBLIC INFORMATION PROJECTS**

**November**

T. Galluzzo, Great American Teach-In

**December**

No projects

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

**A. ENFORCEMENT**

1. New Enforcement Cases Received:	2
2. Enforcement Cases Closed:	3
3. Enforcement Cases Outstanding:	58
4. Enforcement Documents Issued:	6
5. Recovered costs to the General Fund:	\$1,070.00
6. Contributions to the Pollution Recovery Fund:	\$13,212.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Tampa Electric Co.	Construction without permit/ Placement of c/s in service without acceptance letter	\$1,500.00
b. Temple Terrace Church of Christ	Placement of c/s in service without acceptance letter	\$150.00
c. Yara Inc.	Water pollution/Unpermitted discharge	\$4,412.00
d. Yara Inc.	Water pollution/Unpermitted discharge	\$2,150.00
d. Tampa Bay Water	Industrial Wastewater Discharge/Water Pollution	\$5,000.00

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

1. Permit Applications Received:	26
a. Facility Permit:	2
(i) Types I and II	0
(ii) Types III	2
b. Collection Systems-General	12
c. Collection Systems-Dry Line/Wet Line:	10
d. Residuals Disposal:	0
2. Permit Applications Approved:	27
a. Facility Permit:	1
b. Collection Systems-General:	17
c. Collection Systems-Dry Line/Wet Line:	9
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:	1
	a. Facility Permit:	0
	b. Collection Systems-General:	0
	c. Collection Systems-Dry Line/Wet Line:	1
	d. Residuals Disposal:	0
6.	Permit Applications Outstanding:	60
	a. Facility Permit:	10
	b. Collection Systems-General:	35
	c. Collection Systems-Dry Line/Wet Line:	15
	d. Residuals Disposal:	0
7.	Permit Determination:	3
8.	Special Project Reviews:	2
	a. Reuse:	0
	b. Residuals/AUPs:	0
	c. Others:	2
<b>C.</b>	<b>INSPECTIONS - DOMESTIC</b>	<b>86</b>
1.	Compliance Evaluation:	7
	a. Inspection (CEI):	3
	b. Sampling Inspection (CSI):	4
	c. Toxics Sampling Inspection (XSI):	0
	d. Performance Audit Inspection (PAI):	0
2.	Reconnaissance:	41
	a. Inspection (RI):	11
	b. Sample Inspection (SRI):	0
	c. Complaint Inspection (CRI):	31
	d. Enforcement Inspection (ERI):	0
3.	Engineering Inspections:	38
	a. Reconnaissance Inspection (RI):	2
	b. Sample Reconnaissance Inspection (SRI):	0
	c. Residual Site Inspection (RSI):	0
	d. Preconstruction Inspection (PCI):	9
	e. Post Construction Inspection (XCI):	27
	f. On-site Engineering Evaluation:	0
	g. Enforcement Reconnaissance Inspection (ERI):	0

<b>D. PERMITTING/PROJECT REVIEW - INDUSTRIAL</b>	<b>101</b>
1. Permit Applications Received:	1
a. Facility Permit:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	1
b. General Permit:	0
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:	2
3. Special:	2
a. Facility Permits:	2
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	98
a. Phosphate:	27
b. Industrial Wastewater:	33
c. Others:	38
<b>E. INSPECTIONS - INDUSTRIAL</b>	<b>27</b>
1. Compliance Evaluation:	9
a. Inspection (CEI):	9
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	13
a. Inspection (RI):	7
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	5
d. Enforcement Reconnaissance Inspections (ERI):	1
3. Engineering Inspections:	5
a. Compliance Evaluation (CEI):	5
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0

<b>F. INVESTIGATION/COMPLIANCE</b>	
1. Citizen Complaints:	34
a. Domestic:	27
(i) Received:	15
(ii) Closed:	12
b. Industrial:	7
(i) Received:	5
(ii) Closed:	2
2. Warning Notices:	14
a. Domestic:	12
(i) Received:	6
(ii) Closed:	6
b. Industrial:	2
(i) Received:	1
(ii) Closed:	1
3. Non-Compliance Advisory Letters:	16
4. Environmental Compliance Reviews:	123
a. Industrial:	100
b. Domestic:	23
5. Special Project Reviews:	0
<b>G. RECORD REVIEWS</b>	6
1. Permitting:	6
2. Enforcement:	0
<b>H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:</b>	225
1. Air Division:	49
2. Waste Division:	0
3. Water Division:	6
4. Wetlands Division:	0
5. ERM Division:	135
6. Biomonitoring Reports:	13
7. Outside Agency:	22
<b>I. SPECIAL PROJECT REVIEWS:</b>	8
1. DRIs:	3
2. ARs:	1
3. Technical Support:	2
4. Other:	2

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

**A. ENFORCEMENT**

1. New Enforcement Cases Received:	4
2. Enforcement Cases Closed:	5
3. Enforcement Cases Outstanding:	55
4. Enforcement Documents Issued:	7
5. Recovered costs to the General Fund:	\$1,866.00
6. Contributions to the Pollution Recovery Fund:	\$2,200.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Temple Terrace Church of Christ	Placement of C/S in service without acceptance letter.	\$100.00
b. Certified Spring	Placement of C/S in service without acceptance letter.	\$500.00
c. Brewer & Sons MHP	Improper operation/failure to maintain/unpermitted discharge	\$1,100.00
d. Clipper Bay Apts.	Placement of C/S in service without acceptance letter.	\$500.00

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

1. Permit Applications Received:	29
a. Facility Permit:	5
(i) Types I and II	1
(ii) Types III	4
b. Collection Systems-General	7
c. Collection Systems-Dry Line/Wet Line:	12
d. Residuals Disposal:	0
2. Permit Applications Approved:	27
a. Facility Permit:	1
b. Collection Systems-General:	12
c. Collection Systems-Dry Line/Wet Line:	14
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:	1
	a. Facility Permit:	0
	b. Collection Systems-General:	1
	c. Collection Systems-Dry Line/Wet Line:	0
	d. Residuals Disposal:	0
6.	Permit Applications Outstanding:	56
	a. Facility Permit:	14
	b. Collection Systems-General:	29
	c. Collection Systems-Dry Line/Wet Line:	13
	d. Residuals Disposal:	0
7.	Permit Determination:	2
8.	Special Project Reviews:	1
	a. Reuse:	0
	b. Residuals/AUPs:	0
	c. Others:	1
<b>C. INSPECTIONS - DOMESTIC</b>		
1.	Compliance Evaluation:	10
	a. Inspection (CEI):	3
	b. Sampling Inspection (CSI):	5
	c. Toxics Sampling Inspection (XSI):	0
	d. Performance Audit Inspection (PAI):	2
2.	Reconnaissance:	35
	a. Inspection (RI):	12
	b. Sample Inspection (SRI):	0
	c. Complaint Inspection (CRI):	22
	d. Enforcement Inspection (ERI):	1
3.	Engineering Inspections:	36
	a. Reconnaissance Inspection (RI):	4
	b. Sample Reconnaissance Inspection (SRI):	0
	c. Residual Site Inspection (RSI):	0
	d. Preconstruction Inspection (PCI):	14
	e. Post Construction Inspection (XCI):	18
	f. On-site Engineering Evaluation:	0
	g. Enforcement Reconnaissance Inspection (ERI):	0

<b>D. PERMITTING/PROJECT REVIEW - INDUSTRIAL</b>	<b>62</b>
1. Permit Applications Received:	<u>0</u>
a. Facility Permit:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with Groundwater Monitoring:	<u>0</u>
(iii) Type III w/o Groundwater Monitoring:	1
b. General Permit:	<u>0</u>
c. Preliminary Design Report:	<u>0</u>
(i) Types I and II	<u>0</u>
(ii) Type III with Groundwater Monitoring:	<u>0</u>
(iii) Type III w/o Groundwater Monitoring:	<u>0</u>
2. Permits Recommended to DEP for Approval:	1
3. Special:	0
a. Facility Permits:	0
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	<b>60</b>
a. Phosphate:	11
b. Industrial Wastewater:	0
c. Others:	49
<b>E. INSPECTIONS - INDUSTRIAL</b>	
1. Compliance Evaluation:	<b>8</b>
a. Inspection (CEI):	8
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	<b>14</b>
a. Inspection (RI):	5
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	9
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	<b>0</b>
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



<b>F. INVESTIGATION/COMPLIANCE</b>	
1. Citizen Complaints:	43
a. Domestic:	29
(i) Received:	10
(ii) Closed:	19
b. Industrial:	14
(i) Received:	6
(ii) Closed:	8
2. Warning Notices:	13
a. Domestic:	12
(i) Received:	8
(ii) Closed:	4
b. Industrial:	1
(i) Received:	1
(ii) Closed:	0
3. Non-Compliance Advisory Letters:	18
4. Environmental Compliance Reviews:	217
a. Industrial:	164
b. Domestic:	53
5. Special Project Reviews:	0
<b>G. RECORD REVIEWS</b>	3
1. Permitting:	3
2. Enforcement:	0
<b>H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:</b>	326
1. Air Division:	159
2. Waste Division:	0
3. Water Division:	9
4. Wetlands Division:	0
5. ERM Division:	112
6. Biomonitoring Reports:	7
7. Outside Agency:	39
<b>I. SPECIAL PROJECT REVIEWS:</b>	15
1. DRIs:	1
2. ARs:	0
3. Technical Support:	0
4. Other:	14

**EPC WETLANDS MANAGEMENT DIVISION  
BACKUP AGENDA  
November 2005**

<b>A. General</b>	<b>Totals</b>
1. Telephone Conferences	765
2. Unscheduled Citizen Assistance	110
3. Scheduled Meetings	254
4. Correspondence	24
<b>B. Assessment Reviews</b>	
1. Wetland Delineations	79
2. Surveys	31
3. Miscellaneous Activities in Wetland	29
4. Impact/ Mitigation Proposal	25
5. Tampa Port Authority Permit Applications	35
6. Wastewater Treatment Plants (FDEP)	3
7. DRI Annual Report	2
8. Land Alteration/Landscaping	0
9. Land Excavation	1
10. Phosphate Mining	1
11. Rezoning Reviews	66
12. CPA	4
13. Site Development	56
14. Subdivision	57
15. Wetland Setback Encroachment	2
16. Easement/Access-Vacating	2
17. Pre-Applications	41
18. On-Site Visits	175
<b>C. Investigation and Compliance</b>	
1. Complaints Received	40
2. Complaints Closed	34
3. Warning Notices Issued	14
4. Warning Notices Closed	12
5. Complaint Inspections	58
6. Return Compliance Inspections	15
7. Mitigation Monitoring Reports	2
8. Mitigation Compliance Inspections	32
9. Erosion Control Inspections	121
<b>D. Enforcement</b>	
1. Active Cases	39
2. Legal Cases	3
3. NOI's	5
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	9
6. Administrative - Civil Cases Closed	12
7. Cases Referred to Legal Department	3
8. Contributions to Pollution Recovery	\$9,750.00
9. Enforcement Costs Collected	\$4,035.00

**EPC WETLANDS MONTHLY WORKSHEET**

General	Enforcement	Compliance	Assessment	Engineering	Admin	Totals
Telephone Conferences			337	30	398	765
Unscheduled Citizen Assistance			70	7	33	110
Scheduled Meetings			101	43	110	254
Correspondence	24					24
Assessment Reviews						
Wetland Delineations			79			79
Surveys			31			31
Miscellaneous Activities in Wetland			29			29
Impact/ Mitigation Proposal			25			25
Tampa Port Authority Permit Applications			35			35
Wastewater Treatment Plants (FDEP)			3			3
DRI Annual Report			2			2
Land Alteration/Landscaping						0
Land Excavation			1			1
Phosphate Mining			1			1
Rezoning Reviews			66			66
CPA			4			4
Site Development			56			56
Subdivision			57			57
Wetland Setback Encroachment			2			2
Easement/Access-Vacating			2			2
Pre-Applications			41			41
On-Site Visits		45	130			175
Investigation and Compliance						
Complaints Received		40				40
Complaints Closed		34				34
Warning Notices Issued		14				14
Warning Notices Closed		12				12
Complaint Inspections		56		2		58
Return Compliance Inspections		15				15
Mitigation Monitoring Reports				2		2
Mitigation Compliance Inspections		29		3		32
Erosion Control Inspections		121				121
Enforcement						
Active Cases	39					39
Legal Cases	3					3
NOI's	5					5
Number of Citations Issued						0
Number of Consent Orders Signed	9					9
Administrative - Civil Cases Closed	12					12
Cases Referred to Legal Department	3					3
Contributions to Pollution Recovery	\$9,750					#####
Enforcement Costs Collected	\$4,035					#####

**EPC WETLANDS MANAGEMENT DIVISION  
BACKUP AGENDA  
December 2005**

A. General	Totals
1. Telephone Conferences	676
2. Unscheduled Citizen Assistance	116
3. Scheduled Meetings	281
4. Correspondence	55
B. Assessment Reviews	
1. Wetland Delineations	65
2. Surveys	38
3. Miscellaneous Activities in Wetland	22
4. Impact/ Mitigation Proposal	25
5. Tampa Port Authority Permit Applications	36
6. Wastewater Treatment Plants (FDEP)	1
7. DRI Annual Report	2
8. Land Alteration/Landscaping	4
9. Land Excavation	3
10. Phosphate Mining	6
11. Rezoning Reviews	42
12. CPA	1
13. Site Development	58
14. Subdivision	81
15. Wetland Setback Encroachment	6
16. Easement/Access-Vacating	1
17. Pre-Applications	36
18. On-Site Visits	152
C. Investigation and Compliance	
1. Complaints Received	19
2. Complaints Closed	45
3. Warning Notices Issued	6
4. Warning Notices Closed	7
5. Complaint Inspections	57
6. Return Compliance Inspections	35
7. Mitigation Monitoring Reports	1
8. Mitigation Compliance Inspections	43
9. Erosion Control Inspections	68
D. Enforcement	
1. Active Cases	37
2. Legal Cases	3
3. NOI's	2
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	7
6. Administrative - Civil Cases Closed	7
7. Cases Referred to Legal Department	3
8. Contributions to Pollution Recovery	\$13,450.00
9. Enforcement Costs Collected	\$2,740.00

## EPC WETLANDS MONTHLY WORKSHEET

General	Enforcement	Compliance	Assessment	Engineering	Admin	Totals
Telephone Conferences			233		443	676
Unscheduled Citizen Assistance		3	85		28	116
Scheduled Meetings			103	40	138	281
Correspondence	22	31		2		55
Assessment Reviews						
Wetland Delineations			65			65
Surveys			38			38
Miscellaneous Activities in Wetland			22			22
Impact/ Mitigation Proposal			25			25
Tampa Port Authority Permit Applications			36			36
Wastewater Treatment Plants (FDEP)			1			1
DRI Annual Report			2			2
Land Alteration/Landscaping			4			4
Land Excavation			3			3
Phosphate Mining			6			6
Rezoning Reviews			42			42
CPA			1			1
Site Development			58			58
Subdivision			81			81
Wetland Setback Encroachment			6			6
Easement/Access-Vacating			1			1
Pre-Applications			36			36
On-Site Visits		19	132	1		152
Investigation and Compliance						
Complaints Received		19				19
Complaints Closed		45				45
Warning Notices Issued		6				6
Warning Notices Closed		7				7
Complaint Inspections		55	2			57
Return Compliance Inspections		35				35
Mitigation Monitoring Reports		1				1
Mitigation Compliance Inspections		43				43
Erosion Control Inspections		68				68
Enforcement						
Active Cases	37					37
Legal Cases	3					3
NOI's	2					2
Number of Citations Issued						0
Number of Consent Orders Signed	7					7
Administrative - Civil Cases Closed	7					7
Cases Referred to Legal Department	3					3
Contributions to Pollution Recovery	\$13,450					#####
Enforcement Costs Collected	\$2,740					#####

ENVIRONMENTAL PROTECTION COMMISSION  
 OF HILLSBOROUGH COUNTY  
 POLLUTION RECOVERY TRUST FUND  
 AS OF 12/31/05

Balance as of 10/01/05	*	\$1,491,768
Interest Accrued		13,238
Deposits	FY06	72,232
Disbursements	FY06	50,997

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Pollution Recovery Fund Balance \$1,526,241

Encumbrances:

Remedial Illegal Dump Asbestos (66)		4,486
USF Seagrass Restoration (99)		2,024
HCC Seagrass Restoration		24,020
Agr Pesticide Collection (100)		18,355
Riverview Library Invasive Plant Removal		10,000
Simmons Park Invasive Plant Removal		60,000
Florida Aquarium/Stormwater Mgmt		30,000
Tampa Adopa a Shor Vol Restoration		-
Water Drop Patch/Girl Scouts		7,350
Artificial Reef Program		125,560
Pollution Prevention/Waste Reduction (101)		26,749
PRF Project Monitoring		\$ 34,182
Total of Encumbrances		\$ 342,726

Minimum Balance (Reserve) \$ 120,000

Balance Available 12/31/05 \$ 1,063,515

\* 10-002-910 Included

Brazilian Pepper (92)		\$ 26,717
COT Parks Dept/Cypress Point (97)		100,000
Bahia Beach Restoration (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 Restoration & Maint.		41,379
Port of Tampa Stormwater Improvement		45,000
G. Maynard Underground Stg Tank Closure		20,000
School Bus Diesel Retrofit		100,000
Natures Classroom Capital Campaign		44,000
Total		<u>\$ 683,627</u>

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



Roger P. Stewart Center  
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 Legal 627-2602 Wetlands 627-2630  
 Water 627-2670 ERM 627-2650  
 Air 627-2660 Lab 272-5157

Executive Director  
 Richard D. Garrity, Ph.D.

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

Fund Balance as of 10/01/05	\$ 608,646
Interest Accrued	3,693
Disbursements FY06	- 0 -

Fund Balance	\$ 612,339
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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	244,691
 Total of Encumbrances	 \$ 612,339

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

**Date of EPC Meeting:** January 12, 2006

**Subject:** Legal Case Summary for December 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 to file an administrative 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 December 2005 legal case summary, and in a separate agenda item the case summary for January 2006. The summaries generally detail pending civil and administrative cases where one party has initiated some form of civil or administrative litigation, as opposed other Legal Department cases that have not risen to that level. There is also a listing of cases where parties have asked for additional time in order to allow them to decide whether they wish to file an administrative challenge to an agency action.

**List of Attachments:** December 2005 EPC Legal Case Summary



**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**December 2005**

**A. ADMINISTRATIVE CASES**

**NEW CASES** [ 0 ]

**EXISTING CASES** [ 6 ]

**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 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. Hillsborough County denied the re-zoning application and the EPC staff is waiting to see what new action the applicant takes. (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. The parties negotiated a settlement. The Clear Channel case has been dismissed by the Hearing Office and the EPC filed a motion to dismiss the Fair case also. (RT)

**EPC vs. USACOE and Florida Department of Environmental Protection** [LEPC05-005]: On February 11, 2005 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 January 10, 2006. The parties have sought an additional extension of time to continue negotiations. The parties are in negotiations to resolve the case. (AZ)

**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. On December 21, 2005, the parties entered into a settlement and the EPC has requested the Hearing Officer close the case. (AZ)

## **RESOLVED CASES [ 0 ]**

### **B. CIVIL CASES**

#### **NEW CASES [ 1 ]**

**Jozsi, Daniel A. and Celina v. EPC and Winterroth** [LEPC05-025]: Daniel A. and Celina Jozsi requested an appeal of a Consent Order entered into between James Winterroth and the EPC Executive Director. The appeal was not timely filed and the EPC dismissed the appeal. On December 8, 2005, the Jozsis appealed the order dismissing the appeal to the circuit court. The EPC is waiting to hear from the circuit court regarding further actions. (AZ)

#### **EXISTING CASES [ 15 ]**

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

**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. On November 1, 2005, the Legal Department filed a Motion for Default for failure to timely respond. The staff is in negotiations with a prospective purchaser of the facility. (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)

**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. On August 29 a variance application was filed by CCE with the EPC and was denied on October 20, 2005. The EPC Commission approved the settlement proposal on November 17, 2005 meeting. The EPC settled the cases on November 29, 2005, with CCE and December 8, 2005, with the Fair. The parties will move to dismiss the cases. There is also a consolidated administrative challenge to EPC citations which is a separate matter that is also pending dismissal and is described above in the administrative case section. (RT)

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**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 filed a civil lawsuit on September 8, 2005. The response was due on October 12, 2005. The EPC Legal Department filed a motion for default against Ahmed Lakhani on October 18, 2005. The other Defendant, L& D Petroleum has filed for bankruptcy protection. (AZ)

**Haaz Investments Two LLC a/k/a Presco Food Store #1** [LEPC05-024]: Authority was granted on August 18, 2005 to pursue appropriate legal action against Haaz Investments Two LLC for violations of the EPC and state petroleum contamination rules. On April 15, 2003, a Citation of Violation and Order to Correct was issued to Haaz Investments Two LLC 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)

**City of Tampa** [LEPC05-028]: On August 29, 2005, the City of Tampa filed a petition for eminent domain against the property owned by Georgia Maynard (*See related case above*). The City of Tampa is seeking to acquire a portion of the property through eminent domain. The EPC filed its answer on October 21, 2005. The Court entered an order for disbursement of funds from the City of Tampa to pay the EPC for its prior liens. (AZ)

#### RESOLVED CASES [ 1 ]

**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. On June 30, 2005, Hillsborough County filed a motion to dismiss for failure to prosecute the case. On October 31, 2005, the EPC also filed a motion to dismiss for failure to prosecute the case. On November 16, 2005, the Plaintiffs voluntarily dismissed the lawsuit and the matter has been closed. (RT and AZ)

#### C. OTHER OPEN CASES [ 18 ]

The following is a list of cases assigned to EPC Legal that are not in litigation, but the party or parties have asked 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 Appellant 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. A Consent Order was signed on October 7, 2005 and no further legal action is required at this time. (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. The suit could have been filed October 2005 but has not yet been filed. (RT)

**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. The Legal Department granted the request and provided the Appellant with a deadline of November 7, 2005 to file an appeal. On November 4, 2005 the Appellant filed a second request for extension of time. The Legal Department granted the request and provided the Appellant with a deadline for December 9, 2005 to file an appeal. On December 5, 2005, the Appellant once again requested an extension and the Legal Department granted a third extension of time. The Appellant has until June 5, 2006 to file an appeal in this matter. (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 mine-wide 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. On August 10, 2005, a third extension of time was provided to Mosaic to file the appeal before December 7, 2005. Finally, on December 1, 2005, Mosaic Phosphates filed a fourth request for an extension of time which has been granted. The Appellant shall have until January 31, 2006 to file an appeal. The extensions of time were provided to allow the parties to negotiate a settlement without the need of filing an appeal. (AZ)

**Tampa Bay Shipbuilding and Repair Company, Inc.** [LEPC05-019]: On July 22, 2005 Tampa Bay Shipbuilding and Repair Company, Inc. filed a request for extension of time to file a petition for administrative hearing regarding a Title V Draft Permit. The Legal Department approved the request and provided the Petitioner with a deadline of September 20, 2005 to file a petition. A second request for an extension of time was filed on September 15, 2005. The Legal Department approved the second request and provided a deadline of November 21, 2005. A third request was filed on November 15, 2005 and the Legal Department provided the petitioner with a deadline of February 20, 2006 to file a petition. (RT)

**Medallion Convenience Stores, Inc.** [LEPC05-023]: On August 10, 2005, Medallion Convenience Stores, Inc. filed a request for extension of time to file an appeal of a Citation of Violation and Order to Correct for unresolved assessment and remediation of contamination at the subject facility. The Legal Department approved the request and provided the Appellant with a deadline of November 9, 2005 to file an appeal. On November 8, 2005 the Appellant filed a second request for extension of time. The Legal Department granted the request and provided the Appellant with a deadline for December 9, 2005 to file an appeal. On December 8, 2005, the Appellant once again requested an extension and the Legal Department granted a third extension of time. The Appellant has until June 5, 2006 to file an appeal in this matter. (AZ)

**MDC 6, LLC** [LEPC05-022]: On August 10, 2005, MDC 6, LLC filed a request for extension of time to file an appeal of a Citation of Violation and Order to Correct for unresolved assessment and remediation of contamination at the subject facility. The Legal Department approved the request and provided the Appellant with a deadline of November 9, 2005 to file an appeal. On November 8, 2005 the Appellant filed a second request for extension of time. The Legal Department granted the request and provided the Appellant with a deadline for December 9, 2005 to file an appeal. On December 8, 2005, the Appellant once again requested an extension and the Legal Department granted a third extension of time. The Appellant has until June 5, 2006 to file an appeal in this matter. (AZ)

**Ball Metal Beverage Container Corporation** [LEPC05-026]: On August 19, 2005, Ball Metal Beverage Container Corporation filed a request for extension of time to file an appeal of a Title V Draft Permit. The Legal Department approved the request and provided the Appellant with a deadline of November 17, 2005 to file a petition. The Air Management Division re-issued a new draft permit for the facility. EPC and Ball Metal Beverage Container Corp. have agreed on the content of the draft permit and no further concerns are anticipated. (RT)

**John A. R. Grimaldi, Jr. M.D.** [LEPC05-027]: On September 5, 2005, John A. R. Grimaldi, Jr. filed a request for extension of time to file an appeal of the Executive Director's approval of a wetland line survey for his property located on the Tampa Interbay Peninsula. The Legal Department approved the request and provided the Appellant with a deadline of October 7, 2005 to file an appeal. The Legal Department granted a second extension until November 7, 2005 in response to a request filed on September 14, 2005. On October 27, 2005, a third request for an extension of time was filed. The Legal Department determined that the request was timely and showed good cause and granted the extension with a December 15, 2005 deadline. On November 23, 2005, Mr. Grimaldi filed a fourth

request for an extension of time which was approved by the Legal Department. The Appellant shall have until March 1, 2006 to file an appeal. (AZ)

**Connelly, Leonard and Lisa** [LEPC05-029]: On September 24, 2005, Leonard and Lisa Connelly filed a request for an extension of time to file an appeal of the Executive Director's decision to revoke a miscellaneous activities in wetlands permit for the property located at 7312 Egypt Lake Drive. The Legal Department has approved the request and provided the Appellant with a deadline of March 23, 2006. (AZ)

**Murphy Oil, Inc.** [LEPC05-030]: On October 4, 2005, Murphy Oil USA, Inc. filed a request for an extension of time to file a petition for administrative hearing regarding a revised draft construction permit. The Appellant requested additional time to review and respond to EPC comments. The Legal Department has approved the request and provided the Appellant with a deadline of January 2, 2006. The Petitioner filed a second request for extension on December 21, 2005 which was granted by the Legal Department. The Petitioner has until April 3, 2006 to file a petition in this matter. (RT)

**Jozsi, Daniel A. and Celina v. EPC and Winteroth** [LEPC05-032]: Daniel A. and Celina Jozsi requested an extension of time to file an appeal challenging a Consent Order entered into between James Winteroth and the EPC regarding corrective actions on an alleged wetland violation. The Request has been denied based on the untimely filing of the request. The Jozsi's have been given until October 31, 2005 to explain why the request should be considered timely. (AZ).

**Citgo Petroleum Corporation** [LEPC05-031]: On October 13, 2005 Citgo Petroleum Corporation filed a request for an extension of time to file a petition for administrative hearing regarding a Title V Draft Permit. The Legal Department approved the request and provided the petitioner with a deadline of December 12, 2005 to file a petition. On December 7, 2005, the petitioner filed a second request for extension of time which has been granted. The Petitioner shall have until February 10, 2006 to file a petition. (AZ)

**DiMare Ruskin, Inc.** [LEPC05-034] On November 3, 2005, DiMare Ruskin, Inc. filed a request for an extension of time to file a petition for administrative hearing regarding the denial of a notice general permit for an expansion to a tomato wash water disposal facility. The Legal Department has approved the request and provided the petitioner with a deadline of January 6, 2006, to file a petition. The parties are seeking resolution of the matter. (RM)

**America's Body Company** [LEPC05-035] : On November 23, 2005 the Legal Department received a request for an extension of time to file a petition for administrative hearing concerning a draft permit. The Legal Department has approved the request and provided the petitioner with a deadline of January 30, 2006 to file a petition in this matter. (RT)

**Debartolo Development, LLC** [LEPC05-037: On December 5, 2005 the Legal Department received a request for an extension of time to file an appeal of the decision denying proposed wetland impacts for Riverview Bell Plaza. The Legal Department has approved the request and provided the Appellant with a deadline of January 5, 2006 to file an appeal. (AZ)

**Eastern Terminals** [LEPC05-38] : On December 15, 2005, the Legal Department received a request for an extension of time to file a petition for administrative hearing concerning a Title V permit renewal. The Legal Department has approved the request and provided the petitioner with a deadline for February 13, 2006 to file a petition. (RT)

**Master Packaging** [LEPC05-039]: On December 22, 2005 the Legal Department received a request for an extension of time to file a petition for an administrative hearing concerning a Title V permit renewal. The Legal Department granted the request and provided the petitioner with a deadline of March 22, 2006 to file a petition. (RT)



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** January 12, 2006

**Subject:** Legal Case Summary for January 2006

**Consent Agenda**   X   **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 to file an administrative 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 January 2006 case summary. The summaries generally detail pending civil and administrative cases where one party has initiated some form of civil or administrative litigation, as opposed other Legal Department cases that have not risen to that level. There is also a listing of cases where parties have asked for additional time in order to allow them to decide whether they wish to file an administrative challenge to an agency action.

**List of Attachments:** January 2006 EPC Legal Case Summary

**EPC LEGAL DEPARTMENT MONTHLY REPORT**  
**January 2006**

**A. ADMINISTRATIVE CASES**

**NEW CASES** [ 0 ]

**EXISTING CASES** [ 6 ]

**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 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. Hillsborough County denied the re-zoning application and the EPC staff is waiting to see what new action the applicant takes. (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. The parties negotiated a settlement. The Clear Channel case has been dismissed by the Hearing Office and the EPC filed a motion to dismiss the Fair case also. (RT)

**EPC vs. USACOE and Florida Department of Environmental Protection** [LEPC05-005]: On February 11, 2005 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 January 10, 2006. The parties have sought an additional extension of time to continue negotiations. The parties are in negotiations to resolve the case. (AZ)

**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. On December 21, 2005, the parties entered into a settlement and the EPC has requested the Hearing Officer close the case. (AZ)

## RESOLVED CASES [ 0 ]

### B. CIVIL CASES

## NEW CASES [0 ]

## EXISTING CASES [ 16 ]

**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** [LHSH00-005]: 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)

**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. On November 1, 2005, the Legal Department filed a Motion for Default for failure to timely respond. The staff is in negotiations with a prospective purchaser of the facility. (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)

**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. On August 29 a variance application was filed by CCE with the EPC and was denied on October 20, 2005. The EPC Commission approved the settlement proposal on November 17, 2005 meeting. The EPC settled the cases on November 29, 2005, with CCE and December 8, 2005, with the Fair. The parties will move to dismiss the cases. There is also a consolidated administrative challenge to EPC citations which is a separate matter that is also pending dismissal and is described above in the administrative case section. (RT)

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**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 filed a civil lawsuit on September 8, 2005. The response was due on October 12, 2005. The EPC Legal Department filed a motion for default against Ahmed Lakhani on October 18, 2005. The other Defendant, L& D Petroleum has filed for bankruptcy protection. (AZ)

**Haaz Investments Two LLC a/k/a Presco Food Store #1** [LEPC05-024]: Authority was granted on August 18, 2005 to pursue appropriate legal action against Haaz Investments Two LLC for violations of the EPC and state petroleum contamination rules. On April 15, 2003, a Citation of Violation and Order to Correct was issued to Haaz Investments Two LLC 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)

**City of Tampa** [LEPC05-028]: On August 29, 2005, the City of Tampa filed a petition for eminent domain against the property owned by Georgia Maynard (*See related case above*). The City of Tampa is seeking to acquire a portion of the property through eminent domain. The EPC filed its answer on October 21, 2005. The Court entered an order for disbursement of funds from the City of Tampa to pay the EPC for its prior liens. (AZ)

**Jozsi, Daniel A. and Celina v. EPC and Winterroth** [LEPC05-025]: Daniel A. and Celina Jozsi requested an appeal of a Consent Order entered into between James Winterroth and the EPC Executive Director. The appeal was not timely filed and the EPC dismissed the appeal. On December 8, 2005, the Jozsis appealed the order dismissing the appeal to the circuit court. The EPC is waiting to hear from the circuit court regarding further actions. (AZ)

## RESOLVED CASES [ 0 ]

### C. OTHER OPEN CASES [ 16 ]

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

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**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. The Legal Department granted the request and provided the Appellant with a deadline of November 7, 2005 to file an appeal. On November 4, 2005 the Appellant filed a second request for extension of time. The Legal Department granted the request and provided the Appellant with a deadline for December 9, 2005 to file an appeal. On December 5, 2005, the Appellant once again requested an extension and the Legal Department granted a third extension of time. The Appellant has until June 5, 2006 to file an appeal in this matter. (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. On August 10, 2005, a third extension of time was provided to Mosaic to file the appeal before December 7, 2005. Finally, on December 1, 2005, Mosaic Phosphates filed a fourth request for an extension of time which has been granted. The Appellant shall have until January 31, 2006 to file an appeal. The extensions of time were provided to allow the parties to negotiate a settlement without the need of filing an appeal. (AZ)

**Tampa Bay Shipbuilding and Repair Company, Inc.** [LEPC05-019]: On July 22, 2005 Tampa Bay Shipbuilding and Repair Company, Inc. filed at request for extension of time to file a petition for administrative hearing regarding a Title V Draft Permit. The Legal Department approved the request and provided the Petitioner with a deadline of September 20, 2005 to file a petition. A second request for an extension of time was filed on September 15, 2005. The Legal Department approved the second request and provided a deadline of November 21, 2005. A third request was filed on November 15, 2005 and the Legal Department provided the petitioner with a deadline of February 20, 2006 to file a petition. (RT)

**Medallion Convenience Stores, Inc.** [LEPC05-023]: On August 10, 2005, Medallion Convenience Stores, Inc. filed a request for extension of time to file an appeal of a Citation of Violation and Order to Correct for unresolved assessment and remediation of contamination at the subject facility. The Legal Department approved the request and provided the Appellant with a deadline of November 9, 2005 to file an appeal. On November 8, 2005 the Appellant filed a second request for extension of time. The Legal Department granted the request and provided the Appellant with a deadline for December 9, 2005 to file an appeal. On December 8, 2005, the Appellant once again requested an extension and the Legal Department granted a third extension of time. The Appellant has until June 5, 2006 to file an appeal in this matter. (AZ)

**MDC 6, LLC** [LEPC05-022]: On August 10, 2005, MDC 6, LLC filed a request for extension of time to file an appeal of a Citation of Violation and Order to Correct for unresolved assessment and remediation of contamination at the subject facility. The Legal Department approved the request and provided the Appellant with a deadline of November 9, 2005 to file an appeal. On November 8, 2005 the Appellant filed a second request for extension of time. The Legal Department granted the request and provided the Appellant with a deadline for December 9, 2005 to file an appeal. On December 8, 2005, the Appellant once again requested an extension and the Legal Department granted a third extension of time. The Appellant has until June 5, 2006 to file an appeal in this matter. (AZ)

**Ball Metal Beverage Container Corporation** [LEPC05-026]: On August 19, 2005, Ball Metal Beverage Container Corporation filed a request for extension of time to file an appeal of a Title V Draft Permit. The Legal Department approved the request and provided the Appellant with a deadline of November 17, 2005 to file a petition. The Air Management Division re-issued a new draft permit for the facility. EPC and Ball Metal Beverage Container Corp. have agreed on the content of the draft permit and no further concerns are anticipated. (RT)

**John A. R. Grimaldi, Jr. M.D.** [LEPC05-027]: On September 5, 2005, John A. R. Grimaldi, Jr. filed a request for extension of time to file an appeal of the Executive Director's approval of a wetland line survey for his property located on the Tampa Interbay Peninsula. The Legal Department approved the request and provided the Appellant with a deadline of October 7, 2005 to file an appeal. The Legal Department granted a second extension until November 7, 2005 in response to a request filed on September 14, 2005. On October 27, 2005, a third request for an extension of time was filed. The Legal Department determined that the request was timely and showed good cause and granted the extension with a December 15, 2005 deadline. On November 23, 2005, Mr. Grimaldi filed a fourth request for an extension of time which was approved by the Legal Department. The Appellant shall have until March 1, 2006 to file an appeal. (AZ)

**Connelly, Leonard and Lisa** [LEPC05-029]: On September 24, 2005, Leonard and Lisa Connelly filed a request for an extension of time to file an appeal of the Executive Director's decision to revoke a miscellaneous activities in wetlands permit for the property located at 7312 Egypt Lake Drive. The Legal Department has approved the request and provided the Appellant with a deadline of March 23, 2006. (AZ)

**Murphy Oil, Inc.** [LEPC05-030]: On October 4, 2005, Murphy Oil USA, Inc. filed a request for an extension of time to file a petition for administrative hearing regarding a revised draft construction permit. The Appellant requested

additional time to review and respond to EPC comments. The Legal Department has approved the request and provided the Appellant with a deadline of January 2, 2006. The Petitioner filed a second request for extension on December 21, 2005 which was granted by the Legal Department. The Petitioner has until April 3, 2006 to file a petition in this matter. (RT)

**Citgo Petroleum Corporation** [LEPC05-031]: On October 13, 2005 Citgo Petroleum Corporation filed a request for an extension of time to file a petition for administrative hearing regarding a Title V Draft Permit. The Legal Department approved the request and provided the petitioner with a deadline of December 12, 2005 to file a petition. On December 7, 2005, the petitioner filed a second request for extension of time which has been granted. The Petitioner shall have until February 10, 2006 to file a petition. (AZ)

**DiMare Ruskin, Inc.** [LEPC05-034] On November 3, 2005, DiMare Ruskin, Inc. filed a request for an extension of time to file a petition for administrative hearing regarding the denial of a notice general permit for an expansion to a tomato wash water disposal facility. The Legal Department has approved the request and provided the petitioner with a deadline of January 6, 2006, to file a petition. The parties are seeking resolution of the matter. (RM)

**America's Body Company** [LEPC05-035] : On November 23, 2005 the Legal Department received a request for an extension of time to file a petition for administrative hearing concerning a draft permit. The Legal Department has approved the request and provided the petitioner with a deadline of January 30, 2006 to file a petition in this matter. (RT)

**Debartolo Development, LLC** [LEPC05-037: On December 5, 2005 the Legal Department received a request for an extension of time to file an appeal of the decision denying proposed wetland impacts for Riverview Bell Plaza. The Legal Department has approved the request and provided the Appellant with a deadline of January 5, 2006 to file an appeal. (AZ).

**Eastern Terminals** [LEPC05-38] : On December 15, 2005, the Legal Department received a request for an extension of time to file a petition for administrative hearing concerning a Title V permit renewal. The Legal Department has approved the request and provided the petitioner with a deadline for February 13, 2006 to file a petition. (RT)

**Master Packaging** [LEPC05-039]: On December 22, 2005 the Legal Department received a request for an extension of time to file a petition for an administrative hearing concerning a Title V permit renewal. The Legal Department granted the request and provided the petitioner with a deadline of March 22, 2006 to file a petition. (RT)



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** January 12, 2006

**Subject:** Tampa Bay Estuary Program Grant for the Tidal Streams Initiative

**Consent Agenda** XXX **Regular Agenda** \_\_\_\_\_ **Public Hearing** \_\_\_\_\_

**Division:** Water Management Division and Environmental Resources Management Division

**Recommendation:** Accept the \$60,800 Grant from the Tampa Bay Estuary Program for the Tidal Tributary Habitat Initiative

**Brief Summary:** The Tampa Bay Estuary Program offers a grant through a purchase order (Attachment A) in the amount of \$60,800 to collect and analyze water quality and sediment samples from selected small tidal streams in the Tampa Bay watershed. This work is a component of a larger pilot project aimed at developing a resource-based management strategy for Tampa Bay's tidal rivers and streams.

**Background:** Tampa Bay Estuary Program (TBEP) is an independent regional alliance whose partners include Pinellas, Hillsborough and Manatee counties, the cities of Tampa, St. Petersburg and Clearwater, the FDEP, SWFWMD and the U.S. EPA. In keeping with its mission, the TBEP sponsors scientific research to assist in the restoration and management of Tampa Bay.

While TBEP has supported extensive work to establish resource based targets for Tampa Bay, information "gaps" remain concerning tidal tributaries. The objectives of the Tampa Bay Tidal Rivers and Streams Initiative is to identify quantifiable target resources and indicators for Tampa Bay tidal rivers and streams and develop a resource-based management strategy for these systems. EPC's contribution to this project will be to characterize water quality, sediment contamination and benthic communities of Tampa Bay tidal tributaries and the watersheds in order to compare their contribution to open estuarine and river main stream areas.

The methods and analysis proposed match similar work performed by EPC monitoring programs and have been used to establish baseline values for water quality, sediment contamination and benthic communities though out Tampa Bay. TBEP recognizes the value of a consistent approach to the determination of these types of constituents and accordingly desires to partner with EPC and other researchers in this project.

This grant is presented in the form of Purchase Order Number 6351 from TBEP. Quarterly invoices for EPC services will be submitted.

**List of Attachments:**

Tampa Bay Estuary Program Purchase Order No. 6351

Budget Allocation

cope of Work Plan

COMMISSION

BRIAN BLAIR  
KATHY CASTOR  
KEN HAGAN  
JIM NORMAN  
THOMAS SCOTT  
MARK SHARPE  
RONDA STORMS



Roger P. Stewart Center  
3629 QUEEN PALM DRIVE  
TAMPA, FL 33619  
PHONE (813) 627-2600

Fax Numbers (813):

Admin. 627-2620 Waste 627-2640  
Legal 627-2602 Wetlands 627-2630  
Water 627-2670 ERM 627-2650  
Air 627-2660 Lab 272-5157

[www.epchc.org](http://www.epchc.org)

EXECUTIVE DIRECTOR  
Richard D. Garrity, Ph.D.

**Tidal Streams Initiative**  
**Tampa Bay Estuary Program Grant**  
**Purchase Order 6306**

Request the creation of a new index code

<i>Subobject</i>	<i>Description</i>	<i>Budget</i>
1300	SAL TEMP EMPLOYEES	32,500
<b>Character 10 - Personal Services</b>		<b>32,500</b>
3154	DATA PROCESSING SV	200
3199	OTHER PROFESSIONAL	200
4107	POSTAGE/FREIGHT SE	400
4700	PRINTING & BINDING	200
4999	OTHER MISCELLANEOU	4500
5101	MINOR OFFICE EQUIP	200
5102	COMPUTER SOFTWARE	7,300
5200	GENERAL OPERATING	9000
5404	TRAINING/EDUCATION	200
<b>Character 30 - Operating Expenses</b>		<b>22,200</b>
6499	OTHER EQUIPMENT	6100
<b>Character 60 - Capital Expenses</b>		<b>6,100</b>
<b>BUDGET TOTAL</b>		<b>60,800</b>

Tampa Bay Estuary Program  
 100 8th Avenue SE  
 MS: I-1/NEP  
 St. Petersburg, FL 33701  
 Ph (727) 893-2765  
 Fax (727) 893-2767

**PURCHASE ORDER**

**REC'D**

DEC 02 2005

ENV. PROT. COMM.  
 OF FLA.

**TO:**  
 Environmental Protection Commission  
 Attn: Ed Sherwood  
 3629 Queen Plam Drive  
 Tampa, FL 33619-2600

**P.O. Number** 6351  
**Date** 12/2/2005  
**Requisitioned by** Ron Hosler for  
 Holly Greening  
**Ship Via** Best Way  
**Terms** Net 30 Days

**SHIP TO:**  
 Same as above

*Purchase order number must appear  
 on all forms relating to this order.*

QTY	UNIT	DESCRIPTION	PRICE	AMOUNT
		Blanket Purchase Order to provide water quality and benthic sampling analyses for the Tidal Tributary Habitat Initiative, per Tasks "B" on the attached scope of work.  This is a fixed cost agreement for services, to be billed not more than quarterly. A progress report must accompany invoices and be approved by the TBEP Project Manager, Holly Greening, for payment.  For the period of October 1, 2005 thru May 31, 2007. Not to exceed \$60,800. This Purchase Order is Federally funded (CFDA 11.463). Vendor agrees to accept terms and conditions in "Attachment A" and comply with all applicable rules in 40 CFR 31.36.		\$60,800.00
0	0			

**TOTAL DUE** \$60,800.00

AUTHORIZED BY \_\_\_\_\_

AUTHORIZED BY \_\_\_\_\_

*[Signature]*  
 12/1/05



Tasks, task leaders and a brief overview of task objectives follow.

**A. Program Coordination and Grant Administration (TBEP- H. Greening).** The objectives of this task are to: 1) provide project coordination among tasks and Working Group members; 2) accept, distribute and manage funds; and 3) track funding agreements and deliverables.

**B. Water and benthic quality and watershed characterization (EPCHC- E. Sherwood and G. Morrison; Pinellas County- E. Fehrman, A. Squires and M. Flock; Manatee County- G. Blanchard; TBW-B. McConnell).** This task will characterize water quality, sediment contamination, and benthic communities of Tampa Bay tidal tributaries and their watersheds in order to compare their contribution to open estuarine and river mainstem areas.

**C. Fish and Fish Habitat (vegetation and benthic) characterization (FWC FWRI - M. Greenwood, B. McMichael, T. MacDonald, and E. Matheson; USGS- J. Krebs and C. McIvor).** The primary objective of the nekton component is to assess the importance of tributary habitats as essential fish habitat contributing to fishery production in Tampa Bay by: 1) documenting species composition (economically and ecologically important species) of tidal tributaries, 2) examining species-specific habitat use during various life history stages, and 3) comparing nekton community structure and relative abundance between tributary habitats and adjacent tidal river, bay, and other tributary habitats.

**D. Fish diet analyses (FWRI- B. McMichael and E. Peebles); food source (isotopic analyses) (USF- Hollander and E. Peebles).** The general objective for the fish diet and stable isotope study is to identify the trophic pathways that support fish biomass within tidal tributaries. The specific objective of the stable isotope study is to identify the primary producers that support fish biomass. The specific objective of the fish diet study is to identify trophically intermediate organisms that link primary producers to fish biomass.

**E. Database management, GIS and Quality Assurance (Manatee County- G. Blanchard; FWRI- K. O'Keefe).** This task will include coordination of preparation and implementation of a Quality Assurance Plan for this project, and development and maintenance of a project database for all tasks. GIS maps of all tidal tributaries in the Tampa Bay watershed prepared for this project will also be included in this task.

**F. Interpretation of survey results, prioritization of probable causes of problems, and identification of recommended resource management goals and targets (Tidal Tributaries Working Group- H. Greening and L. Griffin).** The objectives of this Task are to summarize major findings and develop recommendations for inclusion in a Tampa Bay Tidal Tributaries Management Plan, including specific resource goals and long-term monitoring recommendations.

A final project "report to the public" will present the results and interpretation of this study in a format similar to that produced for the 2001-2003 PCEF Feather Sound study. A CD with the technical results from each of the project tasks will be included in the final report.

**Attachment "A"**  
**Terms and Conditions**

- (1) The TBEP may by written notice to the contractor terminate this purchase order agreement, upon no less than seventy-two (72) hours notice, upon breach of the purchase order terms and scope of work, unless the contractor breach is waived by the Tampa Bay Estuary Program (TBEP) in writing. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. Waiver of breach of any provisions of this agreement shall not be deemed a waiver of any other breach, and shall not be construed to be a modification of the terms of this purchase order agreement. The provisions herein do not limit the TBEP's right to remedies at law or to damages. The vendor shall hold and save the TBEP; its officers, agents and employees harmless against claims by third parties resulting from the contractor's breach of this purchase order or the vendor's negligence, to the extent provided by Florida law. The performance by either party under this agreement shall be subject to and contingent upon the availability of moneys lawfully appropriated and applicable for the purposes of this agreement.
- (2) If this purchase order is in excess of \$10,000, either party upon no less than fifteen (15) calendar days notice, without cause, may terminate it. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- (3) If this is a construction purchase order awarded in excess of \$10,000, the contractor agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).
- (4) If this purchase order is for construction or repair, the contractor agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3).
- (5) The contractor agrees to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction purchase orders in excess of \$2000 awarded by TBEP and sub grantees when required by Federal grant program legislation.)
- (6) The contractor agrees to comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction purchase orders awarded by TBEP and sub grantees in excess of \$2000, and in excess of \$2500 for other purchase orders which involve the employment of mechanics or laborers.)
- (7) Partial payments may be made upon delivery of the commodities or partial completion of the services when approved by the TBEP. The recipient agrees to provide units of deliverables, including reports, findings, and drafts as specified in this agreement and/or the scope of work, and must be approved and accepted by the project manager prior to payment.
- (8) If any discovery or invention arises or is developed in the course of or as a result of work or services performed under this agreement, or in any wise connected herewith, the contractor shall refer the discovery or invention to the TBEP to determine whether patent protection will be sought in the name of the United States of America and the State of Florida. Any and all patent rights accruing under or in connection with the performance of this agreement are hereby reserved to the United States of America and the State of Florida. In the event that any books, manuals, films or other copyrightable material are produced, the contractor shall notify the TBEP and all copyrights accruing under or in connection with the performance under this agreement are hereby reserved to the United States of America and the State of Florida.
- (9) The contractor agrees to retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this agreement for a period of three (3) years after termination of this agreement. If an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings. EPA, the Comptroller General of the United States, the U.S. Department of Labor, and the TBEP shall have full access to and the right to examine any of said records and documents during said retention period. All records in conjunction with the purchase order/contract shall be public records and shall be treated in the same manner as other public records are under general law. (Section 119.07, F.S.)
- (10) If this agreement contains federal funding in excess of \$100,000 contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C., 1857(h)), Section 508 of the Clean Water Act (33 U.S.C., 1368), Executive Order 11738 and E.P.A. regulations (40 CFR, Part 15).
- (12) For maintenance or new construction of state owned facilities, the contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

**NATIONAL FISH AND WILDLIFE FOUNDATION  
GRANT AGREEMENT  
(ADVANCE PAYMENT)**

**PROJECT:** Tampa Bay Tidal Tributary Habitat Initiative (FL) (2005-0003-003)

☛ Please reference project title and number on all correspondence ☛

**NFWF RECIPIENT:** Tampa Bay Estuary Program

**PROJECT PERIOD:** September 1, 2005 to August 31, 2007

**AWARD:** \$310,000 is provided in consideration for the NFWF Recipient's agreement to perform the Project in accordance with Section 1 below, and the NFWF Recipient's agreement that it will raise and spend at least \$418,100 in Matching Contributions on the Project.

**FUNDING SOURCE:**

National Oceanic and Atmospheric Administration \$310,000 CFDA Number: 11.463

★★★★

**Defined Terms.** All capitalized terms used in this Agreement shall have the meanings attributed to such terms in the 2002 Glossary found on NFWF's website <[www.nfwf.org/glossary.htm](http://www.nfwf.org/glossary.htm)>, which is incorporated in this Agreement by this reference.

**Section 1. PROJECT PURPOSE**

National Fish and Wildlife Foundation (NFWF) agrees to provide the Award to the NFWF Recipient for the purposes of satisfactorily performing the Project described in a Full Proposal received by NFWF on 02/17/2005, and incorporated into this Agreement by reference.

1.1. Project Description.

Develop management targets and strategies for Tampa Bay tidal tributaries in order to improve protection and management of fish populations. A management strategy will be created for the more than 200 tidal tributaries in Tampa Bay.

	Project Category	NEWT Funds
Develop a detailed Plan of Study and Quality Assurance Plan; test and refine sampling methods for small tributaries. Months 0-4. Deliverables: Project Plan of Study and Quality Assurance Plan, including tested sampling methods and detailed statistical design.		\$3,098
		\$0
		\$45,339
		\$48,437
	\$52,263	
Complete 3 months of assessment and sampling; develop Tidal Tributaries Management Strategy Framework; initiate data analyses. Months 5-12. Deliverables: First 6 months of data from sampling program, Tidal Tributaries Strategy framework document. <i>* Provide NEWT with a Year 1 interim review.</i>		\$3,098
		\$0
		\$103,465
		\$106,563
	\$156,787	
Complete remaining 4 months of assessment and sampling; complete data analyses, develop restoration and protection goals. Months 13-21. Deliverables: Complete data set, preliminary data analyses, document outlining recommended restoration and protection targets and rationale for them.		\$3,097
		\$0
		\$103,466
		\$106,563
	\$104,525	
Finalize data reports and findings; finalize Report to the Public; finalize pilot Tampa Bay Tributaries Management Strategy and all final deliverables. Months 22-24. Deliverables: Report to the Public, pilot Tampa Bay Tributaries Management Strategy, final data sets.  <i>Please note: this payment may serve as a holdback until receipt of final report.</i>		\$3,097
		\$0
		\$45,340
		\$48,437
	\$104,525	
		\$310,000

1.2. Project Deliverables.

- Collect and analyze data to determine the contribution of tidal tributaries to fish production in Tampa Bay and the effects of various habitat parameters (e.g., watershed condition, water quality, structural habitat, etc.) on fish production.
- Develop a Tidal Tributary Management Strategy, incorporating measurable resource goals and long-term monitoring recommendations, based on study results.
- Create a concise "Report to Public," focusing on major findings and recommendations.
- Disseminate "Report to Public" and the pilot Tributary Management Strategy to the elected officials from local governments and heads of local, state and national regulatory agencies sitting on the TBEP Policy Board, and to the citizen advisors sitting on the TBEP Community Advisory Board. Results of the assessment will be prepared for publication in scientific journals.

- Provide a Year 1 interim review conducted by an external science review team that comments on methodology used in the project.
- Appropriate credit will be given to the Pinellas County Environmental Fund and the National Fish and Wildlife Foundation.

**1.3. Diligence and Communication Required.** The NFWF Recipient agrees to pursue completion of the Project diligently and to communicate with the Project Manager on a regular basis with respect to the status of the Project, including but not limited to providing the reports discussed in Section 4 below. Failure to diligently pursue completion of the Project within the Project Period and/or failure to so communicate with the Project Manager will be deemed a material default in this Agreement, entitling NFWF to terminate this Agreement.

## **Section 2. RESTRICTION ON FUNDS**

**No Funds provided by NFWF pursuant to this Agreement or Matching Contributions may be used to support litigation expenses or lobbying activities.**

## **Section 3. PAYMENT OF FUNDS and ADMINISTRATION PROCEDURES**

**3.1. NFWF Funds.** Payments of the NFWF Funds for this Award will be made in 4 installments.

- Project Phase One installment will be advanced to the NFWF Recipient when NFWF receives a Request for Payment from the NFWF Recipient certifying that it is ready to begin project activities for the first Phase described in Section 1.1 immediately upon receipt of the funds.
- Subsequent Phase installments will be advanced to the NFWF Recipient when NFWF receives and approves a completed Project Phase Reporting Form certifying that (i) the NFWF Recipient has completed the previous Project Phase as described in Section 1.1 and (ii) the NFWF Recipient has expended NFWF Funds and Matching Contributions consistent with the Project Phase Budget as described in Section 1.1; and the NFWF Recipient provides NFWF a Request for Payment certifying that it is ready to begin Project activities for the next Phase immediately upon receipt of the funds.
- Payment for the Final Phase of the Project will be made in arrears, upon the receipt and approval by NFWF of all required reporting for this Agreement.
- Under no circumstances will any payment under this Agreement be made if any Financial or Programmatic Reports are due and outstanding.

**3.2. Budget Changes.** In the event the NFWF Recipient determines that the amount of the Budget is going to change in any one line item by an amount that exceeds more than 10% of the total Budget for that Phase, the NFWF Recipient must seek approval from the Project Manager. If approval is received, both parties must sign a written amendment to this Agreement reflecting the new Budget.

#### **Section 4. REPORTING REQUIREMENTS**

**4.1. Phase Financial and Programmatic Report.** Upon completion of each Phase, the NFWF Recipient will submit a brief e-mail or fax Project Phase Report on Project accomplishments and financial expenditures incurred during the Phase.

**4.2. Annual Financial and Programmatic Report.** The NFWF Recipient will submit an Annual Financial and Programmatic Report no later than October 31st of each year during the Project Period, summarizing all of the activities accomplished and expenditures made from the beginning of the Project Period or the most recent Project Phase Report until and including the immediately preceding September 30th.

**4.3. Final Report.** No later than 90 days after the completion of the Project, the NFWF Recipient shall submit a Final Financial and Programmatic Report to NFWF, that includes: 1) a Final Financial Reporting Form accounting for all receipts of Project funds, Project expenditures, and Budget variances (if any) compared to the approved Budget; 2) a report and Certification of Matching Contributions secured and expended by the NFWF Recipient for the Project; 3) a Final Programmatic Report summarizing the accomplishments achieved during the term of the Agreement. A representative number of digital photos (preferred) or color 35mm slides depicting the Project and copies of all publications, press releases and other appropriate "products" resulting from the Project should also be provided to NFWF as part of the Final Report; and 4) a completed Project Evaluation Report. Any requests for extensions of this Final Report submission date must be made in writing to NFWF Project Officer and approved by NFWF in advance.

#### **Section 5. STANDARD PROVISIONS**

**This Agreement is also subject to the terms and conditions set forth in the attached Standard Provisions, each of which is incorporated in this Agreement by this reference.**

#### **Section 6. CONTACT INFORMATION**

For NFWF Recipient:           Holly Greening  
  Tampa Bay Estuary Program  
  100 8th Ave. SE  
  St. Petersburg, FL 33701  
Phone:                            727-893-2765  
Fax:                                727-893-2767  
E-mail:                            hgreening@tbep.org

**Unless from the email address set forth above, electronic mails will be deemed unauthorized. If multiple users are authorized to send electronic mails on behalf of the NFWF Recipient, please list all authorized sources.**

For NFWF:                        Suzanne Sessine  
  National Fish and Wildlife Foundation  
  1120 Connecticut Avenue NW, Suite 900  
  Washington, DC 20036  
Phone:                            202-857-0166  
Fax:                                202-857-0356  
E-mail:                            suzanne.sessine@nfwf.org

\*\*\*\*\*

IN WITNESS WHEREOF, the parties have executed this Agreement, intending to be bound legally.

**NATIONAL FISH AND WILDLIFE FOUNDATION**

By: \_\_\_\_\_  
Peter Stangel  
Director, Southern Region

Date: \_\_\_\_\_, 2005

**Tampa Bay Estuary Program**

By: RM. Eckwood  
Richard M. Eckwood, Executive Director  
(Print name and title legibly)

Date: 11/16, 2005

## SCOPE OF WORK

### B. IDENTIFICATION OF RECOMMENDED RESOURCE MANAGEMENT GOALS AND TARGETS

#### B.2. Water and Benthic Quality and Watershed Characterization

For the water and benthic quality elements of the tidal tributary assessment project, we propose to focus on three aspects of this characterization process:

- Identifying existing and potential problems
- Exploring probable causes of such problems
- Conducting additional sampling to fill information gaps.

As an initial working hypothesis, we postulate that tidal streams which exhibit degraded water or benthic quality will also show high levels of anthropogenic land use/land cover changes in their contributing watersheds, and that tidal streams whose watersheds remain largely undisturbed by human activities will show the highest levels of water and benthic quality. A primary objective of the proposed sampling program will be to test this hypothesis.

In order to test this hypothesis, we propose to conduct a short-term sampling program in tidal tributaries of the four select watershed segments. To provide unbiased estimates of water and benthic conditions and to support the aforementioned hypothesis, data will be collected using a standardized (preferably stratified-random) methodology adopted by the interdisciplinary working group. Water and sediment quality indicators will then be further compared to their contributing watersheds land use/land cover information collated from SWFWMD, GIS land use/land cover data. The anticipated timeline and Task descriptions are listed below.

Task	2005				2006												2007								
	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	
B.2.1.	X	X	X	X																					
B.2.2.					X	X	X	X	X	X	X	X	X	X	X	X									
B.2.3.							X	X	X			X	X	X											
B.2.4.							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				
B.2.5.									X	X	X	X						X	X	X	X	X	X	X	X

Task B.2.1: Conduct preliminary site investigations, develop sampling methodologies, and prepare QAPP for sampling methodologies for tidal tributaries.

Task B.2.2.: Conduct monthly water quality sampling in the four priority tidal tributary watersheds.

Task B.2.3.: Conduct sediment contamination, benthic biota, and benthic microalgal community (BMAC) sampling in the four priority tidal tributary watersheds. Note, time periods presented reflect the index



periods and sampling may not necessarily be spread evenly throughout these months.

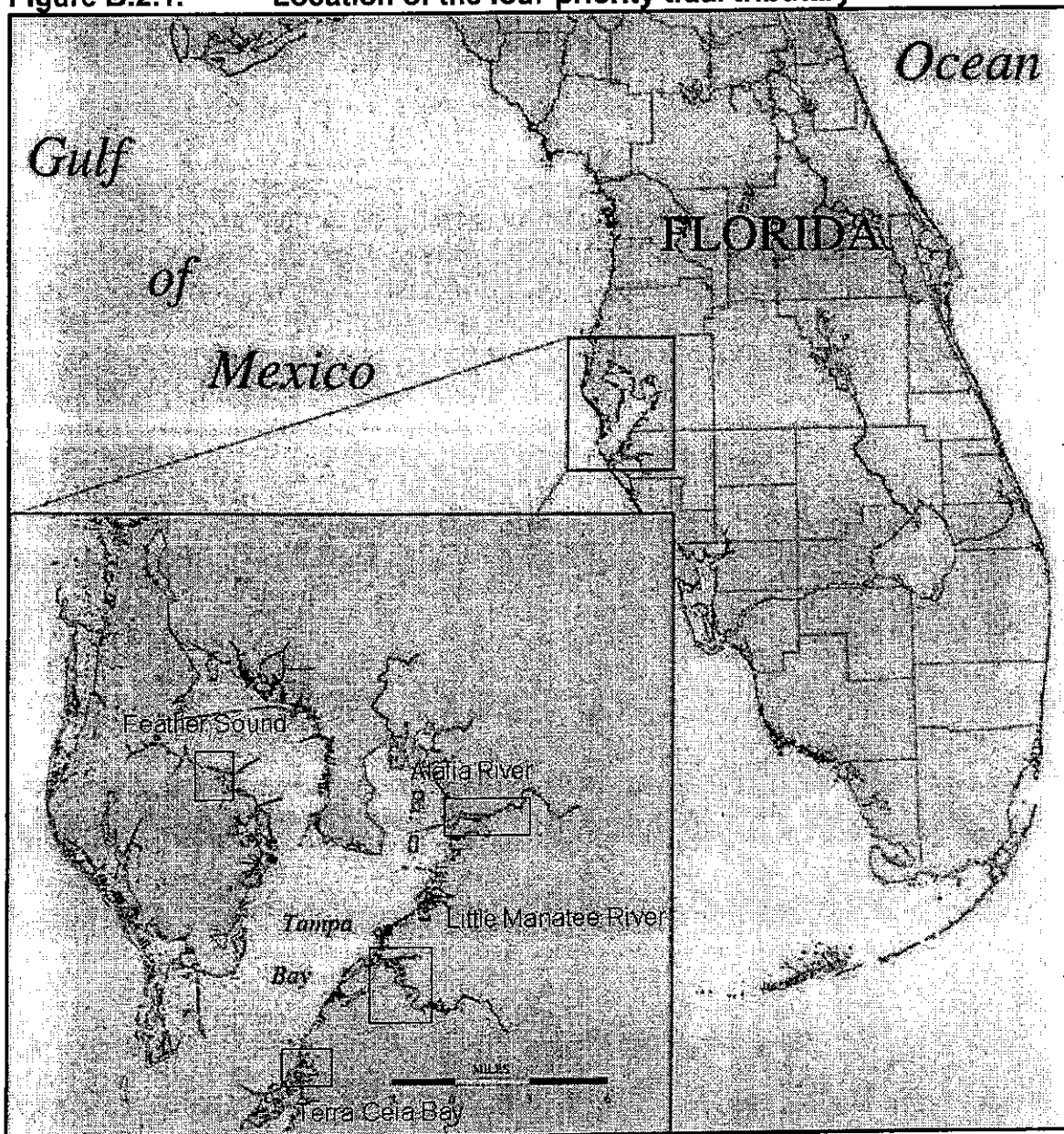
Task B.2.4: Consolidate data, prepare data summaries, and perform interpretative data analyses of all monitoring components and relate to the degree of watershed alteration based upon SWFWMD land use/land cover data.

Task B.2.5: Participate in the development of a preliminary project management plan, identify goals and targets related to the management plan and monitoring results, and participate in the preparation of a final "Pilot Tampa Bay Tidal Tributary Management Plan."

### **B.2.1. Preliminary Site Investigations and Sampling Methodology Development**

The four month period from September – December 2005 will be used to reconnoiter the four priority watersheds (Figure B.2.1) in order to determine the spatial extent and sampling viability of the tidal streams present in these systems. The interdisciplinary group will collectively determine the sampling universe of each of these systems, and a randomized monthly sampling protocol will be developed similar to an EMAP-based approach. It is anticipated that a grid-based sampling universe will be utilized to identify sample locations in the tidal streams.

**Figure B.2.1. Location of the four priority tidal tributary watersheds.**



**B.2.2. Surface Water Quality Monitoring Methodology**

**B.2.2.1. Sample Date Selection**

Prior to the anticipated January – December 2006 sample period, randomly-selected sample dates will be generated on a per month basis in accordance with each County’s Laboratory processing/holding time constraints. Ideally, sample dates will be in conjunction with fisheries collections in order to control for temporal variability. Weekends, Thursdays, Fridays, holidays, and days preceding a holiday are excluded as possible sample dates.

**B.2.2.2. Sample Site Selection**

Based on the sampling universes determined during the recon-period, an EMAP-based design is anticipated to be used for random site selection by overlaying a grid over each tidal stream watershed stratum. SAS programs will be used to produce, for each watershed stratum, a primary set of randomly located sample sites and a set of alternate randomly selected sample sites. Four primary sites are selected in each watershed stratum for each sample period (month). Sample sites are located using latitude and longitude and are plotted on an aerial map to aid in navigation and location to the site. Site coordinates and maps are provided to sampling crew.

**B.2.2.3. Water Quality Sampling Effort & Responsibilities**

The EPCHC will be responsible for the collection and laboratory processing of water quality samples from tidal tributaries located in the Alafia and Little Manatee Rivers. The PCDEM will be responsible for the collection and laboratory processing of water quality samples from tidal tributaries located in the Feather Sound/Old Tampa Bay area. The MCEMD will be responsible for the collection and laboratory processing of water quality samples from tidal tributaries located in the Terra Ceia area. The level of effort for each area is presented in Table B.2.1.

**Table B.2.1. Water Quality Sampling Effort**

Task	2005				2006												2007								Total
	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	
<b>B.2.2. Water Quality</b>																									
Alafia R. Tribs.					4	4	4	4	4	4	4	4	4	4	4	4									
LMR Tribs.					4	4	4	4	4	4	4	4	4	4	4	4									
Feather Sound Area					4	4	4	4	4	4	4	4	4	4	4	4									
Terra Ceia Area					4	4	4	4	4	4	4	4	4	4	4	4									
<b>Totals</b>					<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>	<b>16</b>									<b>192</b>

**B.2.2.4. Field Sampling Procedures**

The sampling vessel is maneuvered to within 0.02 nautical miles of the sample site and the anchor is dropped. If it is not possible to navigate to within 0.2 nm of the site, an alternate site is used. An alternate site list for each watershed stratum is generated along with the primary site list. Alternate sites are used in order throughout the year. Reasons for not reaching a primary site

are noted on the field sheet. Documentation of the field data is completed in accordance with FDEP SOP FD 5000. The surface water field data, general site characterization, and sampling comments are recorded on the data sheet (Figure B.2.2). These forms are filled out using waterproof ink and are signed by all sampling personnel. Errors in all documents are deleted with one line through it. The initials of the person making the correction are placed next to an error.

**Figure B.2.2. Field Data Sheet**  
**PHYSICAL/CHEMICAL CHARACTERIZATION FIELD SHEET**

SUBMITTING AGENCY CODE:		STORET STATION NUMBER:	DATE (MD/Y):	TIME	RECEIVING BODY OF WATER:
SUBMITTING AGENCY NAME:					
REMARKS:	COUNTY:	LOCATION:	FIELD ID/NAME:		

**RIPARIAN ZONE/STREAM FEATURES**

PREDOMINANT LAND-USE IN WATERSHED (specify relative percent in each category):

FOREST/NATURAL	SILVICULTURE	FIELD/PASTURE	AGRICULTURAL	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	OTHER (SPECIFY)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

LOCAL WATERSHED EROSION (check box): None  Slight  Moderate  Heavy

LOCAL WATERSHED NPS POLLUTION (check box): No evidence  Slight  Moderate potential  Obvious sources

WIDTH OF RIPARIAN VEGETATION (m) On least buffered side:

LIST & MAP DOMINANT VEGETATION ON BANK:

TYPICAL WIDTH (m) DEPTH (m)/VELOCITY (m/SEC) TRANSECT  m wide

ARTIFICIALLY CHANNELIZED  no  recent, severe  some recovery  mostly recovered

ARTIFICIALLY IMPOUNDED  yes  more sinuous

HIGH WATER MARK  +  =

(m above present water level) (present depth in m) (m above bed)

m deep  m deep  m deep

CANOPY COVER %: OPEN:  LIGHTLY SHADED (11-45%):  MODERATELY SHADED (45-80%):  HEAVILY SHADED:

**SEDIMENT/SUBSTRATE**

SEDIMENT ODORS: NORMAL:  SEWAGE:  PETROLEUM:  CHEMICAL:  ANAEROBIC:  OTHER:

SEDIMENT OILS: ABSENT:  SLIGHT:  MODERATE:  PROFUSE:

SEDIMENT DEPOSITION: SLUDGE:  SAND SMOTHERING: NONE MODERATE SLIGHT SEVERE SILT SMOTHERING: NONE MODERATE SLIGHT SEVERE OTHER:

SUBSTRATE TYPE	% COVERAGE	# TIMES SAMPLED	METHOD	SUBSTRATE TYPES	% COVERAGE	# TIMES SAMPLED	METHOD
WOODY DEBRIS (SNAGS)				SAND			
LEAF PACKS OF MATS				MUD/MUCK/SILT			
AQUATIC VEGETATION				OTHER:			
ROCK OR SHELL RUBBLE				OTHER:			
UNDERCUT BANKS/ROOTS				DRAW AERIAL VIEW SKETCH OF HABITATS FOUND IN 100 M SECTION			

WATER QUALITY	DEPTH (M):	TEMP. (°C):	pH (SU):	D.O. (MG/L):	COND. (UMHO/CM) OR SALINITY (PPT):	SECCHI (M):
TOP						
MID-DEPTH						
BOTTOM						

SYSTEM TYPE: STREAM: 1<sup>st</sup>-2<sup>nd</sup> ORDER 3<sup>rd</sup>-4<sup>th</sup> ORDER 5<sup>th</sup>-6<sup>th</sup> ORDER 7<sup>th</sup> ORDER OR GREATER LAKE:  WETLAND:  ESTUARY:  OTHER:

WATER ODORS (CHECK BOX): NORMAL:  SEWAGE:  PETROLEUM:  CHEMICAL:  OTHER:

WATER SURFACE OILS (CHECK BOX): NONE:  SHEEN:  GLOSS:  SLICK:

CLARITY (CHECK BOX): CLEAR:  SLIGHTLY TURBID:  TURBID:  OPAQUE:

COLOR (CHECK BOX): TANNIC:  GREEN (ALGAE):  CLEAR:  OTHER:

WEATHER CONDITIONS/NOTES:

ABUNDANCE:	ABSENT	RARE	COMMON	ABUNDANT
PERIPHYTON	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FISH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AQUATIC MACROPHYTES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
IRON/SULFUR BACTERIA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SAMPLING TEAM:

SIGNATURE:

DATE:

### B.2.2.5. Field Checklist

See figure below describing the field checklist used prior to trips.

**Figure B.2.3. Ambient water quality monitoring checklist.**

Ambient Checklist	
<b>All Trips</b>	
	<ul style="list-style-type: none"><li>• Acid</li><li>• Bottles</li><li>• Bucket (1 or 2)</li><li>• Coolers and ice</li><li>• DI water</li><li>• Field Book ( field sheet, chain of custody, site location maps, site descriptions, QA)</li><li>• Hydrolab (long cord and stirrer if needed)</li><li>• Litmus paper</li><li>• Ortho filter papers (2)</li><li>• Ortho filter setup (2)</li><li>• Pens and Sharpies</li><li>• Radio and spare battery</li><li>• Sampler (check for nuts and frayed rope)</li><li>• Syringe (2)</li><li>• Waders, Hip-boots or Boots</li><li>• Whirlpak for trash</li></ul>
<b>Land Runs</b>	
	<ul style="list-style-type: none"><li>• Blinking lights, Cones and Safety vests</li><li>• Calculator</li><li>• Marsh McBirney Flow Meter with 2 D cell extra batteries</li><li>• Short adjustable rod for flow meter</li><li>• Long adjustable pole for flow meter</li><li>• Meter stick</li><li>• Measuring Tape and Stakes</li><li>• Personal gear – waders, boots...</li><li>• Second bucket for duplicate sample collection</li><li>• 5 HNO<sub>3</sub> washed ortho-type bottles for Aluminum sample on LR 5 only</li></ul>
<b>Boat Runs</b>	
	<ul style="list-style-type: none"><li>• GPS and extra batteries</li><li>• Licor pole with sensors</li><li>• Licor datalogger (appropriate one for sensor array)</li><li>• PFD's</li><li>• Secchi Disk</li><li>• Transmissometer Bottles</li><li>• Transmissometer Cooler – no ice</li><li>• Boat backpack and keys</li><li>• VHF Radio</li><li>• Plug in Boat</li><li>• Gas tank for Tunnel Jon</li><li>• Spare gas tanks for Mako and Tunnel Jon</li></ul>
<b>Lake Runs</b>	
	<ul style="list-style-type: none"><li>• 4 graduated polypropylene 4-oz containers for phytoplankton - both Lake Seminole and Lake Tarpon</li><li>• Phytoplankton sampler tube, shorter one for Lake Seminole, longer one for Lake Tarpon</li><li>• 7 HNO<sub>3</sub> washed Al sample bottles - Lake Seminole only</li><li>• Three squat quart bottles for toxic phytoplankton samples - both Lake Seminole and Lake Tarpon</li><li>• Newspaper to wrap the toxic squat quarts</li></ul>

### B.2.2.6. GPS Control Points

No GPS control points were established in the program.

### B.2.2.7. In-Situ Hydrolab and Water Quality Sample Collection and Analyses

The EPCHC, MCEMD, and PCDEM Surface Water Sampling Programs include in-situ field collection measurements and water quality sampling for laboratory analysis. The in-situ field measurements are collected in accordance with FDEP SOP FT 1000 General Field Testing and Measurement. Water quality samples are collected in accordance with FDEP SOP FS 2110 General Sampling Procedures. A more detailed methodology for each water quality component is discussed below.

#### **B.2.2.7.1. In-Situ Hydrolab**

The Hydrolab in-situ meter readings are stored in the datalogger and later downloaded into an Excel spreadsheet for upload into a master Access database. At each site, physical water quality parameters at various depths are recorded in the following manner: surface (0.2-m) – A surface reading is recorded if the total depth is less than 0.5-m; surface and bottom – surface and bottom readings are recorded if the total depth is greater than 0.5-m, but is less than 1.0m; surface, mid, and bottom – surface, mid and bottom readings are recorded if the total depth is 1.0-m or greater. At each depth, the Hydrolab sonde readings are allowed to stabilize and then data is stored.

#### **B.2.2.7.2. Total Depth**

Total depth is measured either with the sonde depth sensor or with secchi depth line.

#### **B.2.2.7.3. Secchi Depth**

Where applicable, Secchi disk readings are taken in accordance with FDEP SOP FT 1720 and recorded in meters. If the secchi disk is visible on the bottom the data is coded as VOB. Readings are taken on the sunny side of the vessel and without sunglasses. The disc is lowered until it disappears and the depth is noted. The disc is raised until it reappears and the depth is noted. The midpoint between these two depths is the secchi depth and is recorded in meters.

#### **B.2.2.7.4. Water Quality**

The samples collected for laboratory analysis are taken concurrently with the collection of the in-situ Hydrolab data. Water samples are collected with a Horizontal Alpha Bottler sampler. Samples are collected away from the boat motor. The Horizontal Alpha Bottle sampler has line marked at 0.1-m increments and is lowered to 0.5-m sampling depth, taking care not to disturb the sediments. After a 10 second rinse the sampler is lifted above the surface releasing the water in the bottle. This method is repeated 2 more times. The sampler is then lowered to 0.5-m depth and the messenger is released to trip the closure mechanism. A small amount of sample water is used to rinse the holding bucket. The sampler is lowered again to obtain the appropriate amount of sample needed. The lid is placed over the opening of the bucket so the water can be mixed continuously while the water is poured into the individual sample bottles.

Sample containers are labeled with the sample site number, the aliquot number, the date, the time, the bottle lot number, the sampler's initials and preservatives added. Pre-preserved containers will not be used as collection containers. The holding times, preservation methods, container types and sample container volumes are discussed below. The bottle fill order is in accordance with FDEP SOP FS 1000 General Sampling Procedures. All environmental samples collected under the routine water quality monitoring programs follow the standard procedures outlined in each agency's Water Monitoring Program Comprehensive Quality Assurance Plan. Sample collection and bottle prep will be tailored to the collection of a core group of chemical parameters identified by the TBEP RAMP. This core group includes:

- Color
- Turbidity
- Total suspended solids (TSS)
- Chlorophyll-a
- Total kjeldahl nitrogen (TKN)
- Dissolved ammonia nitrogen
- Dissolved nitrate + nitrite nitrogen
- Dissolved orthophosphate
- Total phosphorus
- Reactive silica

#### **B.2.2.7.5. 72-hr Hydrolab Datasonde Deployments**

An automated multi-probe datalogger (Hydrolab Datasondes) will be deployed on a quarterly basis in each of the study areas (conditions and logistics permitting). These instruments are deployed for a 72 hour period and are programmed to collect data at fifteen-minute intervals. For security and logistical reasons, the multi-probe dataloggers are deployed only in the "bottom" strata. Within each study area, datasondes are deployed in areas of the tidal streams that are expected to reflect the movement of the "tidal wedge". This sampling strategy provides a better understanding of diurnal water quality variability in a given location.

Datasondes monitor for dissolved oxygen (DO), temperature, pH, conductivity, and depth. They contain data loggers within them. Dissolved oxygen is measured using an oxygen-sensitive membrane electrode (reference Standard Methods 18th Ed. 4500-O G.). Salinity is determined by the electrical conductivity method (reference Standard Methods 18th Ed. 2520 B.) Depth measurements are made using a submersible pressure sensor and reflect fluctuations in water level. After deployment, the datasondes are retrieved, data files are downloaded and quality control checks are performed.

#### **B.2.2.8. Post-Field Operations**

##### **B.2.2.8.1. Sample Delivery**

A chain of custody form is filled out and is delivered along with the samples to each County's Lab. Samples are delivered to the lab on the day of sampling usually by late afternoon. Rarely but in some cases, if a sample day lasts longer than expected to deliver samples on the same day of collection, the

samples are delivered in the early morning the next day. In the event of this happening, the lab is notified that the samples will be delivered the next morning.

**B.2.2.8.2. Hydrolab Post-calibration**

After each sampling trip, staff perform a post sampling calibration check of each Hydrolab datasonde unit. For any parameter a sonde fails in the post sampling calibration check, all data collected with that sonde for that sampling trip are flagged with a 'J' qualifying code.

**B.2.2.9. Quality Control Objectives**

**B.2.2.9.1. Water Quality Data Documentation**

Field staff are responsible for the proper completion and retention of field data sheets. Laboratory staff are responsible for completion, retention and filing of chain of custody forms and verification and tabulation of QC checks. Raw data are keypunched by field staff, laboratory analysts, and clerical staff. Keypunched data are validated (checked for data entry errors) and reviewed by the organization's QA officers for compliance with holding time and other QC requirements.

Validated and checked data and accompanying documentation will be forwarded to the project QA officer and the PI for additional review, which will include range and outlier checks and examination of laboratory QC information. Following acceptance by all parties, the data will be loaded into the project's working data file.

**B.2.2.9.2. Water Quality Data Reduction and Reporting**

Raw data are recorded by the monitoring organizations on field sheets and laboratory bench sheets. These sheets contain, at a minimum, the date, type of analysis or measurement, analysts' initials, sample IDs, and pertinent operating or data collection conditions. Laboratory analyses of nutrients and other chemical constituents are performed using automated equipment, and data reduction is performed through the equipment software. All calculations and data summaries performed by the counties will be done under the supervision and direction of the project PI and QA officer.

**B.2.2.9.3. Water Quality Data Quality Objectives – Field Measurements**

**Table B.2.2.: Field parameter QA targets.**

Method No.	Parameter	Precision	Accuracy	MDL
SM 2550 B	Temperature	NA	± 1.0° C	NA
SM 4500-0 G	Dissolved Oxygen	10%	± 0.5 mg/L	0.5 mg/L
SM 4500-H+B	pH	NA	± 0.2	NA
SM12520 B	Salinity	10%	± 1.0 ‰	< 0.1 ‰

Analytical Methods Referenced in Table B.2.2:

SM: Standard Methods for the Examination of Water and Wastewater, APHA  
AWWA-WPCF, 18th Edition, 1992.

Abbreviations in Table 2:



NA: Not Applicable

‰: Parts per Thousand

**B.2.2.9.4. Water Quality Data Quality Objectives – Lab Measurements**

**Table B.2.3.: Laboratory analyte QA targets.**

Method No.	Analyte/Component	Precision RPD	C	Accuracy %R	C	MDL
EPA 350.1	Ammonia N	60.2	L	81.1-131.9	M	0.01 mg/L
SM 4500-ClE	Chlorides	2.7	M	97.7-106.9	M	0.09 mg/L
SM 10200 H	Chlorophyll, Total	34.2	M			0.1 µg/L
EPA 370.1	Silica - Dissolved	16.1	M	89.3-102.9	M	0.02 mg/L
EPA 340.2	Fluorides	6.1	M	92.9-110.1	M	0.01 mg/L
SM 4500-NO <sub>3</sub> <sup>-</sup> F	Nitrate and Nitrite N	80.8	L	90.3-131.1	M	0.002 mg/L
SM 4500-NO <sub>3</sub> <sup>-</sup> F	Nitrate and Nitrite N	24.4	M	90.3-131.1	M	0.002 mg/L
EPA 351.2	Total Kjeldahl N	12.1	M	67.1-175.1	M	0.02 mg/L
SM 4500-PF	Total Phosphates	19.6	M	81.9-117.9	M	0.01 mg/L
SM 4500-PF	Ortho Phosphates	25.1	M	88.6-113.0	M	0.02 mg/L
EPA 375.4	Sulfates	4.5	M	88.6-107.0	M	1.0 mg/L
EPA 180.1	Turbidity, NTU	5.4	M	96.6-103.0	M	1.0 NTU
EPA 160.3	Total Residue	7.6	M			1.0 mg/L
EPA 160.1	Filterable Residue	12.6	M			1.0 mg/L
EPA 160.2	Non Filterable Residue	2.2	M			1.0 mg/L
SM4500-NO <sub>3</sub> <sup>-</sup> F	Nitrite – N	20.1	L	89.5-110.3	M	0.001 mg/L
SM4500-NO <sub>3</sub> <sup>-</sup> F	Nitrite – N	5.2	M	89.5-110.3	M	0.001mg/L
EPA 351.2	Organic N					
EPA 350.1	Ammonia N					
SM 5210 B	BOD <sub>5</sub>	15.9	M	78.4-110.4	M	0.1 mg/L
SM 5210 B	CBOD <sub>5</sub>	11.8	M	78.4-110.4	M	0.1 mg/L
EPA 360.2	Dissolved Oxygen	6.7	M	92.7-103.3	M	0.02 mg/L
EPA 120.1	Specific Conductance	3.4	M	95.9-104.7	M	0.3 µmhos/cm
EPA 150.1	pH	0.7	M	98.0-101.6	M	0.01 units
<b>METALS</b>						
EPA 215.1	Calcium	3.0	M	97.1-102.7	M	0.024 mg/L
EPA 213.1	Cadmium	13.3	L	92.0-105.2	M	0.007 mg/L
EPA 218.1	Chromium	40.1	L	86.2-123.4	M	0.011 mg/L
EPA 220.1	Copper	0	L	87.0-108.2	M	0.004 mg/L
EPA 236.1	Iron	8.1	L	88.1-108.1	M	0.020 mg/L
EPA 258.1	Potassium	1.1	M	98.3-101.5	M	0.036 mg/L
EPA 242.1	Magnesium	0.7	M	99.2-100.8	M	0.013 mg/L
EPA 243.1	Manganese	15.3	L	99.6-101.6	M	0.006 mg/L
EPA 273.1	Sodium	3.5	M	92.9-107.3	M	0.028 mg/L
EPA 249.1	Nickel	0.0	L	93.2-101.6	M	0.043 mg/L
EPA 239.1	Lead	0.0	L	94.9-104.5	M	0.046 mg/L
EPA 289.1	Zinc	4.7	L	98.8-102.0	M	0.008 mg/L
<b>ORGANICS (GAS CHROMATOGRAPHY METHODS)</b>						
EPA1 608	Aldrin	14.0	L	59.8-140.2	L	0.006 µg/L
EPA1 608	Chlordane	7.9	L	50.7-149.3	L	0.050 µg/L
EPA1 608	4,4 – DDD	6.8	L	81.3-118.7	L	0.002 µg/L
EPA1 608	4,4 – DDE	7.8	L	83.1-116.9	L	0.002 µg/L
EPA1 608	4,4 – DDT	10.1	L	57.8-142.2	L	0.003 µg/L
EPA1 608	Dieldrin	6.1	L	87.0-113.0	L	0.001 µg/L

Method No.	Analyte/Component	Precision RPD	C	Accuracy %R	C	MDL
EPA1 608	Heptachlor	2.1	L	70.0-130.0	L	0.004 µg/L
EPA1 608	Heptachlor Epoxide	4.8	L	90.1-109.9	L	0.003 µg/L
<b>MICROBIOLOGY</b>						
SM9222 B	Total Coliform MF Ambient Waters	0.3653	L			1colony/100ml
SM9222 B	Total Coliform MF Ambient Waters	0.2092	M			1colony/100ml
SM9222 D	Fecal Coliform MF Ambient Waters	0.3884	L			1colony/100ml
SM9222 D	Fecal Coliform MF Ambient Waters	0.3284	M			1colony/100ml
SM9222 D	Fecal Coliform MF Wastewaters	0.1440	L			1colony/100ml
SM9222 D	Fecal Coliform MF Wastewaters	0.5236	M			1colony/100ml
SM9230 C	Fecal Strep MF Ambient Waters	0.7460	L			1colony/100ml
SM9230 C	Fecal Strep MF Ambient Waters	0.3648	M			1colony/100ml

Analytical Methods Referenced in Table B.2.3.:

EPA: "Methods for Chemical Analysis of Water and Wastes," EPA 600/4-79-020, revised March, 1983

EPA1: "Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater", 40 CFR, Part 136, Appendix A, 2000.

SM: Standard Methods for the Examination of Water and Wastewater, APHA-AWWA-WPCF, 18th Edition, 1992.

MDL: EPA - "Definition and Procedure for the Determination of the Method Detection Limit - Revision 1.11" 40 CFR Part 136, Appendix B

Abbreviations in Table B.2.3.:

RPD: Relative Percent Difference

% R: Percent Recovery

C: QA Target Concentration Ranges

L: Low Range

M: Mid Range

H: High Range

#### **B.2.2.10. Quality Control & Assurance**

Water Quality Monitoring Quality Assurance activities shall meet or exceed the following requirements.

##### **B.2.2.10.1. Blanks**

All equipment blanks shall be collected and analyzed for the same parameters as the associated samples. All blanks shall be preserved, transported, documented and handled as if they were samples. Once collected, they must remain with the sample set until they have been received by the laboratory. All equipment blanks are prepared by rinsing the sampling equipment with analyte-free water and collecting the rinsate in appropriate sample containers. The following types of blanks shall be collected as specified:

- **Pre-cleaned Equipment Blank:** these blanks shall be collected from sampling equipment that has been brought to the site pre-cleaned and ready for use; at least one equipment blank shall be collected for each water and solid matrix analytical group; these blanks shall be collected AT THE BEGINNING of the sampling episode,
- **Field Cleaned Equipment Blank:** These blanks shall be collected from sampling equipment AFTER the equipment has been cleaned in the field (i.e., between sampling points), and
- **Trip Blank:** these blanks are required only if samples are to be analyzed for volatile organic compounds (VOC); they shall be prepared by the organization that is providing the VOC vials, and shall be prepared by filling vials with analyte-free water; the vials shall be placed in the same transport containers as the empty VOC vials; they must remain with the VOC vials during the sampling episode and shall be transported to the analyzing laboratory in the same shipping or transport container(s) as the VOC samples; the trip blanks shall remain unopened for the entire sampling episode; a trip blank must be submitted for each cooler that transports empty or full VOC vials.

#### **B.2.2.10.2. Field Duplicates**

Field duplicates shall be collected and analyzed for the same parameters as the associated samples. They shall be preserved, transported and documented in the same manner as the samples. Duplicates are collected to measure the variability inherent in the sampling process. They shall be obtained by DUPLICATING (simultaneously or in rapid succession) the entire sample acquisition technique that was used to obtain the first sample. Duplicates for water are collected by sampling from successively collected volumes (i.e., samples from the next bailer of sample water). Duplicates for soils are collected from the same sample source (i.e., soil is obtained from the same soil sampling device).

#### **B.2.2.10.3. Frequency of Quality Control Samples**

The number and type of equipment blanks (EQB) are dependent upon two factors above and beyond the number of samples taken at a given site. The first factor is the number of pre-cleaned pieces of sampling equipment (bailer, Nansen bottle, Kemmerer, etc.) brought into the field for use. The second factor is the total number of field cleanings performed on this equipment.

To calculate the number of each kind of EQB (pre-cleaned and field cleaned) the following sequence should be used:

- determine the total number of samples taken for each matrix,
- determine the total number of pieces of equipment by type to be used for a given matrix which will be brought into the field pre-cleaned, and
- determine the total number of field decontaminations that will be necessary for the sampling event by subtracting #2 from #1 above.

Once these have been determined, the requirements on the following table and the generalities listed below may be used to determine the total number of EQBs that must be collected and analyzed:

- for 1 to 9 samples, at least one EQB must be taken, either pre-cleaned OR Field cleaned. If field cleaning is performed, then the EQB must be a field cleaned EQB,
- for 10 to 20 samples, one pre-cleaned EQB AND one Field cleaned EQB must be taken unless all equipment used is pre-cleaned; if no field cleaning is performed, then only one pre-cleaned EQB is required, and
- for greater than 20 samples, the 5% (1 in 20) requirement must be met for both the pre-cleaned (number 2 above) and field cleaned equipment.

The frequency with which the above quality control samples are collected is summarized in Table B.2.4.:

**Table B.2.4.: Frequency of Quality Control Samples.**

NUMBER OF SAMPLES	PRE-CLEANED EQB	FIELD CLEANED EQB	TRIP BLANK	DUPLICATE
10+	Minimum of 1; then 5%	Minimum of 1; then 5 %	1 per cooler	Minimum of 1; then 10%
5 – 9	1*	1*	Not Required	1
< 5	1*	1*	Not Required	Not Required

\*Note: For 9 or fewer samples, a pre-cleaned equipment blank (EQB) or a field cleaned equipment blank is required. A field cleaned equipment blank must be collected if equipment is cleaned in the field.

#### **B.2.2.10.4. Split Samples**

Split samples may be required as a means of determining compliance or as an added measure of quality control. These types of samples are intended to measure the variability between laboratories and should be obtained as sub-samples from the same parent sample. A true split sample of water, soil, sediment or sludge is almost impossible to accomplish under field conditions. Split samples shall be collected, preserved, transported and documented using the same protocols as the related samples. In addition, an attempt should be made to use the same preservatives (if required).

Split samples for water and sediments shall be collected in one of two ways:

- mix the sample in a large, appropriately pre-cleaned, intermediate vessel and pour aliquots of the mixed sample into the appropriate sample containers; this method shall not be used if VOCs are of interest, or
- fill the sample containers from consecutive sample volumes FROM THE SAME SAMPLING DEVICE (i.e., from the same bailer); if the sampling device does not hold enough sample to fill the sample containers, the following protocol shall be used:
  - fill the first container with half of the sample, and pour the remaining sample into the second container,

- obtain additional sample, and pour the first half into the SECOND container; the remaining portion shall be poured into to first container, and
- continue with steps 1 and 2 until both containers are filled.

#### **B.2.2.10.5. Quality Control on Field Measurements**

All field instruments must be initially calibrated at the beginning of each working day. A continuing calibration check shall be analyzed at intervals of no more than 4 hours and at the end of the sampling day to determine if the instrument has maintained calibration. The instrument shall be recalibrated if the continuing calibration checks fail to meet acceptance criteria. All quality control data shall be recorded in the daily field notes.

#### **B.2.2.10.6. Quality Control on Laboratory Measurements**

Laboratory chemistry QC checks will involve the following:

- method reagent blanks - shall be prepared and analyzed at a rate of one per sample set,
- matrix spikes - at least one sample in a sample set (or 5%, whichever is greater) with similar matrices shall be prepared and analyzed by the specified method; if a set contains samples of different matrices, matrix spikes should be prepared and analyzed for each matrix type; for work submitted to Florida DEP, matrix spikes must be included as routine protocol,
- reagent water or reagent matrix spikes - reagent water or reagent matrix spikes may be used as additional QC checks to monitor the effectiveness of the method; if used, these must be analyzed at a frequency of 5%,
- quality control check samples - shall be analyzed in duplicate semiannually; such samples shall be analyzed as blind samples (i.e., the component concentrations in these samples shall not be provided to the analyst until after analysis); if the data are not acceptable, the analytical results must be reported in a QA report to Florida DEP,
- quality control check standards - shall be analyzed at a continuing frequency equivalent to 5% of the samples in the analytical set (i.e. one every 20 samples) or shall be analyzed at the beginning of each run to verify the standard curve,
- duplicate samples or matrix spike duplicates - at least one or 5% of all samples in a sample set with a similar matrix shall be selected and analyzed in duplicate; if a sample set contains samples from different matrices (e.g., effluent and drinking water), then duplicates or matrix spike duplicates should be analyzed for each matrix,
- continuing calibration standards shall be analyzed at a frequency equivalent to 5% of the samples in an analytical set; alternatively, quality control check standards may be used (see e. above), at least one of these checks shall be a standard at a concentration of 1 - 2 times the laboratory stated PQL, and

- additional quality control checks may be included and shall be used if specified by the approved method.

Laboratory microbiology QC checks will involve the following:

- Blanks
  - Membrane Filter Analysis: for each set of samples, a control blank shall be run at the beginning (dilution water blank), every tenth sample (sample carry over blank), and at the end of the set, and
  - MPN Analysis: a single tube of LTB broth media shall be inoculated with 10 milliliters of sterile phosphate buffered dilution water (dilution blank control).
- Duplicates - At least 10% of the known positive samples that have been processed shall be analyzed in duplicate or a minimum of one duplicate analysis per month for MF and MPN analyses.
- Positive/Negative Controls - Microorganisms obtained from the American Type Culture Collection (ATCC) or equivalent sources shall be used to confirm the morphological and biochemical responses to test media. Positive and negative controls shall be run with each new lot of media, and monthly thereafter.
- Water Quality Indicators:
  - water source shall be tested monthly for chlorine residual, conductivity and standard plate count,
  - the concentration of metals in the water source shall be determined annually, and
  - Water Suitability Test shall be conducted annually.
- 5% of all positive environmental samples analyzed by membrane filter shall be verified per method requirements.

When using the MPN test, the MPN test shall be completed on 10% of all positive confirmed samples.

#### **B.2.2.11. Data Management**

The three counties employ standardized data management procedures to ensure that data collected meet appropriate standards. All environmental samples collected under the routine water quality monitoring programs follow the standard procedures outlined in each agency's Water Monitoring Program's Comprehensive Quality Assurance Plan. These quality control procedures assure that all data produced to support various environmental monitoring projects meet, at minimum, the industry standards for precision and accuracy. The databases generated from these water monitoring programs provide information for development review decisions, revision and enforcement of regulations, standard effluent limitation plans, and other such programs as established through the Federal Water Pollution Control Act of 1972 (Clean Water Act).

Field collected data are recorded on standard data forms specific for a particular project. Additionally, data are usually stored electronically at each

sample location within the water quality instruments memory. Upon completion of a sampling day, data are downloaded via serial connection from the water quality instrument to a spreadsheet program on a lab PC (or inputted manually). Field collected variables that are downloaded are visually inspected and compared to the field sheets, edited, and reformatted. This formatted file is then uploaded into a MS Access database for storage and retrieval.

Upon receiving confirmation from laboratory personnel that all laboratory analyte data are complete, the project database manager extracts and combines the field collected data with the laboratory analyte data using a canned SAS program. An error and range-checking SAS program is performed on the combined dataset. Data error reports are generated and distributed to field and laboratory staff for verification and correction of original data sheets and databases. This process is repeated once all corrections are made to the storage databases or are verified as correct.

Hard-coded data summary and data extraction programs will be built to ensure data integrity upon retrieval and dissemination of the data. The inter-agency database co-coordinator reviews any output from the combined datasets for disparate data to ensure that erroneous data will not confound subsequent analyses.

All files and databases are regularly archived on and off-site. All programs that operate on data are thoroughly tested and documented. All water quality monitoring data are stored in accordance with modernized EPA STORET requirements when possible.

**B.2.3. Sediment Quality, Benthic Biota, and Benthic Microalgal Community Biomass Sampling**

**B.2.3.1. Sample Date Selection**

Prior to the anticipated January – December 2006 sample period, randomly-selected sample dates will be generated for each index period in accordance with each County's Laboratory processing/holding time constraints. Ideally, sample dates will be in conjunction with fisheries collections in order to control for temporal variability. Weekends, Thursdays, Fridays, holidays, and days preceding a holiday are excluded as possible sample dates.

**B.2.3.2. Sample Site Selection**

Based on the sampling universes determined during the recon-period, an EMAP-based design is anticipated to be used for random site selection by overlaying a grid over each tidal stream watershed stratum. SAS programs will be used to produce, for each watershed stratum, a primary set of randomly located sample sites and a set of alternate randomly selected sample sites. Four primary sites are selected in each watershed stratum for each sample period (month). Sample sites are located using latitude and longitude and are plotted on an aerial map to aid in navigation and location of the site. Site coordinates and maps are provided to sampling crew.

**B.2.3.3. Sampling Effort & Responsibilities**

The EPCHC will be responsible for the collection and laboratory processing of samples from tidal tributaries located in all the priority watersheds. The level of effort for each area is presented in Table B.2.5.

**Table B.2.5. Sediment Quality, Benthic Biota, and BMAC Sampling Effort**

Task	2005				2006								2007								Total				
	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4		5	6	7	8
<b>B.2.3. Sed. Quality</b>																									
Alafia R. Tribs.							2	2	2				2	2	2										12
LMR Tribs.							2	2	2				2	2	2										12
Feather Sound Area							2	2	2				2	2	2										12
Terra Ceia Area							2	2	2				2	2	2										12
<b>Sub-Totals</b>							8	8	8				8	8	8										48
<b>B.2.3. Benthic Biota</b>																									
Alafia R. Tribs.							2	2	2				2	2	2										12
LMR Tribs.							2	2	2				2	2	2										12
Feather Sound Area							2	2	2				2	2	2										12
Terra Ceia Area							2	2	2				2	2	2										12
<b>Sub-Totals</b>							8	8	8				8	8	8										48
<b>B.2.3. BMAC</b>																									
Alafia R. Tribs.							2	2	2				2	2	2										12
LMR Tribs.							2	2	2				2	2	2										12
Feather Sound Area							2	2	2				2	2	2										12
Terra Ceia Area							2	2	2				2	2	2										12
<b>Sub-Totals</b>							8	8	8				8	8	8										48
<b>TOTALS</b>							24	24	24				24	24	24										144



#### **B.2.3.4. Sediment and Benthic Biota Field Collection Protocols**

Benthic biota samples will be collected using a Young grab sampler (or a petite ponar grab) following the field protocols outlined in Courtney *et al.* (1993). Sediment samples will be collected using a 0.04m<sup>2</sup> stainless steel Young grab sampler, following the methods of Courtney *et al.* (1995). The upper two centimeters of sediment will be removed using a stainless steel or Teflon trowel and spooned into a stainless steel beaker. Sediments from several grabs taken at a sampling station will be composited to ensure sufficient material for chemical analyses. The composite sample will be homogenized and spooned into pre-cleaned 500-mL glass jars with Teflon-lined caps. Samples for silt+clay analysis will be collected from a separate grab sample using a 10cc syringe. All sample collection tasks will be conducted using agency-approved quality assurance plans.

#### **B.2.3.5. Benthic Microalgae Community Biomass Collection Protocols**

Benthic microalgae community (BMAC) biomass, as indicated by chlorophyll-a concentration in the upper 1-cm of sediment, will be determined from a proportional number of sites with a "mini corer" (10cc syringe with the barrel cut off). BMAC samples will be collected in a similar manner as sediment samples for silt-clay analysis except for truncating the sample to the upper 1-cm.

#### **B.2.3.6. Sediment Quality & BMAC Laboratory Processing**

Sediment samples will be processed using standard analytical methods, including EPA Method 8080 for OCLs and PCBs, and Method 8270 for PAHs. Chemical contaminants to be monitored will include selected EPA priority pollutant metals and selected EPA priority pollutant organic compounds. Additional compounds that have been identified as 'contaminants of concern' (COCs) by the TBEP may also be included in the analyses at the discretion of the laboratories.

Benthic microalgae community samples will be processed using the spectrophotometric method of Whitney and Darley (1979), which is designed to yield accurate chlorophyll-a concentrations in samples with high quantities of chlorophyll-a degradation products.

#### **B.2.3.7. Sediment Quality & BMAC QC/QA Objectives**

Data quality will be ensured by the use of standard reference materials, matrix spikes and spiked duplicates. Accuracy will be determined by analysis of reference materials, with a requirement that results be within 80 – 120% of certified values. Precision will be determined by comparing relative percent difference (RPD) values between matrix spike duplicates and matrix duplicates, with an acceptance criterion of RPD<30%. Analyses will conform to the quality control standards and assurances set forth in sections B.2.2.9. and B.2.2.10.

**B.2.3.8. Sediment Silt+Clay Quality Control & Laboratory Processing  
(Adapted from EPA/620/R-95/008)**

Sediment samples are refrigerated at 4°C to 5°C prior to processing. Samples are not allowed to dry before grain size analyses are conducted. Fine particles may aggregate during drying which can change the physical characteristics of the sample (Plumb, 1981).

Sieves used in the determination of sediment grain size are not be used for other purposes. All wet-sieving procedures are to be carried out using stainless steel screens. Fine screens (0.63-mm mesh) are cleaned with water to prevent clogging of mesh openings. Brushes are not used in cleaning sieves to prevent distortion of the mesh. Sediments are not forced through screens.

An analytical balance accurate to 0.1 mg is used for all weighing. Prior to each use, the balance is zeroed, and its calibration checked using a standard weight. The same standard weight (each standard is numbered) is used for all weight measurements for a particular batch of samples. The following procedures are used to determine the percent by weight of silts and clays (particles that pass through a 0.63-mm mesh sieve) in sediment samples. Materials retained on the sieve used in this procedure are generally sands (0.63-mm to 2 mm) but may include gravel-sized particles (2mm to 64 mm) according to the Wentworth-Lane scale (Pettijohn, 1975).

Sediment samples are retrieved from the refrigerator and brought to room temperature. Sample numbers are recorded on a silt+clay analysis data sheet upon retrieval from storage. Sediments are removed from sample jars, placed in a clean plastic beaker, and homogenize by stirring with a small spatula for at least 3 minutes. The amount of sediment to be processed depends upon sediment type. Accurate results depend upon having enough sediment in the 0.63-mm sieve, but not having too much sediment in the settling cylinder used in the pipette analysis. The technician classifies sediment samples as primarily sand or primarily mud. Such classifications are based upon the visual appearance and texture of sediments.

For sandy sediments, approximately 50 g wet weight (approximately 33 ml assuming a wet weight density of 1.5 units) are removed and placed in a clean plastic beaker for further analysis. For muddy sediments, approximately 20 g wet weight (approximately 13 ml) are removed and placed in a clean plastic beaker for further analysis. Remaining sediment is returned to the original storage bag and held in cold storage until all QA/QC checks for this sample have been passed. Then, 5 ml sodium hexametaphosphate (6.2 g/l) and 50 ml distilled water (DW) are added to the 50 g of sediment and the slurry is stirred using a magnetic stirrer for 1 to 5 minutes. This step breaks sediment aggregates, particularly of clays, using the sodium hexametaphosphate as a dispersant.

After stirring, the sample is sieved using a 0.63-mm mesh sieve and as little distilled water as possible. The filtrate volume is kept to less than 900 ml to allow room for rinsing the sample into a graduated cylinder. The fraction retained on the sieve (>0.63-mm) is transferred to a tared evaporating dish and placed in an oven at 60° C until dry. Typically, 48 h is sufficient for the dry weight of sediment samples to stabilize. All samples are weighed after 48 h. The weight is recorded on the silt-clay data sheets, and the samples returned to the drying oven. A randomly selected sub-sample of each batch is re-weighed after an additional 24 h drying period as a check for the stability of the dry weight measurement. The volume is filled to the next highest 50 ml mark (e.g., 650, 700, or 750) with distilled water. This volume is recorded on the data sheet. The sample in the graduated cylinder is shaken to suspend sediment particles evenly. Immediately after shaking, 40 ml of sample are removed with a volumetric pipette and placed in a tared evaporating dish. The pipette is rinsed with a small volume of distilled water; the rinsed water is added to the sample dish. If the sample is taken in two parts (i.e., two 20 ml samples), the cylinder is shaken between extractions. The evaporating dish is placed in an oven at 60°C until dry. Typically, 48 h is sufficient for sediment samples to reach a stable dry weight. A randomly selected subsample of each batch is re-weighed after an additional 24 h drying period, as a check for the stability of the dry weight measurement. Unused sediments from each sample are stored at 4° to 5°C for QA/QC analyses and other sediment analyses.

#### Calculations for Silt+Clay Determinations:

- Sand weight calculation: sand wt. = gross wt. (sample + pan) - tare wt. (pan)
- Silt-clay weight calculation: silt-clay wt. = (gross wt. - tare wt.) x [(total volume in cylinder)/(sample volume from cylinder)]
- Percent silt-clay calculation: % silt-clay = [(silt-clay wt.) x 100]/(sand wt. + silt-clay wt.)

Note: (100 - % silt-clay) is not equal to the percent sand, since gravel sized particles (> 2mm but < 64 mm) may be present in some samples.

### **B.2.3.8. Benthic Biota Quality Control and Processing (Modified from EPA/620/R-95/008 and Courtney *et al.* 1995)**

#### **B.2.3.8.1. Sample Sorting**

The objective of sorting benthic samples is to completely remove all fauna of interest that were alive at the time of collection from sample debris. Sample debris includes sediment, detritus, and the remnants (death assemblage) of the hard parts of various benthic organisms (e.g., shells of bivalve mollusks or the exoskeletons of crustaceans). The fauna of interest are benthic macrofauna, defined as those metazoan organisms retained on a 0.5 mm mesh sieve. There is no upper size limit for macrofauna to be sorted, identified, and enumerated. All fauna retained on the 0.5 mm sieve is to be identified, enumerated, and included as macrofauna, except the following groups: a. meiofauna (e.g., harpacticoid

copepods, nematodes, ostracods, etc.); b. plankton (e.g., copepods, decapod larvae); c. terrestrial and aerial organisms (e.g., oniscoidean isopods, collembola); and d. eggs or egg cases.

#### **B.2.3.8.2. Field Sieving**

Collected samples are sieved upon returning to the dock at the end of the day. The bags containing the sediment sample are emptied and rinsed into a 5-liter tray. Small amounts of the sample volume are placed in a 0.5-mm mesh sieve. The sediment is sieved through the mesh by gently agitating the sieve at the waters surface. Sediment and organisms larger than 0.5 mm will be retained on the sieve. The retained sediment is transferred into a pre-labeled, plastic, screw top sample container (1 pint - 1 gallon HDPE) using a plastic spoon. Sample sediment that gets on the outside of the sample jar during transfer is rinsed back into the sieve with a squeeze bottle of seawater. This procedure is repeated until the entire sample has been sieved. Any residual sediment left in the sieve is rinsed into the sample container using a squirt bottle. The final wash down should take place in a 5-liter plastic tray so that any spilt sediment or organisms may be recovered. The sieve mesh is then inspected for any remaining organisms; these are removed from the mesh with a pair of fine forceps and placed in the sample container. After the sieved sediment has been transferred to the sample container, an internal station label is placed in the sample container and a solution of ambient seawater and Epsom salts are added to the sample to a volume of two-thirds of the sample container. If the volume of the sample exceeds two-thirds of that of the container, the remainder of the sample is placed in a second or multiple containers, or a larger container may be also used. If multiple sample containers are used for the same sample, each container should be labeled externally with the station number and designated "Jar 1 of n"; "Jar 2 of n" etc. Internal station labels should also be added to each additional container. The sieve is back-washed by vigorously agitating the sieve upside down in the surface water between samples to help avoid cross contamination.

#### **B.2.3.8.3. Sample Preservation (Fixation)**

Preservation of the samples in formalin takes place at the EPCHC Water Analysis Laboratory under a fume hood. All employees working with formalin will wear proper OSHA approved safety equipment (respirator with formaldehyde filters, apron, gloves and goggles). A 37% solution of borax-buffered formalin is used to fix the samples. Rose Bengal stain is added to this solution (0.5 g/l). A volume of 50 ml of the buffered formalin solution is added to each one-pint sample container (or 250-ml to a gallon container), these are the volumes required to produce a final concentration of 10% formalin. After the formalin is added, the sample is gently inverted several times to thoroughly mix the contents. The fixed samples are stored in the dark for a minimum of 72 hours before being transferred into 70% isopropanol.

#### **B.2.3.8.4. Sample Transfers**

The fixed samples are transferred into a 70% solution of isopropanol and Rose Bengal stain for long-term preservation and storage. This transfer also occurs in the EPCHC Water Analysis Laboratory under a fume hood and with proper personal safety equipment as mentioned above. For the transferring procedure the formalin is decanted through a 0.5mm mesh sieve and diluted with running tap water. The diluted formalin solution is then discarded down the laboratory sink into a lime-lined chemical sump. The sample sediment is then emptied into the 0.5mm mesh sieve and rinsed thoroughly with tap water to remove residual formalin. The 70% isopropanol with Rose Bengal stain is added to the sample container to the 1/3 full mark, and the rinsed sediments are placed back into the container using a plastic spoon. Any residual sediment in the sieve is washed back into the sample container with a squeeze bottle of 70% isopropanol. The sample container is gently inverted several times to mix the contents. Transferred samples are recorded on a Sample Transfer Log Sheet. Following preservation, samples will be shipped to the Benthic Taxonomy Contractor who will perform the remainder of the taxonomic identification processing following the methods outlined below.

#### **B.2.3.8.5. Laboratory Sieving**

All samples are rinsed on a 0.5 mm mesh screen in the laboratory to remove all remaining particles less than 0.5 mm and to ensure that samples are consistently processed. Sieves are cleaned and backwashed thoroughly before processing each sample. A series of larger sieves (e.g., 1.0 mm, 2.0 mm, 4.75 mm) are used if necessary to partition the sample for easier sorting. The contents of the jar are thoroughly rinsed into the sieve making sure that no sediment is left in the jar. The sieve containing the sample is placed into a plastic-basin filled with water and gently agitated to wash fine material through the sieve. This procedure minimizes mechanical damage to fragile fauna. A gentle spray of water is also used to wash material through the sieve; direct, heavy jets of water are avoided. In preparation for sorting, material is transferred from the sieve into a sample jar using a gentle spray of water (water bottle or hose sprayer in sink). The sieves are examined after rinsing to ensure that all organisms have been removed and to minimize cross contamination with the next sample. Throughout laboratory processing, all samples are tracked by their sample number.

#### **B.2.3.8.6. Laboratory Sorting**

All macrofauna at the time of collection are removed. All organisms, including body fragments, are removed, and unidentifiable material is saved until it can be positively identified. Sorting is begun by spooning and evenly distributing a small amount of sieved material into a gridded Petri-dish. The water level in the Petri-dish is low enough to prevent sloshing while moving the dish. Samples are examined and sorted under a stereomicroscope. Organisms are removed while systematically searching the tray or Petri-dish. Organisms are divided into major taxa such as annelids, crustaceans, and mollusks. Other organisms not included in these taxa are grouped as miscellaneous taxa.

Major taxa found in each sample are preserved separately in small, snap top vials that are internally labeled and bound together with rubber bands. All vials from a sample are then placed in a labeled (station) zip-lock plastic bag. Samples are preserved in isopropanol (70%). All sample debris is retained and transferred from the Petri-dish to the original sample bottle, preserved in a 70% isopropanol solution, and saved in batches of 10 for each technician. Each sample is recorded in an archive log. Ten percent of each batch is resorted as a quality control check on sample sorting. The retained sample debris in each batch may be discarded after quality control procedures have been completed and passed.

#### **B.2.3.8.7. Benthic Species Identification and Enumeration**

The objective of species identification and enumeration is to accurately identify and count all organisms of interest found in a sample. For this program, specimens are identified to the species level whenever possible. The identification of biological specimens to the species level requires specialized taxonomic training, experience, and a familiarity with current taxonomic literature. The validity of species identifications affects the quality of subsequent population and community analyses, as well as the comparability of the research to other studies; therefore, only qualified, experienced Biologists and laboratory technicians perform species identifications. The taxonomic keys are used for identifying benthic species in Tampa Bay. Typically, no one person can completely master the taxonomic complexities of all benthic macrofaunal groups. For example, one technician might develop an expertise in identifying polychaetes, while another may be better at gastropods. A high-quality dissecting microscope, with sufficient magnification for clear resolution of morphological details, is used for all identifications. For many annelids, a compound microscope capable of higher magnification is required and should be used.

Existing macro-invertebrate reference collections are used to assist in species identification. A reference collection of each species identified is maintained within the laboratory. This collection is used in training new taxonomists, verify identifications made by different taxonomists, and help resolve future taxonomic problems. The reference collection contains at least one specimen of every identified species. Due to various taxonomic difficulties, certain groups may not be able to be identified to species. In these cases, specimens are identified to the lowest practical taxon. The number of individuals counted for each taxon reflects the number of organisms alive at the time of sampling; therefore, when fragments are recovered, counts should be based upon only the number of heads. Ampeliscid amphipods are identified from fragments, which include the 7<sup>th</sup> pereopod and/or pleosome. Otherwise, posterior body fragments are not counted.

Species identification and enumeration commences by retrieving sample vials for a particular sample from the previous sorting procedure. At that time, a

species identification data sheet (separate for major taxonomic groups) is started. The sample number on the vials is checked with the number recorded in the sample log and the number of vials matched that noted in the log. Specimens are identified, counted, and removed from the petri dish one at a time. Vials are labeled with sample number and the initials of the Biologist/ Laboratory Technician completing the work. Petri dishes and sieves are thoroughly inspected for missed specimens, and then rinsed to minimize cross contamination.

Specimens that are difficult to identify are set aside in vials and preserved in isopropanol for further examination. Positive identification may require the expertise of a more experienced taxonomist, whereas other specimens may require further processing (e.g., oligochaetes and chironomids are mounted on microscope slides before species determination can be made). Other specimens may need to be sent to outside experts for identification/verification. The location of all specimens for a particular sample is tracked using the species identification data sheet and the laboratory sample log.

#### Count of the Number of Species in Each Sample:

Each species is included in the count of the total number of species in each sample. Specimens that can be identified only to genus, family, or order are also included in the total number of species in each sample (e.g., a specimen identified to be within family Spionidae is counted as one species). However, if a specimen identified to genus, family, or order can be identified as one of several pre-identified species, then that specimen is not counted as an additional species. This procedure eliminates double counting certain species. For example, a specimen is identified as being *Mediomastus* but the taxonomist believes it to be either *M. californiensis* or *M. ambiseta*, both of which are present in the sample. The specimen is recorded as *Mediomastus* spp. and is not included in the species count for that sample

#### **B.2.4. Data Consolidation, Interpretation, and Summary**

Water and benthic quality monitoring data will be consolidated on a quarterly basis from the three county agencies. Hard-coded data summary and data extraction programs will be built to ensure data integrity upon retrieval and dissemination of the data. The inter-agency database coordinator reviews any output from the combined datasets for disparate data to ensure that erroneous data will not confound subsequent analyses.

##### **B.2.4.1. Watershed Alteration Characterization**

For each priority watershed, a general characterization of land-use will be determined using the most current SWFWMD Florida Land Use and Cover Classification System in GIS format (1999 maps are the most current as of this writing). This general characterization will involve the determination of the percentage of altered land uses in the watershed.

###### **B.2.4.1.1. SWFWMD Land Use Data Quality Documentation**

Land use/land cover data are provided by the SWFWMD Mapping and GIS Section and all appropriate FGDC metadata requirements are reported through their world wide web-based data dissemination pages (<http://www.swfwmd.state.fl.us/data/gis>). The following data quality information is provided directly from the SWFWMD with regards to 1999 land use/land cover data to be used in the project, we expect similar documentation to be reported for any subsequent land use/land cover data provided through the SWFWMD:

- **Attribute Accuracy Report:**  
Visual inspection of the 1999 land use and land cover data over the DOQQs. The 1995 land use and land cover data was used as reference data. Additional checks included Arc/INFO's label error procedures to verify proper annotation of features. No statistical accuracy verifications have been done. Based on past projects of a similar nature it is estimated that classification accuracies of between 80% - 90% can be expected for Level II [Florida Land Use/Cover Classification] categories.
- **Horizontal Positional Accuracy Report:**  
Visual inspection of the 1999 linework over the DOQQs, at a scale of 1:8,000, was used to verify the positional placement of the linework. Data is estimated to be compliant with the National Map Accuracy Standards for 1:12,000, estimated +/- 33.3 feet. Dates range between July and September of 2001. The goal of this project was to update the existing 1995 land use and land cover data layer using the 1999 DOQQs that meet or exceed National Map Accuracy Standards for 1:12,000. Land use and land cover boundaries are not always well defined, however, given the use of ancillary data sources (e.g. soils data or National Wetlands Inventory) to determine feature boundaries, it is expected that data acreage should be accurate.



#### **B.2.4.1.2. SWFWMD Data Acquisition Requirements**

Florida land use/land cover data will be acquired from the SWFWMD Mapping and GIS Section through their world wide web-based data dissemination pages (<http://www.swfwmd.state.fl.us/data/gis>). The EPCHC intends to merge these geo-referenced datasets with appropriate, available data sources in and around the four priority tidal stream watersheds in the appropriate spatial domain. Data reduction will be performed on both datasets according to the spatial attribute limitations specified in the FGDC metadata of the SWFWMD Florida land use/land cover GIS data. The standards set forth for the SWFWMD data must fit feature boundaries at a scale of 1:12,000, minimum mapping unit of .5 acres for wetlands, and 5 acres for uplands.

#### **B.2.4.2. Interpretation and Analysis**

A primary objective of the proposed sampling program will be to test the hypothesis that tidal streams which exhibit degraded water or benthic quality will also show high levels of anthropogenic land use/land cover changes in their contributing watersheds, and that tidal streams whose watersheds remain largely undisturbed by human activities will show the highest levels of water and benthic quality. To test this hypothesis, we plan to determine empirical relationships between select measures of land use intensity/alteration and select water quality constituents monitored through the tidal streams project, as well as from all available monitoring data sources in and around the four priority tidal tributary watersheds.

Several land use intensity/alteration indices will be examined to determine the best overall empirical relationship with the available water and benthic quality data sources. Initially, a simple stream corridor index of land use intensity will be developed from 100m buffers of tidal streams contained within each priority watershed. If necessary, more complex landscape indices will be used to determine direct watershed alteration. Brown and Vivas 2005 have proposed a landscape development intensity index for Florida wetlands in conjunction with the FDEP, and this approach may be applicable to the tidal stream watersheds.

#### **B.2.4.3. Data Summary Report**

A draft final technical report will be submitted to the TBEP Project Manager for review and comment prior to finalization. The final project report will be submitted to the PCEF in digital (pdf) form. All data, particularly electronic data, will be submitted in a format and on media in agreement with the TBEP Project Manager. Copies of publications will be provided in both hard copy and in electronic format.

### ***B.2.5. Management and Action Plan Development***

A critical final product of this project will be a pilot Tampa Bay Tidal Tributaries Management Strategy, including specific resource goals and long-term monitoring recommendations. Results of the water and benthic quality sampling program and data analyses will be used by the Tidal Tributaries Working Group to develop these recommendations and a strategy to implement them. Specific resource goals for tidal tributaries and long-term monitoring recommendations will be forwarded to the TBEP Technical Advisory Committee (comprised of 80+ scientists and resource managers from the Tampa Bay area) for their review and approval. TBEP TAC recommendations will then be forwarded to the TBEP Management Board and elected officials comprising the TBEP Policy Board for their consideration and approval. It is anticipated that the goals and targets for tidal tributaries developed by the Tampa Bay Tidal Tributaries Management Strategy will be similarly incorporated into local and statewide management plans and decisions.

**Task B.2. Budget: Water and Benthic Quality and Watershed Characterization**

Budget Category	Expense per Category	Matching Funds	PCEF Funds
		\$84,000+ EPCHC In-Kind (4 EPCHC Sci.; Personnel costs to collect and process 48 AWQM samples; 16 Tidal Trib.-related samples; 300 HIMP WQ profiles; 64 Benthos samples; 12 SQ samples)	\$52,600 EPCHC - (Personnel costs to collect and process additional WQ and Benthic samples)
Salaries & Benefits	\$333,900	\$22,500 TBW In-Kind (Water Quality Data)	\$28,800 Contractual - (Benthic Taxonomic Work-Up)
		\$66,600 TBW In-Kind (Benthic monitoring)	
		\$25,000 Pinellas Co. In-Kind (Sample Collection)	\$18,400 Contractual - (Management & Action Plan Development)
		\$25,000 Manatee Co. In-Kind (Sample Collection)	
Equipment	\$19,200	\$10,000 (TBEP Cash) \$15,000 EPCHC In-Kind (AWQM, HIMP, & Benthic Sampling-related Costs)	\$4,200 EPCHC - (Sampling related costs)
Other			\$1,000 EPCHC - (Benthic Sample Shipment)
<b>Total Task B:</b>	<b>\$353,100</b>	<b>\$248,100</b>	<b>\$105,000</b>

**Task B.2. Deliverable Work Products**

The deliverable work products will be:

- An integrated comprehensive database and associated metadata developed in Tasks B.2.2 and B.2.3.
- A GIS-based characterization of tidal tributary buffers based on the degree of land-use alteration in the watershed.
- An integrated analysis and summary report of watershed alteration and resultant water, sediment, and benthos quality of the four priority watersheds.
- A final "report to public" summarizing the findings of the Water and Benthic Quality portion of the project.



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** January 12, 2006

**Subject:** Tampa Bay Estuary Program Purchase Order for Bay-wide Benthic Monitoring

**Consent Agenda** XXX **Regular Agenda** \_\_\_\_\_ **Public Hearing** \_\_\_\_\_

**Division:** Water Management Division and Environmental Resources Management Division

**Recommendation:** Accept the \$30,000 Purchase Order from the Tampa Bay Estuary

**Brief Summary:** The Tampa Bay Estuary Program has issued a purchase order in the amount of \$30,000 to the Environmental Protection Commission to collect and analyze benthic samples from Tampa Bay and its tidal rivers for invertebrates and sediment contaminants. EPC has demonstrated expertise in performing this type of work and has accepted such purchase orders in the past .

**Background:** Staff recommends the Environmental Protection Commission accept the purchase order for \$30,000 from the Tampa Bay Estuary Program to collect and analyze benthic samples from Tampa Bay and its tidal rivers.

In *Charting The Course, the Comprehensive Conservation and Management Plan for Tampa Bay*, several actions items rely on baseline information for sediments constituents, contaminants and fauna. In support of these action items the Tampa Bay Estuary Program, (TBEP) has issued a purchase order to EPC provide the 2003 Bay-wide Benthic Monitoring data. EPC's Benthic Monitoring Program and EPC's Chemistry Laboratory have demonstrated expertise in this type of work. These methods and analysis are consistent with those performed by EPC monitoring programs and has been used to establish baseline values for sediment contamination and benthic communities though out Tampa Bay and its major tributaries.

Tampa Bay Estuary Program, (TBEP) is an independent regional alliance governed by a Policy Board composed of elected officials and a Management Board of top-level bay managers and administrators that provide leadership and guidance on wide range of Tampa Bay management issues. These boards receive input from technical and citizens advisory groups. In keeping with its mission, the TBEP sponsors scientific research to assist in the restoration and management of Tampa Bay.

This contract is presented in the form of Purchase Order Number 6306 from the Tampa Bay Estuary Program. The EPC will invoice the purchase order upon completion of the analysis of the 2003 samples and submission of the data to the TBEP (or their designated contractor).

**List of Attachments:**

Tampa Bay Estuary Program Purchase Order No. 6306  
cope of Work

**Tampa Bay Estuary Program**  
**100 8th Avenue SE**  
**MS: I-1/NEP**  
**St. Petersburg, FL 33701**  
**Ph (727) 893-2765**  
**Fax (727) 893-2767**

**PURCHASE ORDER**

**TO:**

Hillsborough County EPC

Attn: Richard Boler

3629 Queen Palm Dr

Tampa, FL 33619-1309

**FAX: 813-272-5157**

**P.O. Number 6306**

**Date 2/3/2005**

**Requisitioned by Ron Hosler for**

**Holly Greening**

**Ship Via Best Way**

**Term Net 30 Days**

**REC'D**

FEB 03 2005

**SHIP TO:**

Same as above

ENV. PROT. COMM. OF H.C. *Purchase order number must appear on all forms relating to this order.*

QTY	UNIT	DESCRIPTION	PRICE	AMOUNT
		Analysis and dataset for 2003 sediment samples per attached scope of work.		\$30,000.00
304	1443			

**TOTAL DUE \$30,000.00**

AUTHORIZED BY \_\_\_\_\_

AUTHORIZED BY \_\_\_\_\_

*[Signature]*  
 2/3/05

**PROPOSAL TO  
TAMPA BAY ESTUARY PROGRAM  
BAYWIDE BENTHIC MONITORING  
SCOPE OF WORK**

**Prepared by:  
Richard Boler & David Karlen  
Environmental Protection Commission of Hillsborough County**

The Environmental Protection Commission of Hillsborough County (EPC) will continue to support its commitment to the Comprehensive Conservation and Management Plan for Tampa Bay into 2003-2004.

**Objective:** Under this contract, EPC will complete the analysis 64 sediment samples from Tampa Bay for sediment chemistry and benthic macroinvertebrates. Sample locations will be consistent with the 2002 Benthic Re-design decisions. Samples collection responsibilities will be distributed among the program partners.

**Methods:** Field and laboratory methods will be consistent with those adopted for the *Tampa Bay Benthic Monitoring Program*

**Deliverables:** At the completion of this contract, EPCHC will provide the TBEP with a completed dataset of all analysis for the 2003 sampling period.

**Costs Breakdown:** The total cost for processing 64 sediment chemistry samples (for trace metals, organochlorine pesticides, polycyclic hydrocarbons and polychlorinated biphenyls and data entry) and 64 benthic macroinvertebrates samples (for sorting, identifications, quality assurance by taxonomic specialists as necessary, and data entry), is *Total* .....\$30,000.

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Air 627-2660 Lab 272-5157

[www.epchc.org](http://www.epchc.org)

EXECUTIVE DIRECTOR  
Richard D. Garrity, Ph.D.

**Bay-wide Benthic Monitoring  
Tampa Bay Estuary Program  
Purchase Order 6306**

**Allocate to index code: EPE 03031 BENTHIC MACRO INVRT CTTE**

<i><b>Subobject</b></i>	<i><b>Description</b></i>	<i><b>Budget</b></i>
1300	SAL TEMP EMPLOYEES	30,000
<b>Character 10 - Personal Services</b>		<b>30,000</b>



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** January 12, 2006

**Subject:** Petition to intervene in the Honeywell International vs. DEP administrative case regarding the Remedial Action Plan Modification issued by the DEP.

**Consent Agenda** \_\_\_\_\_ **Regular Agenda:** X **Public Hearing:** \_\_\_\_\_

**Division:** Legal Department

**Recommendation:** None

**Brief Summary:** On December 15, 2005, the EPC filed a petition to intervene in the administrative case concerning Honeywell's challenge of the modification to the Remedial Action Plan for the cleanup of the Honeywell facility on the corner of Himes Avenue and Waters Avenue. The petition was filed to assist in expediting the remediation of the Honeywell facility in a sound and environmentally protective manner.

**Background:** During the Hillsborough County Board of County Commissioners (BOCC) meeting dated November 16, 2005, the BOCC directed the EPC staff to bring an agenda item to the EPC meeting dated November 17, 2005, requesting the EPC to intervene in the Honeywell International vs. Florida Department of Environmental Protection (FDEP) administrative case regarding the Remedial Action Plan Modification (OGC Case Nos. 83-0401/00-1722).

On December 15, 2005, the EPC Legal Department filed its petition to intervene in the state administrative court case. The property owner also has filed a petition on December 15, 2005 to intervene in the case. The parties have begun discovery and are preparing for the final hearing. On December 27, 2005, Honeywell filed its response to the petitions to intervene but does not have any specific objection to EPC and the property owner's involvement in the case. The parties are waiting for the Administrative Law Judge to enter an order authorizing the intervention. The administrative hearing has been set for April 3rd through the 14th, 2006 in Tallahassee. The EPC will continue to expedite the litigation process and cleanup of the facility.

**List of Attachments:** None





## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** January 12, 2006

**Subject:** Request for a public hearing to approve amendments to Chp. 1-6 (Services – Fee Schedule Rule), Rules of the EPC

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

**Division:** Legal Department

**Recommendation:**

Staff requests holding a public hearing at the EPC Board Meeting of February 16, 2006, to consider amendments of Chapter 1-6, Rules of the EPC (Services – Fee Schedule Rule).

**Brief Summary:**

Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve a rule. In order to receive additional comment from recent public meetings, the EPC staff requests that the Board approve holding a Services – Fee Schedule Rule amendment public hearing at its next regularly scheduled meeting on February 16, 2006.

**Background:**

Pursuant to the Hillsborough County Environmental Protection Act (EPC Act) Section 5.2, the EPC Board must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the Board approve holding the rule amendment public hearing at the regularly scheduled meeting on February 16, 2006

The purpose of the amendment to Chapter 1-6, Rules of the EPC (Services – Fee Schedule Rule) is to provide for setting fees for the proposed implementation of Chapter 1-14, Rules of the EPC (Mangrove Trimming and Preservation Rule). Chapter 1-14 provides the EPC delegation from the State of Florida Department of Environmental Protection for the regulation of trimming and other impacts to mangroves. Staff intends on setting appropriate fees to support the proposed delegation of the program. The rule amendment will be subject to public comment through a workshop to be conducted before the February 2006 Board meeting.

**List of Attachments:** None



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** January 12, 2006

**Subject:** Tatum Manufacturing

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

**Division:** Air Management

**Recommendation:**

Accept briefing and give direction as necessary.

**Brief Summary:**

Staff will give a brief presentation on the permitting history of Tatum Manufacturing and the surrounding community's concerns. Members of the public have requested this to be put on the EPC's Agenda and may wish to speak as well.

**Background:**

Tatum Manufacturing received an air pollution permit from the EPC in August 2005 to construct a fiberglass spa manufacturing operation at 5301 East Hanna Avenue in east Tampa. When the facility is in full operation it will emit up to 99 tons of styrene and another 50 tons of volatile organic compounds from the resins and the coatings used to make the spas. Staff analysis concluded the emissions do not represent a health risk to the public given the low concentrations expected downwind. To address the community's expressed concerns, EPC is committed to monthly inspections and air monitoring for a twelve month period.



## EPC Agenda Item Cover Sheet

**Date of EPC Meeting:** 1/12/06

**Subject:** Update on the Exide contaminated site.

**Consent Agenda** \_\_\_\_\_ **Regular Agenda**  X  **Public Hearing** \_\_\_\_\_

**Division:** Waste Management

**Recommendation:** Continue working with the FDEP to find appropriate remedy for site cleanup.

**Brief Summary:** Last January, the Board sent a letter to the FDEP indicating our concern over the proposed remedy for the Exide site and our intention to be involved in review of the final remedy and our appreciation that the FDEP is working with us on this issue. EPC met with FDEP and Exide on February 10 and December 5, 2005 to discuss the concerns and constraints of site cleanup. During the latest meeting, FDEP indicated to Exide that placing the wastes in mounds along the east side of Hwy 41 was no longer a viable alternative. Exide indicated they were evaluating four different scenarios for remediation, which include treatment and offsite and/or onsite disposal. We indicated the need to progress at a more rapid pace.

**Background:** The site is situated along the east and west sides of Hwy 41 and encompasses approximately 33 acres. The former facility manufactured and recycled batteries, typically car batteries. The contamination at the site is from onsite disposal of batteries (whole and broken) and various wastes from manufacturing. The soil and groundwater are contaminated, as well as, the sediment in Delaney Creek. There are approximately 300,000 cubic yards of waste and contaminated soil that need treatment and groundwater treatment will also be required.

**List of Attachments:** None.